

McKinley, McKibben, Harper

SSB 3100
Ways and Means

Succeeded By
SF/HF 2193

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON MCKIBBEN)

Passed Senate, Date _____ Passed House, 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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Substituted for by HF2271
2/15/02
(P. 299)

FILED FEB 14 2002

SENATE FILE 2193
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 3100)

WITHDRAWN
2/15/02
(P. 299)

Passed Senate, Date _____ Passed House, 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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SF 2193

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 person making a cash investment
24 in a community-based seed capital fund. "Investor" does not
25 include a person who 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 Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

29 1. In order for an equity investment to qualify for a tax
30 credit, the business in which the equity investment is made
31 shall within one hundred twenty days of the date of the first
32 investment notify the board of the names, addresses, taxpayer
33 identification numbers, shares issued, consideration paid for
34 the shares, and the amount of any tax credits, of all
35 shareholders who may initially qualify for the tax credits,

1 and the earliest year in which the tax credits may be
2 redeemed. The list of shareholders who may qualify for the
3 tax credits shall be amended as new equity investments are
4 sold or as any information on the list shall change.

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

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

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

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

13 (1) An entrepreneurial venture development curriculum.

14 (2) Three years of relevant business experience.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 3. In order for an investment in a community-based seed
34 capital fund to qualify for a tax credit, the community-based
35 seed capital fund in which the investment is made shall within

1 one hundred twenty days of the date of the first investment
2 notify the board of the names, addresses, taxpayer
3 identification numbers, equity interests issued, consideration
4 paid for the interests, and the amount of any tax credits, of
5 which all limited partners or members who may initially
6 qualify for the tax credits, and the earliest year in which
7 the tax credits may be redeemed. The list of limited partners
8 or members who may qualify for the tax credits shall be
9 amended as new equity interests are sold or as any information
10 on the list shall change.

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

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

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

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

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

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

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

35 Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. Section 533.24, Code 2001, is amended by adding
19 the following new unnumbered paragraph:

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

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

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

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

33 SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this
34 Act, being deemed of immediate importance, take effect upon
35 the enactment of the Act creating a tax credit for investments

1 in qualifying businesses and community-based seed capital
2 funds as enacted by the Seventy-ninth General Assembly, 2002
3 regular session.

4 EXPLANATION

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

7 The bill provides that, for tax years beginning on or after
8 January 1, 2002, a tax credit shall be allowed against
9 personal income tax for a portion of an individual's direct
10 equity investment in a qualified business. The bill provides
11 that, for tax years beginning on or after January 1, 2002, a
12 tax credit shall be allowed against personal or corporate
13 income tax, the franchise tax for financial institutions, the
14 insurance premium tax, and the moneys and credits tax for
15 credit unions for a portion of the taxpayer's equity
16 investment in a community-based seed capital fund. The bill
17 provides that a tax credit shall be allowed only for an
18 investment made in a form of cash to purchase equity in a
19 qualifying business or in a community-based seed capital fund.
20 The bill provides that a taxpayer shall not claim the tax
21 credit prior to the third tax year following the tax year in
22 which the investment is made. The bill provides that any tax
23 credit in excess of the taxpayer's liability for the tax year
24 may be credited to the tax liability for the following five
25 years or until depleted, whichever is earlier. The bill
26 provides that a tax credit shall not be carried back to a tax
27 year prior to the tax year in which the taxpayer redeems the
28 tax credit. The bill provides that a tax credit shall equal
29 20 percent of the taxpayer's equity investment. The bill
30 provides that the maximum amount of a tax credit for an
31 investment by a taxpayer in any one qualifying business shall
32 be \$50,000. The bill provides that, each year, an investor
33 and all affiliates of the investor shall not claim tax credits
34 for more than five different investments in five different
35 qualifying businesses. The bill provides that an investment

1 shall be deemed to have been made on the same date as the date
2 of acquisition of the equity interest, as determined by the
3 Internal Revenue Code. The bill provides that the aggregate
4 amount of tax credits issued shall not exceed a total of \$10
5 million. The bill provides that the total amount of tax
6 credits issued shall not exceed \$3 million for the fiscal year
7 beginning July 1, 2002, \$3 million for the fiscal year
8 beginning July 1, 2003, and \$4 million for the fiscal year
9 beginning July 1, 2004. The bill provides that a tax credit
10 shall not be redeemed during any tax year beginning prior to
11 January 1, 2005, and shall not be transferable.

12 The bill provides that the Iowa capital investment board,
13 if created by House File 2078 as enacted by the Seventy-ninth
14 General Assembly, shall develop a system for registration and
15 authorization of tax credits authorized pursuant to this bill
16 and shall control distribution of all tax credits distributed
17 to investors pursuant to this bill.

18 The bill provides that, in order for an equity investment
19 to qualify for a tax credit, the business in which the equity
20 investment is made shall within 120 days of the date of the
21 first investment notify the board of the names, addresses,
22 taxpayer identification numbers, shares issued, consideration
23 paid for the shares, and the amount of any tax credits, of all
24 shareholders who may initially qualify for the tax credits,
25 and the earliest year in which the tax credits may be
26 redeemed. The bill provides certain criteria that a
27 qualifying business must meet relating to location of the
28 business, the duration of the business, the experience of the
29 business owner, the type of business, the net worth of the
30 business, and the equity investments in the business.

