

SB 255-FN - AS INTRODUCED

2014 SESSION

14-2683
10/04

SENATE BILL **255-FN**

AN ACT establishing an innovation business tax incentive program and credit against interest and dividend taxes.

SPONSORS: Sen. Larsen, Dist 15; Sen. D'Allesandro, Dist 20; Sen. Gilmour, Dist 12; Sen. Hosmer, Dist 7; Sen. Lasky, Dist 13; Sen. Pierce, Dist 5; Sen. Soucy, Dist 18; Sen. Watters, Dist 4; Sen. Woodburn, Dist 1; Sen. Fuller Clark, Dist 21; Rep. Major, Rock 14; Rep. Griffin, Rock 7

COMMITTEE: Ways and Means

ANALYSIS

This bill establishing an innovation business tax incentive program administered by the business finance authority, and allows for a percentage of a qualified investments to be a credit against interest and dividend taxes due.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT establishing an innovation business tax incentive program and credit against interest and dividend taxes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Business Finance Authority; Innovation Business Tax Incentive Program.
2 Amend RSA 162-A by inserting after section 13-d the following new section:

3 162-A:13-e Innovation Business Tax Incentive Program.

4 I. In this section:

5 (a) "Qualifying business" means a business which: (1) has its principal place of business
6 in New Hampshire; (2) has at least 75 percent of its employees located in a place of business within
7 New Hampshire; (3) has a fully developed business plan that includes all appropriate long and short
8 term forecasts and contingencies of business operations, including research and development, profit,
9 loss, and cash flow projections and details of investor funding; (4) employs 20 or fewer full-time
10 employees at the time of the qualified investor's initial qualifying investment; (5) has a
11 New Hampshire tax identification number; and (6) has capitalization equal to or less than \$500,000
12 in the fiscal year prior to eligibility.

13 (b) "Qualifying investment" means an investment that is at risk and not secured or
14 guaranteed; provided, however, that a qualifying investment shall not include venture capital funds,
15 hedge funds, and commodity funds with institutional investors or investments in a business involved
16 in retail, real estate, professional services, gaming, or financial services.

17 (c) "Qualified investor" means an accredited investor, as defined by the United States
18 Securities and Exchange Commission pursuant to section 2(15)(ii) of the Securities Act of 1933, 15
19 U.S.C. section 77b(15)(ii), and who is not the principal owner of the qualifying business who is
20 involved as a full-time professional activity, and who is not an immediate family member of a
21 principal owner.

22 II. The authority may establish and administer an innovation business tax incentive
23 program to increase the amount of small business investment within the economy of the state.
24 The program is intended to promote investment in qualified small businesses by allowing the
25 authority to provide tax credits against the interest and dividends tax under RSA 77 to individuals
26 who make qualified investments. Creation of the program is intended to improve access by
27 innovative businesses in this state to capital, and to create or preserve employment opportunities
28 for the state's citizens. The program shall be known as the "New Hampshire innovation business
29 tax incentive program."

1 III. Upon approval by the authority's board of directors, the authority may grant tax credits
2 to qualified investors. The authority's board of directors shall create rules for approval of such
3 grants of tax credits within the requirements set forth in this section, and in the granting of credits
4 shall give priority to:

5 (a) Proposed qualifying investments that are most likely to support job creation in
6 New Hampshire.

7 (b) Proposed qualifying investments in qualifying businesses that will maintain a
8 significant presence in the state.

9 (c) Proposed qualifying investments in qualifying businesses that will promote future
10 investment for their operations in the state from other sources.

11 (d) Proposed qualifying investments in qualifying businesses that utilize technologies or
12 approaches developed through research conducted at New Hampshire businesses, universities, or
13 scientific institutions.

14 (e) Proposed qualifying investments in qualifying businesses that have been supported
15 by or recognized by some of the organizations promoting the state's innovation economy, including
16 the authority, the Small Business Development Corporation, the university of New Hampshire
17 Green Launching Pad, the department of resources and economic development, the New Hampshire
18 Innovation Commercialization Center, the university system of New Hampshire, and other venture
19 capital investors within the state.

20 (f) Qualified investors who demonstrate the ability to successfully manage company
21 growth.

22 (g) Qualified investors who will insure that funds will be invested in New Hampshire
23 and will be used for New Hampshire operations.

24 IV. The authority shall develop appropriate application materials for qualified investors
25 seeking to be granted tax credits. Grant of tax credits pursuant to this section shall be evidenced by
26 written notice from the authority and provided to qualified investors and the department of revenue
27 administration.

28 V. The authority shall establish all other policies and procedures as it shall determine
29 necessary to carry out the purposes of this section.

30 VI. A qualified investor who makes a qualifying investment in a qualifying business may
31 take a credit against the tax set forth in RSA 77:1 in an amount equal to 25 percent of the amount of
32 investment in a qualifying business.

33 VII. Qualified investors shall be required to invest a minimum of \$30,000 and may invest up
34 to \$250,000 total per qualifying business in order to be eligible for a credit.

35 VIII. Qualifying investments may be used by a qualifying business for the following
36 purposes: (1) capital improvements; (2) plant equipment; (3) research and development; and (4)
37 working capital. Qualifying investments shall not be used to pay dividends, repay shareholders'
38 loans, redeem shares, or repay debt.

SB 255-FN - AS INTRODUCED
- Page 3 -

1 IX. The credits allowed under paragraph VI may be taken in either the tax year of the initial
2 investment or in each year for a 3-year period. Any amount of the tax credit that exceeds the tax due
3 for a taxable year may be carried forward by the taxpayer to any of the 2 subsequent taxable years.
4 If the qualifying business ceases to have its principal place of business in New Hampshire within
5 such 3 year period, the qualified investor shall not claim any further credits.

6 X. Tax credits granted by the authority shall not exceed \$1,000,000 in any state fiscal year.
7 2 New Section; Interest and Dividends Tax; Credit Established. Amend RSA 77 by inserting
8 after section 5-a the following new section:

9 77:5-b Credit Under the Innovation Business Tax Incentive Program. The amount of a credit
10 evidenced by written notice from the business finance authority under RSA 162-A:13-e shall be
11 allowed against the tax due under this chapter.

12 3 Effective Date. This act shall take effect July 1, 2014.

13

SB 255-FN - FISCAL NOTE

AN ACT establishing an innovation business tax incentive program and credit against interest and dividend taxes.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, may reduce state general fund revenue by \$1,000,000 in FY 2015 and each year thereafter. This bill will have no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill provides a jobs creation tax credit, to be administered by the Business Finance Authority (BFA) against the interest and dividends (I&D) tax for a qualified investor who makes a qualifying investment in a qualifying business. The qualifying business must have its principal place of business in New Hampshire, with at least 75% of its employees within New Hampshire and employs 20 or fewer full time employees at the time of initial qualifying investment. The tax credit is 25% of the qualifying investment. Total credit issued by the BFA shall not exceed \$1,000,000 in any state fiscal year. As such, DRA estimates a decrease in state general fund revenue at the maximum credit allowed. DRA states the administrative burden of approving and certifying all the applications for the credit would be the responsibility of the BFA. Currently, the BFA already administers a similar program, and any extra cost is unknown at this time.