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HSB625

St (227)

WAYS AND MEANS

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act creating a tax credit for investments in qualifying
2 businesses and community-based seed capital funds and
3 including effective and retroactive applicability date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 15E.41 PURPOSE.

2 The purpose of this division is to enhance the quality of
3 life for citizens of this state by encouraging the creation of
4 new jobs, industry, products, and wealth through the increased
5 availability and accessibility to venture capital,
6 particularly at the seed capital investment stage, and to
7 encourage individuals to invest seed capital in Iowa
8 businesses and in community-based seed capital funds.

9 Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.

10 For purposes of this division, unless the context otherwise
11 requires:

12 1. "Affiliate" means a spouse or child of an investor or a
13 corporation, partnership, or trust in which an investor has a
14 controlling equity interest or in which an investor exercises
15 management control.

16 2. "Board" means the Iowa capital investment board, if
17 created in House File 2078 as enacted by the Seventy-ninth
18 general assembly.

19 3. "Investor" means an individual making a cash investment
20 in a qualifying business or a community-based seed capital
21 fund. "Investor" does not include an individual who is an
22 owner, member, or shareholder in a qualifying business.

23 4. "Near equity" means debt that may be converted to
24 equity at the option of the debt holder, and royalty
25 agreements.

26 5. "Qualifying business" means a business meeting the
27 criteria defined in section 15E.44.

28 Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.

29 1. For tax years beginning on or after January 1, 2002, a
30 tax credit shall be allowed against the taxes imposed in
31 chapter 422, divisions II, III, and V, and in chapter 432, for
32 a portion of the taxpayer's equity investment, as provided in
33 subsection 2, in a qualified business or a community-based
34 seed capital fund. A tax credit shall be allowed only for an
35 investment made in the form of cash to purchase equity in a

1 qualifying business or in a community-based seed capital fund.
 2 An individual may claim the credit of a partnership, limited
 3 liability company, S corporation, estate, or trust electing to
 4 have income taxed directly to the individual. The amount
 5 claimed by the individual shall be based upon the pro rata
 6 share of the individual's earnings from the partnership,
 7 limited liability company, S corporation, estate, or trust. A
 8 taxpayer shall not claim the tax credit prior to the third tax
 9 year following the tax year in which the investment is made.
 10 Any tax credit in excess of the taxpayer's liability for the
 11 tax year may be credited to the tax liability for the
 12 following five years or until depleted, whichever is earlier.
 13 A tax credit shall not be carried back to a tax year prior to
 14 the tax year in which the taxpayer redeems the tax credit.

15 2. A tax credit shall equal twenty percent of the
 16 taxpayer's equity investment. The maximum amount of a tax
 17 credit for an investment by an investor in any one qualifying
 18 business shall be fifty thousand dollars. Each year, an
 19 investor and all affiliates of the investor shall not claim
 20 tax credits under this section for more than five different
 21 investments in five different qualifying businesses.

22 3. An investment shall be deemed to have been made on the
 23 same date as the date of acquisition of the equity interest as
 24 determined by the Internal Revenue Code. An investment made
 25 prior to January 1, 2002, shall not qualify for a tax credit
 26 under this division.

27 4. The aggregate amount of tax credits issued pursuant to
 28 this division shall not exceed a total of ten million dollars.
 29 The total amount of tax credits issued during the fiscal year
 30 beginning July 1, 2002, shall not exceed three million
 31 dollars. The total amount of tax credits issued during the
 32 fiscal year beginning July 1, 2003, shall not exceed three
 33 million dollars. The total amount of tax credits issued
 34 during the fiscal year beginning July 1, 2004, shall not
 35 exceed four million dollars.

1 5. A tax credit shall not be redeemed during any tax year
2 beginning prior to January 1, 2005. A tax credit shall not be
3 transferable to any other taxpayer.

4 6. The board shall develop a system for registration and
5 authorization of tax credits authorized pursuant to this
6 division and shall control distribution of all tax credits
7 distributed to investors pursuant to this division. The board
8 shall develop rules for the qualification and administration
9 of qualifying businesses and community-based seed capital
10 funds. The department of revenue and finance shall adopt
11 these criteria as administrative rules and any other rules
12 pursuant to chapter 17A necessary for the administration of
13 this division.

14 Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

15 1. In order for an equity investment to qualify for a tax
16 credit, the business in which the equity investment is made
17 shall within one hundred twenty days of the date of the first
18 investment notify the board of the names, addresses, taxpayer
19 identification numbers, shares issued, consideration paid for
20 the shares, and the amount of any tax credits, of all
21 shareholders who may initially qualify for the tax credits,
22 and the earliest year in which the tax credits may be
23 redeemed. The list shall be amended as new equity investments
24 are sold or as any information on the list shall change.

25 2. In order to be a qualifying business, a business must
26 meet all of the following criteria:

27 a. The principal business operations of the business are
28 located in this state.

29 b. The business has been in operation for three years or
30 less.

31 c. The business has an owner who has successfully
32 completed a recognized entrepreneurial venture development
33 curriculum; has three years of relevant business experience;
34 has a four-year college degree in business management,
35 business administration, or a related field; or has other

1 training or experience as the board may specify by rule or
2 order as sufficient to increase the probability of success of
3 the qualifying business.

4 d. The business is not a business engaged primarily in
5 retail sales, real estate, or the provision of health care or
6 other professional services.

7 e. The business shall not have a net worth that exceeds
8 three million dollars.

9 f. The business shall have secured, within twenty-four
10 months following the first date on which the equity
11 investments qualifying for tax credits have been made, total
12 equity or near equity financing equal to at least two hundred
13 fifty thousand dollars.

14 3. A qualifying business shall have the burden of proof to
15 demonstrate to the board its qualifications under this
16 section, and shall have the obligation to notify the board in
17 a timely manner of any changes in the qualifications of the
18 business or in the eligibility of investors to redeem the
19 investment tax credits in any tax year.

20 4. After verifying the eligibility of a qualifying
21 business, the board shall issue a tax credit certificate to be
22 attached to the equity investor's tax return. The tax credit
23 certificate shall contain the taxpayer's name, address, tax
24 identification number, the amount of credit, the name of the
25 qualifying business, and other information required by the
26 department of revenue and finance. The tax credit
27 certificate, unless rescinded by the board, shall be accepted
28 by the department of revenue and finance as payment for taxes
29 imposed pursuant to chapter 422, divisions II, III, and V, and
30 chapter 432, subject to any conditions or restrictions placed
31 by the board upon the face of the tax credit certificate and
32 subject to the limitations of section 15E.43.

33 Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL
34 FUNDS.

35 1. An investment in a community seed capital fund shall

1 qualify for a tax credit under section 15E.43 provided that
2 all requirements of sections 15E.43, 15E.44, and this section
3 are met.

4 2. In order to be a community-based seed capital fund
5 qualifying under this section, a community-based seed capital
6 fund must meet all of the following criteria:

7 a. The fund is a limited partnership or limited liability
8 company.

9 b. The fund has, on or after January 1, 2002, a total of
10 both capital commitments from investors and investments in
11 qualifying businesses of at least one million dollars, but not
12 more than three million dollars.

13 c. The fund has no fewer than ten individual investors who
14 are not affiliates, with no single investor and affiliates of
15 that investor together owning a total of more than twenty-five
16 percent of the ownership interests outstanding in the fund.

17 3. In order for an investment in a community-based seed
18 capital fund to qualify for a tax credit, the community-based
19 seed capital fund in which the investment is made shall within
20 one hundred twenty days of the date of the first investment
21 notify the board of the names, addresses, taxpayer
22 identification numbers, equity interests issued, consideration
23 paid for the interests, and the amount of any tax credits, of
24 which all limited partners or members who may initially
25 qualify for the tax credits, and the earliest year in which
26 the tax credits may be redeemed. The list shall be amended as
27 new equity interests are sold or as any information on the
28 list shall change.

29 4. After verifying the eligibility of the community-based
30 seed capital fund, the board shall issue a tax credit
31 certificate to be attached to the taxpayer's tax return. The
32 tax credit certificate shall contain the taxpayer's name,
33 address, tax identification number, the amount of the tax
34 credit, the name of the community-based seed capital fund, and
35 other information required by the department of revenue and

1 finance. The tax credit certificate, unless rescinded by the
2 board, shall be accepted by the department of revenue and
3 finance as payment for taxes imposed pursuant to chapter 422,
4 divisions II, III, and V, and chapter 432, subject to any
5 conditions or restrictions placed by the board on the face of
6 the tax credit certificate and subject to the limitations of
7 section 15E.43.