31 The bill provides that a qualifying business shall have the
32 burden of proof to demonstrate to the board its
33 qualifications, and shall have the obligation to notify the
34 board in a timely manner of any changes in the qualifications
35 or in the eligibility of investors to redeem the investment

1 tax credits in any tax year. The bill provides that after
2 verifying the eligibility of a qualifying business, the board
3 shall issue a tax credit certificate to be attached to the
4 equity investor's tax return.

5 The bill provides that an investment in a community-based
6 seed capital fund shall qualify for a tax credit provided that
7 all requirements of the bill are met. The bill provides that
8 in order to be a community-based seed capital fund qualifying
9 under this section, a community-based seed capital fund must
10 be a limited partnership or limited liability company; must
11 have, on or after January 1, 2002, a total of both capital
12 commitments from investors and investments in qualifying
13 businesses of at least \$500,000, but not more than \$3 million;
14 and must have no fewer than 10 individual investors who are
15 not affiliates, with no single investor and affiliates of that
16 investor together owning a total of more than 25 percent of
17 the ownership interests outstanding in the fund.

18 The bill provides that in order for an investment in a
19 community-based seed capital fund to qualify for a tax credit,
20 the community-based seed capital fund shall within 120 days of
21 the date of the first investment notify the board of the
22 names, addresses, taxpayer identification numbers, equity
23 interests issued, consideration paid for the interests, and
24 the amount of any tax credits, of which all limited partners
25 or members who may initially qualify for the tax credits, and
26 the earliest year in which the tax credits may be redeemed.
27 The bill provides that after verifying the eligibility of the
28 community-based seed capital fund, the board shall issue a tax
29 credit certificate to be attached to the taxpayer's tax
30 return.

31 The bill provides that the manager of the community-based
32 seed capital fund shall have the burden of proof to
33 demonstrate to the board the community-based seed capital
34 fund's qualifications, and shall have the obligation to notify
35 the board in a timely manner of any changes in the

1 qualifications of the community-based seed capital fund, in
2 the qualifications of any qualifying business in which the
3 fund has invested, or in the eligibility of limited partners
4 or members to redeem the investment tax credits in any year.
5 The bill provides that in the event that a community-based
6 seed capital fund fails to meet or maintain any requirement
7 set forth in the bill, or in the event that the community-
8 based seed capital fund has not invested at least 33 percent
9 of its invested capital in no fewer than two separate
10 qualifying businesses, measured at the end of the thirty-sixth
11 month after commencing the fund's investing activities, the
12 board shall rescind any tax credit certificates issued to
13 limited partners or members and shall notify the department of
14 revenue and finance that it has done so, and the tax credit
15 certificates shall be null and void. The bill allows a
16 community-based seed capital fund to apply to the board for a
17 one-year waiver regarding the investment requirements.

18 The bill provides that a community-based seed capital fund
19 shall receive a tax credit only for an investor's investment
20 in the community-based seed capital fund and shall not receive
21 any additional tax credit for the investor's share of
22 investments in a qualifying business made by the community-
23 based seed capital fund. The bill provides that an investor
24 may receive a tax credit with respect to a separate direct
25 investment made by the investor in the same qualifying
26 business in which the community-based seed capital fund
27 invests. The bill provides that a community-based seed
28 capital fund shall not invest in the Iowa fund of funds, if
29 organized pursuant to House File 2078, if enacted.

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

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

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

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

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SENATE FILE 2193**S-5043**

1 Amend Senate File 2193 as follows:
2 1. Page 1, line 6, by striking the word "high-
3 skilled", and inserting the following: "high-paid".
4 2. Page 1, line 25, by striking the word "who",
5 and inserting the following: "which".
6 3. Page 3, by inserting after line 27 the
7 following:
8 "7. The board may cooperate with the small
9 business development centers in an effort to
10 disseminate information regarding the availability of
11 tax credits for investments in qualifying businesses
12 under this division. The board may also cooperate
13 with the small business development centers to develop
14 a standard seed capital application form that the
15 small business development centers may submit to the
16 board on behalf of clients seeking seed capital. The
17 board shall distribute copies of the application forms
18 to all community-based seed capital funds and
19 potential individual investors."
20 4. Page 4, line 19, by inserting after the word
21 "business." the following: "In addition, the owner
22 shall receive counseling through a small business
23 development center, including an assessment of the
24 business plan with a determination of the level of any
25 technical assistance necessary to aid the business in
26 developing a financially feasible project. A small
27 business development center may utilize the services
28 of outside providers for all or part of the business
29 plan assessment, including strategic marketing
30 services at the university of northern Iowa for market
31 assessments. The business shall submit a copy of the
32 business plan assessment to the board."

By PAUL MCKINLEY

S-5043 FILED FEBRUARY 15, 2002

ADOPTED

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