8 5. The manager of the community-based seed capital fund
9 shall have the burden of proof to demonstrate to the board the
10 community-based seed capital fund's qualifications under this
11 section, and shall have the obligation to notify the board in
12 a timely manner of any changes in the qualifications of the
13 community-based seed capital fund, in the qualifications of
14 any qualifying business in which the fund has invested, or in
15 the eligibility of limited partners or members to redeem the
16 investment tax credits in any year.

17 6. In the event that a community-based seed capital fund
18 fails to meet or maintain any requirement set forth in this
19 section, or in the event that the community-based seed capital
20 fund has not invested at least thirty-three percent of its
21 invested capital in no fewer than two separate qualifying
22 businesses, measured at the end of the thirty-sixth month
23 after commencing the fund's investing activities, the board
24 shall rescind any tax credit certificates issued to limited
25 partners or members and shall notify the department of revenue
26 and finance that it has done so, and the tax credit
27 certificates shall be null and void. However, a community-
28 based seed capital fund may apply to the board for a one-year
29 waiver from the requirements of this subsection.

30 7. A community-based seed capital fund, any of whose
31 investors receive a tax credit certificate under this section
32 on account of their investment in that fund, shall not receive
33 a tax credit for any investment which would otherwise qualify
34 for a tax credit in a qualifying business.

35 Sec. 6. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

1 The taxes imposed under this division, less the credits
2 allowed under sections 422.12 and 422.12B, shall be reduced by
3 an investment tax credit authorized pursuant to section
4 15E.43.

5 Sec. 7. Section 422.33, Code Supplement 2001, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 12. The taxes imposed under this division
8 shall be reduced by an investment tax credit authorized
9 pursuant to section 15E.43.

10 Sec. 8. Section 422.60, Code 2001, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 4. The taxes imposed under this division
13 shall be reduced by an investment tax credit authorized
14 pursuant to section 15E.43.

15 Sec. 9. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

16 The tax imposed under this chapter shall be reduced by an
17 investment tax credit authorized pursuant to section 15E.43.

18 Sec. 10. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE
19 PROVISIONS. This Act, being deemed of immediate importance,
20 takes effect upon enactment and applies retroactively to
21 January 1, 2002, for tax years beginning on or after that
22 date.

23 Sec. 11. 2002 Iowa Acts, House File 2078, is amended by
24 adding the following new section:

25 SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this
26 Act, being deemed of immediate importance, take effect upon
27 the enactment of the Act creating a tax credit for investments
28 in qualifying businesses and community-based seed capital
29 funds as enacted by the Seventy-ninth General Assembly, 2002
30 regular session.

31 EXPLANATION

32 This bill creates a tax credit for investments in
33 qualifying businesses and community-based seed capital funds.

34 The bill provides that, for tax years beginning on or after
35 January 1, 2002, a tax credit shall be allowed against

1 personal and corporate income tax, the franchise tax for
2 financial institutions, and the insurance premium tax. The
3 bill provides that the tax credit shall be for a portion of
4 the taxpayer's equity investment in a qualified business or a
5 community-based seed capital fund. The bill provides that a
6 tax credit shall be allowed only for an investment made in a
7 form of cash to purchase equity in a qualifying business or in
8 a community-based seed capital fund. The bill provides that a
9 taxpayer shall not claim the tax credit prior to the third tax
10 year following the tax year in which the investment is made.
11 The bill provides that any tax credit in excess of the
12 taxpayer's liability for the tax year may be credited to the
13 tax liability for the following five years or until depleted,
14 whichever is earlier. The bill provides that a tax credit
15 shall not be carried back to a tax year prior to the tax year
16 in which the taxpayer redeems the tax credit. The bill
17 provides that a tax credit shall equal 20 percent of the
18 taxpayer's equity investment. The bill provides that the
19 maximum amount of a tax credit for an investment by a taxpayer
20 in any one qualifying business shall be \$50,000. The bill
21 provides that, each year, an investor and all affiliates of
22 the investor shall not claim tax credits for more than five
23 different investments in five different qualifying businesses.
24 The bill provides that an investment shall be deemed to have
25 been made on the same date as the date of acquisition of the
26 equity interest, as determined by the Internal Revenue Code.
27 The bill provides that the aggregate amount of tax credits
28 issued shall not exceed a total of \$10 million. The bill
29 provides that the total amount of tax credits issued shall not
30 exceed \$3 million for the fiscal year beginning July 1, 2002,
31 \$3 million for the fiscal year beginning July 1, 2003, and \$4
32 million for the fiscal year beginning July 1, 2004. The bill
33 provides that a tax credit shall not be redeemed during any
34 tax year beginning prior to January 1, 2005, and shall not be
35 transferable.

1 The bill provides that the Iowa capital investment board,
2 if created by House File 2078 as enacted by the Seventy-ninth
3 General Assembly, shall develop a system for registration and
4 authorization of tax credits authorized pursuant to this bill
5 and shall control distribution of all tax credits distributed
6 to investors pursuant to this bill.

7 The bill provides that, in order for an equity investment
8 to qualify for a tax credit, the business in which the equity
9 investment is made shall within 120 days of the date of the
10 first investment notify the board of the names, addresses,
11 taxpayer identification numbers, shares issued, consideration
12 paid for the shares, and the amount of any tax credits, of all
13 shareholders who may initially qualify for the tax credits,
14 and the earliest year in which the tax credits may be
15 redeemed. The bill provides certain criteria that a
16 qualifying business must meet relating to location of the
17 business, the duration of the business, the experience of the
18 business owner, the type of business, the net worth of the
19 business, and the equity investments in the business.

20 The bill provides that a qualifying business shall have the
21 burden of proof to demonstrate to the board its
22 qualifications, and shall have the obligation to notify the
23 board in a timely manner of any changes in the qualifications
24 or in the eligibility of investors to redeem the investment
25 tax credits in any tax year. The bill provides that after
26 verifying the eligibility of a qualifying business, the board
27 shall issue a tax credit certificate to be attached to the
28 equity investor's tax return.

29 The bill provides that an investment in a community-based
30 seed capital fund shall qualify for a tax credit provided that
31 all requirements of the bill are met. The bill provides that
32 in order to be a community-based seed capital fund qualifying
33 under this section, a community-based seed capital fund must
34 be a limited partnership or limited liability company; must
35 have, on or after January 1, 2002, a total of both capital

1 commitments from investors and investments in qualifying
 2 businesses of at least \$1 million, but not more than \$3
 3 million; and must have no fewer than 10 individual investors
 4 who are not affiliates, with no single investor and affiliates
 5 of that investor together owning a total of more than 25
 6 percent of the ownership interests outstanding in the fund.

7 The bill provides that in order for an investment in a
 8 community-based seed capital fund to qualify for a tax credit,
 9 the community-based seed capital fund shall within 120 days of
 10 the date of the first investment notify the board of the
 11 names, addresses, taxpayer identification numbers, equity
 12 interests issued, consideration paid for the interests, and
 13 the amount of any tax credits, of which all limited partners
 14 or members who may initially qualify for the tax credits, and
 15 the earliest year in which the tax credits may be redeemed.

16 The bill provides that after verifying the eligibility of the
 17 community-based seed capital fund, the board shall issue a tax
 18 credit certificate to be attached to the taxpayer's tax
 19 return.

20 The bill provides that the manager of the community-based
 21 seed capital fund shall have the burden of proof to
 22 demonstrate to the board the community-based seed capital
 23 fund's qualifications, and shall have the obligation to notify
 24 the board in a timely manner of any changes in the
 25 qualifications of the community-based seed capital fund, in
 26 the qualifications of any qualifying business in which the
 27 fund has invested, or in the eligibility of limited partners
 28 or members to redeem the investment tax credits in any year.

29 The bill provides that in the event that a community-based
 30 seed capital fund fails to meet or maintain any requirement
 31 set forth in the bill, or in the event that the community-
 32 based seed capital fund has not invested at least 33 percent
 33 of its invested capital in no fewer than two separate
 34 qualifying businesses, measured at the end of the thirty-sixth
 35 month after commencing the fund's investing activities, the

1 board shall rescind any tax credit certificates issued to
2 limited partners or members and shall notify the department of
3 revenue and finance that it has done so, and the tax credit
4 certificates shall be null and void. The bill allows a
5 community-based seed capital fund to apply to the board for a
6 one-year waiver regarding the investment requirements.

7 The bill provides that a community-based seed capital fund,
8 any of whose investors receive a tax credit certificate under
9 the bill on account of their investment in that fund, shall
10 not receive a tax credit for any investment which would
11 otherwise qualify for a tax credit in a qualifying business.

12 The bill takes effect upon enactment and applies
13 retroactively to January 1, 2002, for tax years beginning on
14 or after that date.

15 The bill amends 2002 Iowa Acts, House File 2078, to take
16 effect upon the enactment of this bill.

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Substitutes for SF 2193
2/15/02

(P. 298) FEB 8 2002

5/2/15/02
REPRINTED

WAYS & MEANS CALENDAR

HOUSE FILE 2271
BY COMMITTEE ON WAYS
AND MEANS

(SUCCESSOR TO HSB 625)

Passed House, Date ^(P. 352) 2/14/02 Passed Senate, Date ^(P. 299) 2/15/02
Vote: Ayes 94 Nays 0 Vote: Ayes 44 Nays 0
Approved February 28, 2002

A BILL FOR

1 An Act creating a tax credit for investments in qualifying
2 businesses and community-based seed capital funds and
3 including effective and retroactive applicability date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7 SENATE AMENDMENT TO HOUSE FILE 2271

8 H-8058

1 Amend House File 2271, as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking page 4, line 29, through page 5,
4 line 4, and inserting the following: "success of the
5 qualifying business."

RECEIVED FROM THE SENATE

12 H-8058 FILED FEBRUARY 18, 2002

13 House Concurred 2/18/02 (P. 383)

HF 2271

1 Section 1. NEW SECTION. 15E.41 PURPOSE.

2 The purpose of this division is to enhance the quality of
3 life for citizens of this state through the increased
4 availability of and accessibility to venture capital,
5 particularly at the seed capital investment stage, which
6 encourages the creation of wealth through high-skilled, new
7 jobs that increase the wage base and promote industrial
8 development and innovative products that use new technology.
9 The purpose of this division is also to encourage individuals
10 to invest seed capital in Iowa businesses and in community-
11 based seed capital funds.

12 Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.

13 For purposes of this division, unless the context otherwise
14 requires:

15 1. "Affiliate" means a spouse, child, or sibling of an
16 investor or a corporation, partnership, or trust in which an
17 investor has a controlling equity interest or in which an
18 investor exercises management control.

19 2. "Board" means the Iowa capital investment board, if
20 created in House File 2078 as enacted by the Seventy-ninth
21 general assembly.

22 3. "Investor" means an individual making a cash investment
23 in a qualifying business or a community-based seed capital
24 fund. "Investor" does not include an individual who is a
25 current or previous owner, member, or shareholder in a
26 qualifying business.

27 4. "Near equity" means debt that may be converted to
28 equity at the option of the debt holder, and royalty
29 agreements.

30 5. "Qualifying business" means a business meeting the
31 criteria defined in section 15E.44.

32 Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.

33 1. For tax years beginning on or after January 1, 2002, a
34 tax credit shall be allowed against the taxes imposed in
35 chapter 422, divisions II, III, and V, and in chapter 432, and

1 against the moneys and credits tax imposed in section 533.24,
2 for a portion of the taxpayer's equity investment, as provided
3 in subsection 2, in a qualified business or a community-based
4 seed capital fund. A tax credit shall be allowed only for an
5 investment made in the form of cash to purchase equity in a
6 qualifying business or in a community-based seed capital fund.
7 An individual may claim the credit of a partnership, limited
8 liability company, S corporation, estate, or trust electing to
9 have income taxed directly to the individual. The amount
10 claimed by the individual shall be based upon the pro rata
11 share of the individual's earnings from the partnership,
12 limited liability company, S corporation, estate, or trust. A
13 taxpayer shall not claim the tax credit prior to the third tax
14 year following the tax year in which the investment is made.
15 Any tax credit in excess of the taxpayer's liability for the
16 tax year may be credited to the tax liability for the
17 following five years or until depleted, whichever is earlier.
18 A tax credit shall not be carried back to a tax year prior to
19 the tax year in which the taxpayer redeems the tax credit.

20 2. A tax credit shall equal twenty percent of the
21 taxpayer's equity investment. The maximum amount of a tax
22 credit for an investment by an investor in any one qualifying
23 business shall be fifty thousand dollars. Each year, an
24 investor and all affiliates of the investor shall not claim
25 tax credits under this section for more than five different
26 investments in five different qualifying businesses.

27 3. An investment shall be deemed to have been made on the
28 same date as the date of acquisition of the equity interest as
29 determined by the Internal Revenue Code. An investment made
30 prior to January 1, 2002, shall not qualify for a tax credit
31 under this division.

32 4. The aggregate amount of tax credits issued pursuant to
33 this division shall not exceed a total of ten million dollars.
34 The total amount of tax credits issued during the fiscal year
beginning July 1, 2002, shall not exceed three million

1 dollars. The total amount of tax credits issued during the
2 fiscal year beginning July 1, 2003, shall not exceed three
3 million dollars. The total amount of tax credits issued
4 during the fiscal year beginning July 1, 2004, shall not
5 exceed four million dollars.

6 5. A tax credit shall not be redeemed during any tax year
7 beginning prior to January 1, 2005. A tax credit shall not be
8 transferable to any other taxpayer.

9 6. The board shall develop a system for registration and
10 authorization of tax credits authorized pursuant to this
11 division and shall control distribution of all tax credits
12 distributed to investors pursuant to this division. The board
13 shall develop rules for the qualification and administration
14 of qualifying businesses and community-based seed capital
15 funds. The department of revenue and finance shall adopt
16 these criteria as administrative rules and any other rules
17 pursuant to chapter 17A necessary for the administration of
18 this division.

19 Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

20 1. In order for an equity investment to qualify for a tax
21 credit, the business in which the equity investment is made
22 shall within one hundred twenty days of the date of the first
23 investment notify the board of the names, addresses, taxpayer
24 identification numbers, shares issued, consideration paid for
25 the shares, and the amount of any tax credits, of all
26 shareholders who may initially qualify for the tax credits,
27 and the earliest year in which the tax credits may be
28 redeemed. The list shall be amended as new equity investments
29 are sold or as any information on the list shall change.

30 2. In order to be a qualifying business, a business must
31 meet all of the following criteria:

32 a. The principal business operations of the business are
33 located in this state.

34 b. The business has been in operation for three years or
35 less.

1 c. The business has an owner who has successfully
2 completed one of the following:

3 (1) An entrepreneurial venture development curriculum.

4 (2) Three years of relevant business experience.

5 (3) A four-year college degree in business management,
6 business administration, or a related field.

7 (4) Other training or experience as the board may specify
8 by rule or order as sufficient to increase the probability of
9 success of the qualifying business.

10 d. The business is not a business engaged primarily in
11 retail sales, real estate, or the provision of health care or
12 other professional services.

13 e. The business shall not have a net worth that exceeds
14 three million dollars.

15 f. The business shall have secured, within twenty-four
16 months following the first date on which the equity
17 investments qualifying for tax credits have been made, total
18 equity or near equity financing equal to at least two hundred
19 fifty thousand dollars.

20 3. A qualifying business shall have the burden of proof to
21 demonstrate to the board its qualifications under this
22 section, and shall have the obligation to notify the board in
23 a timely manner of any changes in the qualifications of the
24 business or in the eligibility of investors to redeem the
25 investment tax credits in any tax year.

26 4. After verifying the eligibility of a qualifying
27 business, the board shall issue a tax credit certificate to be
28 attached to the equity investor's tax return. The tax credit
29 certificate shall contain the taxpayer's name, address, tax
30 identification number, the amount of credit, the name of the
31 qualifying business, and other information required by the
32 department of revenue and finance. The tax credit
33 certificate, unless rescinded by the board, shall be accepted
34 by the department of revenue and finance as payment for taxes
35 imposed pursuant to chapter 422, divisions II, III, and V, and

1 chapter 432, and as payment for the moneys and credits tax
2 imposed pursuant to section 533.24, subject to any conditions
3 or restrictions placed by the board upon the face of the tax
4 credit certificate and subject to the limitations of section
5 15E.43.

6 Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL
7 FUNDS.

8 1. An investment in a community seed capital fund shall
9 qualify for a tax credit under section 15E.43 provided that
10 all requirements of sections 15E.43, 15E.44, and this section
11 are met.

12 2. In order to be a community-based seed capital fund
13 qualifying under this section, a community-based seed capital
14 fund must meet all of the following criteria:

15 a. The fund is a limited partnership or limited liability
16 company.

17 b. The fund has, on or after January 1, 2002, a total of
18 both capital commitments from investors and investments in
19 qualifying businesses of at least five hundred thousand
20 dollars, but not more than three million dollars.

21 c. The fund has no fewer than ten individual investors who
22 are not affiliates, with no single investor and affiliates of
23 that investor together owning a total of more than twenty-five
24 percent of the ownership interests outstanding in the fund.

25 3. In order for an investment in a community-based seed
26 capital fund to qualify for a tax credit, the community-based
27 seed capital fund in which the investment is made shall within
28 one hundred twenty days of the date of the first investment
29 notify the board of the names, addresses, taxpayer
30 identification numbers, equity interests issued, consideration
31 paid for the interests, and the amount of any tax credits, of
32 which all limited partners or members who may initially
33 qualify for the tax credits, and the earliest year in which
34 the tax credits may be redeemed. The list shall be amended as
35 new equity interests are sold or as any information on the

1 list shall change.

2 4. After verifying the eligibility of the community-based
3 seed capital fund, the board shall issue a tax credit
4 certificate to be attached to the taxpayer's tax return. The
5 tax credit certificate shall contain the taxpayer's name,
6 address, tax identification number, the amount of the tax
7 credit, the name of the community-based seed capital fund, and
8 other information required by the department of revenue and
9 finance. The tax credit certificate, unless rescinded by the
10 board, shall be accepted by the department of revenue and
11 finance as payment for taxes imposed pursuant to chapter 422,
12 divisions II, III, and V, and chapter 432, and as payment for
13 the moneys and credits tax imposed pursuant to section 533.24,
14 subject to any conditions or restrictions placed by the board
15 on the face of the tax credit certificate and subject to the
16 limitations of section 15E.43.

17 5. The manager of the community-based seed capital fund
18 shall have the burden of proof to demonstrate to the board the
19 community-based seed capital fund's qualifications under this
20 section, and shall have the obligation to notify the board in
21 a timely manner of any changes in the qualifications of the
22 community-based seed capital fund, in the qualifications of
23 any qualifying business in which the fund has invested, or in
24 the eligibility of limited partners or members to redeem the
25 investment tax credits in any year.

26 6. In the event that a community-based seed capital fund
27 fails to meet or maintain any requirement set forth in this
28 section, or in the event that the community-based seed capital
29 fund has not invested at least thirty-three percent of its
30 invested capital in no fewer than two separate qualifying
31 businesses, measured at the end of the thirty-sixth month
32 after commencing the fund's investing activities, the board
33 shall rescind any tax credit certificates issued to limited
34 partners or members and shall notify the department of revenue
35 and finance that it has done so, and the tax credit

1 certificates shall be null and void. However, a community-
2 based seed capital fund may apply to the board for a one-year
3 waiver from the requirements of this subsection.

4 7. An investor in a community-based seed capital fund
5 shall receive a tax credit pursuant to this division only for
6 the investor's investment in the community-based seed capital
7 fund and shall not receive any additional tax credit for the
8 investor's share of investments in a qualifying business made
9 by the community-based seed capital fund. However, an
10 investor in a community-based seed capital fund may receive a
11 tax credit under this division with respect to a separate
12 direct investment made by the investor in the same qualifying
13 business in which the community-based seed capital fund
14 invests.

15 8. A community-based seed capital fund shall not invest in
16 the Iowa fund of funds, if organized pursuant to 2002 Iowa
17 Acts, House File 2078, if enacted.

18 Sec. 6. NEW SECTION. 15E.46 REPORTS.

19 The board shall publish an annual report of the activities
20 conducted pursuant to this division and shall submit the
21 report to the governor and the general assembly. The report
22 shall include a listing of eligible qualifying businesses and
23 the number of tax credit certificates and the amount of tax
24 credits issued by the board.

25 Sec. 7. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

26 The taxes imposed under this division, less the credits
27 allowed under sections 422.12 and 422.12B, shall be reduced by
28 an investment tax credit authorized pursuant to section
29 15E.43.

30 Sec. 8. Section 422.33, Code Supplement 2001, is amended
31 by adding the following new subsection:

32 NEW SUBSECTION. 12. The taxes imposed under this division
33 shall be reduced by an investment tax credit authorized
34 pursuant to section 15E.43.

35 Sec. 9. Section 422.60, Code 2001, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 4. The taxes imposed under this division
3 shall be reduced by an investment tax credit authorized
4 pursuant to section 15E.43.

5 Sec. 10. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.
6 The tax imposed under this chapter shall be reduced by an
7 investment tax credit authorized pursuant to section 15E.43.

8 Sec. 11. Section 533.24, Code 2001, is amended by adding
9 the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. The moneys and credits tax
11 imposed under this section shall be reduced by an investment
12 tax credit authorized pursuant to section 15E.43.

13 Sec. 12. MONEYS AND CREDITS TAX. Section 25B.7 shall not
14 apply to the tax credit authorized pursuant to section 15E.43
15 and allowed against the moneys and credits tax.

16 Sec. 13. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE
17 PROVISIONS. This Act, being deemed of immediate importance,
18 takes effect upon enactment and applies retroactively to
19 January 1, 2002, for tax years beginning on or after that
20 date.

21 Sec. 14. 2002 Iowa Acts, House File 2078, is amended by
22 adding the following new section:

23 SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this
24 Act, being deemed of immediate importance, take effect upon
25 the enactment of the Act creating a tax credit for investments
26 in qualifying businesses and community-based seed capital
27 funds as enacted by the Seventy-ninth General Assembly, 2002
28 regular session.

29 EXPLANATION

30 This bill creates a tax credit for investments in
31 qualifying businesses and community-based seed capital funds.

32 The bill provides that, for tax years beginning on or after
33 January 1, 2002, a tax credit shall be allowed against
34 personal and corporate income tax, the franchise tax for
35 financial institutions, the insurance premium tax and the

1 moneys and credits tax for credit unions. The bill provides
2 that the tax credit shall be for a portion of the taxpayer's
3 equity investment in a qualified business or a community-based
4 seed capital fund. The bill provides that a tax credit shall
5 be allowed only for an investment made in a form of cash to
6 purchase equity in a qualifying business or in a community-
7 based seed capital fund. The bill provides that a taxpayer
8 shall not claim the tax credit prior to the third tax year
9 following the tax year in which the investment is made. The
10 bill provides that any tax credit in excess of the taxpayer's
11 liability for the tax year may be credited to the tax
12 liability for the following five years or until depleted,
13 whichever is earlier. The bill provides that a tax credit
14 shall not be carried back to a tax year prior to the tax year
15 in which the taxpayer redeems the tax credit. The bill
16 provides that a tax credit shall equal 20 percent of the
17 taxpayer's equity investment. The bill provides that the
18 maximum amount of a tax credit for an investment by a taxpayer
19 in any one qualifying business shall be \$50,000. The bill
20 provides that, each year, an investor and all affiliates of
21 the investor shall not claim tax credits for more than five
22 different investments in five different qualifying businesses.
23 The bill provides that an investment shall be deemed to have
24 been made on the same date as the date of acquisition of the
25 equity interest, as determined by the Internal Revenue Code.
26 The bill provides that the aggregate amount of tax credits
27 issued shall not exceed a total of \$10 million. The bill
28 provides that the total amount of tax credits issued shall not
29 exceed \$3 million for the fiscal year beginning July 1, 2002,
30 \$3 million for the fiscal year beginning July 1, 2003, and \$4
31 million for the fiscal year beginning July 1, 2004. The bill
32 provides that a tax credit shall not be redeemed during any
33 tax year beginning prior to January 1, 2005, and shall not be
34 transferable.

35 The bill provides that the Iowa capital investment board,

1 if created by House File 2078 as enacted by the Seventy-ninth
2 General Assembly, shall develop a system for registration and
3 authorization of tax credits authorized pursuant to this bill
4 and shall control distribution of all tax credits distributed
5 to investors pursuant to this bill.

6 The bill provides that, in order for an equity investment
7 to qualify for a tax credit, the business in which the equity
8 investment is made shall within 120 days of the date of the
9 first investment notify the board of the names, addresses,
10 taxpayer identification numbers, shares issued, consideration
11 paid for the shares, and the amount of any tax credits, of all
12 shareholders who may initially qualify for the tax credits,
13 and the earliest year in which the tax credits may be
14 redeemed. The bill provides certain criteria that a
15 qualifying business must meet relating to location of the
16 business, the duration of the business, the experience of the
17 business owner, the type of business, the net worth of the
18 business, and the equity investments in the business.

19 The bill provides that a qualifying business shall have the
20 burden of proof to demonstrate to the board its
21 qualifications, and shall have the obligation to notify the
22 board in a timely manner of any changes in the qualifications
23 or in the eligibility of investors to redeem the investment
24 tax credits in any tax year. The bill provides that after
25 verifying the eligibility of a qualifying business, the board
26 shall issue a tax credit certificate to be attached to the
27 equity investor's tax return.

28 The bill provides that an investment in a community-based
29 seed capital fund shall qualify for a tax credit provided that
30 all requirements of the bill are met. The bill provides that
31 in order to be a community-based seed capital fund qualifying
32 under this section, a community-based seed capital fund must
33 be a limited partnership or limited liability company; must
34 have, on or after January 1, 2002, a total of both capital
commitments from investors and investments in qualifying

1 businesses of at least \$500,000, but not more than \$3 million;
2 and must have no fewer than 10 individual investors who are
3 not affiliates, with no single investor and affiliates of that
4 investor together owning a total of more than 25 percent of
5 the ownership interests outstanding in the fund.

6 The bill provides that in order for an investment in a
7 community-based seed capital fund to qualify for a tax credit,
8 the community-based seed capital fund shall within 120 days of
9 the date of the first investment notify the board of the
10 names, addresses, taxpayer identification numbers, equity
11 interests issued, consideration paid for the interests, and
12 the amount of any tax credits, of which all limited partners
13 or members who may initially qualify for the tax credits, and
14 the earliest year in which the tax credits may be redeemed.
15 The bill provides that after verifying the eligibility of the
16 community-based seed capital fund, the board shall issue a tax
17 credit certificate to be attached to the taxpayer's tax
18 return.

19 The bill provides that the manager of the community-based
20 seed capital fund shall have the burden of proof to
21 demonstrate to the board the community-based seed capital
22 fund's qualifications, and shall have the obligation to notify
23 the board in a timely manner of any changes in the
24 qualifications of the community-based seed capital fund, in
25 the qualifications of any qualifying business in which the
26 fund has invested, or in the eligibility of limited partners
27 or members to redeem the investment tax credits in any year.
28 The bill provides that in the event that a community-based
29 seed capital fund fails to meet or maintain any requirement
30 set forth in the bill, or in the event that the community-
31 based seed capital fund has not invested at least 33 percent
32 of its invested capital in no fewer than two separate
33 qualifying businesses, measured at the end of the thirty-sixth
34 month after commencing the fund's investing activities, the
35 board shall rescind any tax credit certificates issued to

1 limited partners or members and shall notify the department of
2 revenue and finance that it has done so, and the tax credit
3 certificates shall be null and void. The bill allows a
4 community-based seed capital fund to apply to the board for a
5 one-year waiver regarding the investment requirements.

6 The bill provides that a community-based seed capital fund
7 shall receive a tax credit only for an investor's investment
8 in the community-based seed capital fund and shall not receive
9 any additional tax credit for the investor's share of
10 investments in a qualifying business made by the community-
11 based seed capital fund. The bill provides that an investor
12 may receive a tax credit with respect to a separate direct
13 investment made by the investor in the same qualifying
14 business in which the community-based seed capital fund
15 invests. The bill provides that a community-based seed
16 capital fund shall not invest in the Iowa fund of funds, if
17 organized pursuant to House File 2078, if enacted.

18 The bill requires the board to file an annual report with
19 the general assembly and the governor regarding eligible
20 qualifying businesses and tax credit certificates issued.

21 The bill provides that state mandate requirements shall not
22 apply to a tax credit issued and applied against the moneys
23 and credits tax liability of a credit union.

24 The bill takes effect upon enactment and applies
25 retroactively to January 1, 2002, for tax years beginning on
26 or after that date.

27 The bill amends 2002 Iowa Acts, House File 2078, to take
28 effect upon the enactment of this bill.

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HOUSE FILE 2271

H-8049

- 1 Amend House File 2271 as follows:
 - 2 1. Page 1, line 6, by striking the word "high-
 - 3 skilled" and inserting the following: "high-paid".
- By** SHOULTZ of Black Hawk
JOCHUM of Dubuque
OSTERHAUS of Jackson

H-8049 FILED FEBRUARY 13, 2002

Adopted
2/14/02
(P. 348)

HOUSE FILE 2271

H-8051

1 Amend House File 2271 as follows:
2 1. Page 3, by inserting after line 18 the
3 following:
4 "7. The board shall cooperate with the small
5 business development centers in an effort to
6 disseminate information regarding the availability of
7 tax credits for investments in qualifying businesses
8 under this division. The board shall also cooperate
9 with the small business development centers to develop
10 a standard seed capital application form that the
11 small business development centers may submit to the
12 board on behalf of clients seeking seed capital. The
13 board shall distribute copies of the application forms
14 to all community-based seed capital funds and
15 potential individual investors."
16 2. Page 4, by inserting after line 19 the
17 following:
18 "g. The business has received counseling through a
19 small business development center, including an
20 assessment of the business plan with a determination
21 of the level of any technical assistance necessary to
22 aid the business in developing a financially feasible
23 project. A small business development center may
24 utilize the services of outside providers for all or
25 part of the business plan assessment, including
26 strategic marketing services at the university of
27 northern Iowa for market assessments. The business
28 shall submit a copy of the business plan assessment to
29 the board."

By SHOULTZ of Black Hawk

H-8051 FILED FEBRUARY 13, 2002

adopted
2/14/02
(p. 351)

HOUSE FILE 2271

H-8052

1 Amend House File 2271 as follows:

2 1. Page 1, by striking lines 23 through 26 and
3 inserting the following: "in a qualifying business or
4 a person making a cash investment in a community-based
5 seed capital fund. "Investor" does not include a
6 person which is an owner, member, or shareholder in a
7 qualified business."

8 2. By striking page 1, line 33, through page 2,
9 line 12, and inserting the following:

10 "1. a. For tax years beginning on or after
11 January 1, 2002, a tax credit shall be allowed against
12 the taxes imposed in chapter 422, division II, for a
13 portion of an individual taxpayer's equity investment,
14 as provided in subsection 2, in a qualified business.
15 An individual shall not claim a tax credit under this
16 paragraph of a partnership, limited liability company,
17 S corporation, estate, or trust electing to have
18 income taxed directly to the individual.

19 b. For tax years beginning on or after January 1,
20 2002, a tax credit shall be allowed against the taxes
21 imposed in chapter 422, divisions II, III, and V, and
22 in chapter 432, and against the moneys and credits tax
23 imposed in section 533.24, for a portion of a
24 taxpayer's equity investment, as provided in
25 subsection 2, in a community-based seed capital fund.
26 An individual may claim a tax credit under this
27 paragraph of a partnership, limited liability company,
28 S corporation, estate, or trust electing to have
29 income taxed directly to the individual. The amount
30 claimed by the individual shall be based upon the pro
31 rata share of the individual's earnings from the
32 partnership, limited liability company, S corporation,
33 estate, or trust.

34 c. A tax credit shall be allowed only for an
35 investment made in the form of cash to purchase equity
36 in a qualifying business or in a community-based seed
37 capital fund. A".

38 3. Page 3, line 28, by inserting after the word
39 "list" the following: "of shareholders who may
40 qualify for the tax credits".

41 4. By striking page 4, line 35, through page 5,
42 line 2, and inserting the following: "imposed
43 pursuant to chapter 422, division II, subject to any
44 conditions".

45 5. Page 5, line 34, by inserting after the word
46 "list" the following: "of limited partners or members
47 who may qualify for the tax credits".

48 6. Page 6, line 11, by inserting after the word
49 "finance" the following: "or a local taxing district,
50 as applicable,".

By TEIG of Hamilton

H-8052 FILED FEBRUARY 13, 2002

adopted 2/14/02 (p. 350)

HOUSE FILE 2271

H-8054

- 1 Amend the amendment, H-8052, to House File 2271 as
- 2 follows:
- 3 1. Page 1, line 6, by striking the word "an" and
- 4 inserting the following: "a current or previous".

By TEIG of Hamilton

H-8054 FILED FEBRUARY 14, 2002

Adopted
2/14/02 (p. 350)

HOUSE FILE 2271

H-8055

- 1 Amend the amendment, H-8051, to House File 2271 as
- 2 follows:
- 3 1. Page 1, line 4, by striking the word "shall",
- 4 and inserting the following: "may".
- 5 2. Page 1, line 8, by striking the word "shall",
- 6 and inserting the following: "may".
- 7 3. Page 1, by striking lines 16 through 18 and
- 8 inserting the following:
- 9 "_____. Page 4, line 9, by inserting after the word
- 10 "business." the following: "In addition, the owner
- 11 shall receive counseling through a"."
- 12 4. By renumbering as necessary.

By SHOULTZ of Black Hawk
TEIG of Hamilton

H-8055 FILED FEBRUARY 14, 2002

Adopted
2/14/02
(p. 351)

HOUSE FILE 2271
BY COMMITTEE ON WAYS
AND MEANS

(SUCCESSOR TO HSB 625)

(As Amended and Passed by the House February 14, 2002)

Passed House, ^(p. 283) Date 2/18/02 Passed Senate, ^{p. 299} Date 2/15/02
Vote: Ayes 95 Nays 2 Vote: Ayes 44 Nays 0
Approved Feb. 28, 2002

A BILL FOR

1 An Act creating a tax credit for investments in qualifying
2 businesses and community-based seed capital funds and
3 including effective and retroactive applicability date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6

7

House Amendments _____

8

9

10

11

HOUSE FILE 2271

12

S-5044

13

1 Amend House File 2271, as amended, passed, and
2 reprinted by the House, as follows:

14

3 1. By striking page 4, line 29, through page 5,

15

4 line 4, and inserting the following: "success of the
5 qualifying business."

16

By PAUL MCKINLEY

17

S-5044 FILED FEBRUARY 15, 2002

18

ADOPTED

19

2/15/02 (p. 299)

20

1 Section 1. NEW SECTION. 15E.41 PURPOSE.

2 The purpose of this division is to enhance the quality of
3 life for citizens of this state through the increased
4 availability of and accessibility to venture capital,
5 particularly at the seed capital investment stage, which
6 encourages the creation of wealth through high-paid, new jobs
7 that increase the wage base and promote industrial development
8 and innovative products that use new technology. The purpose
9 of this division is also to encourage individuals to invest
10 seed capital in Iowa businesses and in community-based seed
11 capital funds.

12 Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.

13 For purposes of this division, unless the context otherwise
14 requires:

15 1. "Affiliate" means a spouse, child, or sibling of an
16 investor or a corporation, partnership, or trust in which an
17 investor has a controlling equity interest or in which an
18 investor exercises management control.

19 2. "Board" means the Iowa capital investment board, if
20 created in House File 2078 as enacted by the Seventy-ninth
21 general assembly.

22 3. "Investor" means an individual making a cash investment
23 in a qualifying business or a person making a cash investment
24 in a community-based seed capital fund. "Investor" does not
25 include a person which is a current or previous owner, member,
26 or shareholder in a qualified business.

27 4. "Near equity" means debt that may be converted to
28 equity at the option of the debt holder, and royalty
29 agreements.

30 5. "Qualifying business" means a business meeting the
31 criteria defined in section 15E.44.

32 Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.

33 1. a. For tax years beginning on or after January 1,
34 2002, a tax credit shall be allowed against the taxes imposed
35 in chapter 422, division II, for a portion of an individual

1 taxpayer's equity investment, as provided in subsection 2, in
2 a qualified business. An individual shall not claim a tax
3 credit under this paragraph of a partnership, limited
4 liability company, S corporation, estate, or trust electing to
5 have income taxed directly to the individual.

6 b. For tax years beginning on or after January 1, 2002, a
7 tax credit shall be allowed against the taxes imposed in
8 chapter 422, divisions II, III, and V, and in chapter 432, and
9 against the moneys and credits tax imposed in section 533.24,
10 for a portion of a taxpayer's equity investment, as provided
11 in subsection 2, in a community-based seed capital fund. An
12 individual may claim a tax credit under this paragraph of a
13 partnership, limited liability company, S corporation, estate,
14 or trust electing to have income taxed directly to the
15 individual. The amount claimed by the individual shall be
16 based upon the pro rata share of the individual's earnings
17 from the partnership, limited liability company, S
18 corporation, estate, or trust.

19 c. A tax credit shall be allowed only for an investment
20 made in the form of cash to purchase equity in a qualifying
21 business or in a community-based seed capital fund. A
22 taxpayer shall not claim the tax credit prior to the third tax
23 year following the tax year in which the investment is made.
24 Any tax credit in excess of the taxpayer's liability for the
25 tax year may be credited to the tax liability for the
26 following five years or until depleted, whichever is earlier.
27 A tax credit shall not be carried back to a tax year prior to
28 the tax year in which the taxpayer redeems the tax credit.

29 2. A tax credit shall equal twenty percent of the
30 taxpayer's equity investment. The maximum amount of a tax
31 credit for an investment by an investor in any one qualifying
32 business shall be fifty thousand dollars. Each year, an
33 investor and all affiliates of the investor shall not claim
34 tax credits under this section for more than five different
35 investments in five different qualifying businesses.

1 3. An investment shall be deemed to have been made on the
2 same date as the date of acquisition of the equity interest as
3 determined by the Internal Revenue Code. An investment made
4 prior to January 1, 2002, shall not qualify for a tax credit
5 under this division.

6 4. The aggregate amount of tax credits issued pursuant to
7 this division shall not exceed a total of ten million dollars.
8 The total amount of tax credits issued during the fiscal year
9 beginning July 1, 2002, shall not exceed three million
10 dollars. The total amount of tax credits issued during the
11 fiscal year beginning July 1, 2003, shall not exceed three
12 million dollars. The total amount of tax credits issued
13 during the fiscal year beginning July 1, 2004, shall not
14 exceed four million dollars.

15 5. A tax credit shall not be redeemed during any tax year
16 beginning prior to January 1, 2005. A tax credit shall not be
17 transferable to any other taxpayer.

18 6. The board shall develop a system for registration and
19 authorization of tax credits authorized pursuant to this
20 division and shall control distribution of all tax credits
21 distributed to investors pursuant to this division. The board
22 shall develop rules for the qualification and administration
23 of qualifying businesses and community-based seed capital
24 funds. The department of revenue and finance shall adopt
25 these criteria as administrative rules and any other rules
26 pursuant to chapter 17A necessary for the administration of
27 this division.

28 7. The board may cooperate with the small business
29 development centers in an effort to disseminate information
30 regarding the availability of tax credits for investments in
31 qualifying businesses under this division. The board may also
32 cooperate with the small business development centers to
33 develop a standard seed capital application form that the
34 small business development centers may submit to the board on
35 behalf of clients seeking seed capital. The board shall

1 distribute copies of the application forms to all community-
2 based seed capital funds and potential individual investors.

3 Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

4 1. In order for an equity investment to qualify for a tax
5 credit, the business in which the equity investment is made
6 shall within one hundred twenty days of the date of the first
7 investment notify the board of the names, addresses, taxpayer
8 identification numbers, shares issued, consideration paid for
9 the shares, and the amount of any tax credits, of all
10 shareholders who may initially qualify for the tax credits,
11 and the earliest year in which the tax credits may be
12 redeemed. The list of shareholders who may qualify for the
13 tax credits shall be amended as new equity investments are
14 sold or as any information on the list shall change.

15 2. In order to be a qualifying business, a business must
16 meet all of the following criteria:

17 a. The principal business operations of the business are
18 located in this state.

19 b. The business has been in operation for three years or
20 less.

21 c. The business has an owner who has successfully
22 completed one of the following:

23 (1) An entrepreneurial venture development curriculum.

24 (2) Three years of relevant business experience.

25 (3) A four-year college degree in business management,
26 business administration, or a related field.

27 (4) Other training or experience as the board may specify
28 by rule or order as sufficient to increase the probability of
29 success of the qualifying business. In addition, the owner

30 shall receive counseling through a small business development
31 center, including an assessment of the business plan with a
32 determination of the level of any technical assistance

33 necessary to aid the business in developing a financially

34 feasible project. A small business development center may

35 utilize the services of outside providers for all or part of

1 the business plan assessment, including strategic marketing
2 services at the university of northern Iowa for market
3 assessments. The business shall submit a copy of the business
4 plan assessment to the board.

5 d. The business is not a business engaged primarily in
6 retail sales, real estate, or the provision of health care or
7 other professional services.

8 e. The business shall not have a net worth that exceeds
9 three million dollars.

10 f. The business shall have secured, within twenty-four
11 months following the first date on which the equity
12 investments qualifying for tax credits have been made, total
13 equity or near equity financing equal to at least two hundred
14 fifty thousand dollars.

15 3. A qualifying business shall have the burden of proof to
16 demonstrate to the board its qualifications under this
17 section, and shall have the obligation to notify the board in
18 a timely manner of any changes in the qualifications of the
19 business or in the eligibility of investors to redeem the
20 investment tax credits in any tax year.

21 4. After verifying the eligibility of a qualifying
22 business, the board shall issue a tax credit certificate to be
23 attached to the equity investor's tax return. The tax credit
24 certificate shall contain the taxpayer's name, address, tax
25 identification number, the amount of credit, the name of the
26 qualifying business, and other information required by the
27 department of revenue and finance. The tax credit
28 certificate, unless rescinded by the board, shall be accepted
29 by the department of revenue and finance as payment for taxes
30 imposed pursuant to chapter 422, division II, subject to any
31 conditions or restrictions placed by the board upon the face
32 of the tax credit certificate and subject to the limitations
33 of section 15E.43.

34 Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL
35 FUNDS.

1 1. An investment in a community seed capital fund shall
2 qualify for a tax credit under section 15E.43 provided that
3 all requirements of sections 15E.43, 15E.44, and this section
4 are met.

5 2. In order to be a community-based seed capital fund
6 qualifying under this section, a community-based seed capital
7 fund must meet all of the following criteria:

8 a. The fund is a limited partnership or limited liability
9 company.

10 b. The fund has, on or after January 1, 2002, a total of
11 both capital commitments from investors and investments in
12 qualifying businesses of at least five hundred thousand
13 dollars, but not more than three million dollars.

14 c. The fund has no fewer than ten individual investors who
15 are not affiliates, with no single investor and affiliates of
16 that investor together owning a total of more than twenty-five
17 percent of the ownership interests outstanding in the fund.

18 3. In order for an investment in a community-based seed
19 capital fund to qualify for a tax credit, the community-based
20 seed capital fund in which the investment is made shall within
21 one hundred twenty days of the date of the first investment
22 notify the board of the names, addresses, taxpayer
23 identification numbers, equity interests issued, consideration
24 paid for the interests, and the amount of any tax credits, of
25 which all limited partners or members who may initially
26 qualify for the tax credits, and the earliest year in which
27 the tax credits may be redeemed. The list of limited partners
28 or members who may qualify for the tax credits shall be
29 amended as new equity interests are sold or as any information
30 on the list shall change.

31 4. After verifying the eligibility of the community-based
32 seed capital fund, the board shall issue a tax credit
33 certificate to be attached to the taxpayer's tax return. The
34 tax credit certificate shall contain the taxpayer's name,
35 address, tax identification number, the amount of the tax

1 credit, the name of the community-based seed capital fund, and
2 other information required by the department of revenue and
3 finance. The tax credit certificate, unless rescinded by the
4 board, shall be accepted by the department of revenue and
5 finance or a local taxing district, as applicable, as payment
6 for taxes imposed pursuant to chapter 422, divisions II, III,
7 and V, and chapter 432, and as payment for the moneys and
8 credits tax imposed pursuant to section 533.24, subject to any
9 conditions or restrictions placed by the board on the face of
10 the tax credit certificate and subject to the limitations of
11 section 15E.43.

12 5. The manager of the community-based seed capital fund
13 shall have the burden of proof to demonstrate to the board the
14 community-based seed capital fund's qualifications under this
15 section, and shall have the obligation to notify the board in
16 a timely manner of any changes in the qualifications of the
17 community-based seed capital fund, in the qualifications of
18 any qualifying business in which the fund has invested, or in
19 the eligibility of limited partners or members to redeem the
20 investment tax credits in any year.

21 6. In the event that a community-based seed capital fund
22 fails to meet or maintain any requirement set forth in this
23 section, or in the event that the community-based seed capital
24 fund has not invested at least thirty-three percent of its
25 invested capital in no fewer than two separate qualifying
26 businesses, measured at the end of the thirty-sixth month
27 after commencing the fund's investing activities, the board
28 shall rescind any tax credit certificates issued to limited
29 partners or members and shall notify the department of revenue
30 and finance that it has done so, and the tax credit
31 certificates shall be null and void. However, a community-
32 based seed capital fund may apply to the board for a one-year
33 waiver from the requirements of this subsection.

34 7. An investor in a community-based seed capital fund
35 shall receive a tax credit pursuant to this division only for

1 the investor's investment in the community-based seed capital
2 fund and shall not receive any additional tax credit for the
3 investor's share of investments in a qualifying business made
4 by the community-based seed capital fund. However, an
5 investor in a community-based seed capital fund may receive a
6 tax credit under this division with respect to a separate
7 direct investment made by the investor in the same qualifying
8 business in which the community-based seed capital fund
9 invests.

10 8. A community-based seed capital fund shall not invest in
11 the Iowa fund of funds, if organized pursuant to 2002 Iowa
12 Acts, House File 2078, if enacted.

13 Sec. 6. NEW SECTION. 15E.46 REPORTS.

14 The board shall publish an annual report of the activities
15 conducted pursuant to this division and shall submit the
16 report to the governor and the general assembly. The report
17 shall include a listing of eligible qualifying businesses and
18 the number of tax credit certificates and the amount of tax
19 credits issued by the board.

20 Sec. 7. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

21 The taxes imposed under this division, less the credits
22 allowed under sections 422.12 and 422.12B, shall be reduced by
23 an investment tax credit authorized pursuant to section
24 15E.43.

25 Sec. 8. Section 422.33, Code Supplement 2001, is amended
26 by adding the following new subsection:

27 NEW SUBSECTION. 12. The taxes imposed under this division
28 shall be reduced by an investment tax credit authorized
29 pursuant to section 15E.43.

30 Sec. 9. Section 422.60, Code 2001, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 4. The taxes imposed under this division
33 shall be reduced by an investment tax credit authorized
34 pursuant to section 15E.43.

35 Sec. 10. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

1 The tax imposed under this chapter shall be reduced by an
2 investment tax credit authorized pursuant to section 15E.43.

3 Sec. 11. Section 533.24, Code 2001, is amended by adding
4 the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. The moneys and credits tax
6 imposed under this section shall be reduced by an investment
7 tax credit authorized pursuant to section 15E.43.

8 Sec. 12. MONEYS AND CREDITS TAX. Section 25B.7 shall not
9 apply to the tax credit authorized pursuant to section 15E.43
10 and allowed against the moneys and credits tax.

11 Sec. 13. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE
12 PROVISIONS. This Act, being deemed of immediate importance,
13 takes effect upon enactment and applies retroactively to
14 January 1, 2002, for tax years beginning on or after that
15 date.

16 Sec. 14. 2002 Iowa Acts, House File 2078, is amended by
17 adding the following new section:

18 SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this
19 Act, being deemed of immediate importance, take effect upon
20 the enactment of the Act creating a tax credit for investments
21 in qualifying businesses and community-based seed capital
22 funds as enacted by the Seventy-ninth General Assembly, 2002
23 regular session.

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Legislative Fiscal Bureau

Fiscal Note

HF 2271 - Iowa Seed Capital Tax Credit (LSB 5257 HV)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (Jeff.Robinson@legis.state.ia.us)

Fiscal Note Version - New

Description

House File 2271 creates a tax credit for investment in qualified businesses and community-based seed capital funds. The tax credit is equal to 20.0% of the qualified investment. The credit may be received only for approved investments made after January 1, 2002. Credits cannot be redeemed until at least three years after they are issued, and the first credits cannot be redeemed before tax year 2005. The tax credits would be administered by the Iowa Capital Investment Board created in HF 2078 (Venture Capital Investment Act of 2002). The total tax credits approved by the Board are limited to \$3.0 million in FY 2002, \$3.0 million in FY 2003, and \$4.0 million in FY 2004.

Assumption

Demand and investments will be sufficient to utilize all \$10.0 million in available tax credits.

Fiscal Impact

The total fiscal impact of the tax credits is a reduction in General Fund revenues of \$10.0 million. The maximum fiscal year impact would be \$3.0 million in FY 2005, \$3.0 million in FY 2006, and \$4.0 million in FY 2007.

Individuals and corporations have differing tax year timeframes and the redemption of the credits can be spread over six tax years, the total fiscal impact of \$10.0 million would likely be spread to fiscal years beyond FY 2007. This would lower the fiscal impact in the first three years.

Source

Legislative Fiscal Bureau analysis

/s/ Dennis C Prouty

February 14, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE FILE 2271

AN ACT

CREATING A TAX CREDIT FOR INVESTMENTS IN QUALIFYING BUSINESSES
AND COMMUNITY-BASED SEED CAPITAL FUNDS AND INCLUDING EFFECTIVE
AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 15E.41 PURPOSE.

The purpose of this division is to enhance the quality of life for citizens of this state through the increased availability of and accessibility to venture capital, particularly at the seed capital investment stage, which encourages the creation of wealth through high-paid, new jobs that increase the wage base and promote industrial development and innovative products that use new technology. The purpose of this division is also to encourage individuals to invest seed capital in Iowa businesses and in community-based seed capital funds.

Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.

For purposes of this division, unless the context otherwise requires:

1. "Affiliate" means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.
2. "Board" means the Iowa capital investment board, if created in House File 2078 as enacted by the Seventy-ninth General Assembly.
3. "Investor" means an individual making a cash investment in a qualifying business or a person making a cash investment in a community-based seed capital fund. "Investor" does not include a person which is a current or previous owner, member, or shareholder in a qualified business.

4. "Near equity" means debt that may be converted to equity at the option of the debt holder, and royalty agreements.

5. "Qualifying business" means a business meeting the criteria defined in section 15E.44.

Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.

1. a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, division II, for a portion of an individual taxpayer's equity investment, as provided in subsection 2, in a qualified business. An individual shall not claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual.

b. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a community-based seed capital fund. An individual may claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

c. A tax credit shall be allowed only for an investment made in the form of cash to purchase equity in a qualifying business or in a community-based seed capital fund. A taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

2. A tax credit shall equal twenty percent of the taxpayer's equity investment. The maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be fifty thousand dollars. Each year, an investor and all affiliates of the investor shall not claim tax credits under this section for more than five different investments in five different qualifying businesses.

3. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. An investment made prior to January 1, 2002, shall not qualify for a tax credit under this division.

4. The aggregate amount of tax credits issued pursuant to this division shall not exceed a total of ten million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2002, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2003, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2004, shall not exceed four million dollars.

5. A tax credit shall not be redeemed during any tax year beginning prior to January 1, 2005. A tax credit shall not be transferable to any other taxpayer.

6. The board shall develop a system for registration and authorization of tax credits authorized pursuant to this division and shall control distribution of all tax credits distributed to investors pursuant to this division. The board shall develop rules for the qualification and administration of qualifying businesses and community-based seed capital funds. The department of revenue and finance shall adopt these criteria as administrative rules and any other rules pursuant to chapter 17A necessary for the administration of this division.

7. The board may cooperate with the small business development centers in an effort to disseminate information regarding the availability of tax credits for investments in

qualifying businesses under this division. The board may also cooperate with the small business development centers to develop a standard seed capital application form that the small business development centers may submit to the board on behalf of clients seeking seed capital. The board shall distribute copies of the application forms to all community-based seed capital funds and potential individual investors.

Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

1. In order for an equity investment to qualify for a tax credit, the business in which the equity investment is made shall within one hundred twenty days of the date of the first investment notify the board of the names, addresses, taxpayer identification numbers, shares issued, consideration paid for the shares, and the amount of any tax credits, of all shareholders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The list of shareholders who may qualify for the tax credits shall be amended as new equity investments are sold or as any information on the list shall change.

2. In order to be a qualifying business, a business must meet all of the following criteria:

a. The principal business operations of the business are located in this state.

b. The business has been in operation for three years or less.

c. The business has an owner who has successfully completed one of the following:

(1) An entrepreneurial venture development curriculum.

(2) Three years of relevant business experience.

(3) A four-year college degree in business management, business administration, or a related field.

(4) Other training or experience as the board may specify by rule or order as sufficient to increase the probability of success of the qualifying business.

d. The business is not a business engaged primarily in retail sales, real estate, or the provision of health care or other professional services.

e. The business shall not have a net worth that exceeds three million dollars.

f. The business shall have secured, within twenty-four months following the first date on which the equity investments qualifying for tax credits have been made, total equity or near equity financing equal to at least two hundred fifty thousand dollars.

3. A qualifying business shall have the burden of proof to demonstrate to the board its qualifications under this section, and shall have the obligation to notify the board in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to redeem the investment tax credits in any tax year.

4. After verifying the eligibility of a qualifying business, the board shall issue a tax credit certificate to be attached to the equity investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of credit, the name of the qualifying business, and other information required by the department of revenue and finance. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue and finance as payment for taxes imposed pursuant to chapter 422, division II, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of section 15E.43.

Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL FUNDS.

1. An investment in a community seed capital fund shall qualify for a tax credit under section 15E.43 provided that all requirements of sections 15E.43, 15E.44, and this section are met.

2. In order to be a community-based seed capital fund qualifying under this section, a community-based seed capital fund must meet all of the following criteria:

a. The fund is a limited partnership or limited liability company.

b. The fund has, on or after January 1, 2002, a total of both capital commitments from investors and investments in qualifying businesses of at least five hundred thousand dollars, but not more than three million dollars.

c. The fund has no fewer than ten individual investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than twenty-five percent of the ownership interests outstanding in the fund.

3. In order for an investment in a community-based seed capital fund to qualify for a tax credit, the community-based seed capital fund in which the investment is made shall within one hundred twenty days of the date of the first investment notify the board of the names, addresses, taxpayer identification numbers, equity interests issued, consideration paid for the interests, and the amount of any tax credits, of which all limited partners or members who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The list of limited partners or members who may qualify for the tax credits shall be amended as new equity interests are sold or as any information on the list shall change.

4. After verifying the eligibility of the community-based seed capital fund, the board shall issue a tax credit certificate to be attached to the taxpayer's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, the name of the community-based seed capital fund, and other information required by the department of revenue and finance. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue and finance or a local taxing district, as applicable, as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and chapter 432, and as payment for the moneys and credits tax imposed pursuant to section 533.24, subject to any conditions or restrictions placed by the board on the face of the tax credit certificate and subject to the limitations of section 15E.43.

5. The manager of the community-based seed capital fund shall have the burden of proof to demonstrate to the board the community-based seed capital fund's qualifications under this section, and shall have the obligation to notify the board in a timely manner of any changes in the qualifications of the community-based seed capital fund, in the qualifications of any qualifying business in which the fund has invested, or in the eligibility of limited partners or members to redeem the investment tax credits in any year.

6. In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this section, or in the event that the community-based seed capital fund has not invested at least thirty-three percent of its invested capital in no fewer than two separate qualifying businesses, measured at the end of the thirty-sixth month after commencing the fund's investing activities, the board shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue and finance that it has done so, and the tax credit certificates shall be null and void. However, a community-based seed capital fund may apply to the board for a one-year waiver from the requirements of this subsection.

7. An investor in a community-based seed capital fund shall receive a tax credit pursuant to this division only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments in a qualifying business made by the community-based seed capital fund. However, an investor in a community-based seed capital fund may receive a tax credit under this division with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to 2002 Iowa Acts, House File 2078, if enacted.

Sec. 6. NEW SECTION. 15E.46 REPORTS.

The board shall publish an annual report of the activities conducted pursuant to this division and shall submit the report to the governor and the general assembly. The report shall include a listing of eligible qualifying businesses and the number of tax credit certificates and the amount of tax credits issued by the board.

Sec. 7. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 8. Section 422.33, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 12. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 9. Section 422.60, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 10. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

The tax imposed under this chapter shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 11. Section 533.24, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 12. MONEYS AND CREDITS TAX. Section 25B.7 shall not apply to the tax credit authorized pursuant to section 15E.43 and allowed against the moneys and credits tax.

Sec. 13. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2002, for tax years beginning on or after that date.

Sec. 14. 2002 Iowa Acts, House File 2078, is amended by adding the following new section:

SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this Act, being deemed of immediate importance, take effect upon the enactment of the Act creating a tax credit for investments in qualifying businesses and community-based seed capital funds as enacted by the Seventy-ninth General Assembly, 2002 Regular Session.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2271, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved Feb. 28th, 2002

THOMAS J. VILSACK
Governor