

Reprinted

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SENATE FILE 2411
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2295)

Passed Senate, Date 3/20/90 (p. 1204) Passed House, Date 4/5/90 (P. 1980)

Vote: Ayes 43 Nays 0 Vote: Ayes 91 Nays 4

Approved April 26, 1990

*motion to reconsider 3/20 (p. 1210)
w/d 3/26 (p. 1308)*

A BILL FOR

1 An Act providing a seed capital income tax credit, authorizing
2 expedited registration by filing for small issues under the
3 state securities law, and providing effective and
4 applicability dates.

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

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SSB 2411

1 Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

2 1. The taxes imposed under this division less credits
3 allowed under sections 422.10, 422.11A, 422.11B, and 422.12,
4 shall be reduced by a seed capital credit.

5 2. The amount of the credit is equal to ten percent of a
6 taxpayer's investment, during the tax year, in an initial
7 offering of securities by a qualified business or a qualified
8 seed capital fund.

9 3. A seed capital fund, to be a qualified seed capital
10 fund under this section, must meet all of the following
11 conditions:

12 a. The investment must be in shares or other equity
13 interests, which are purchased for money consideration and
14 carry voting rights.

15 b. The issue of shares or other equity interests must be
16 registered under an expedited registration by filing system as
17 provided in section 502.207A.

18 c. Its capital base must be used to make investments
19 exclusively in the types of businesses described in subsection
20 4, paragraph "a".

21 d. Its capital base must be used to make qualified
22 investments according to the following schedule:

23 (1) Invest at least thirty percent of its capital base,
24 raised through investments for which tax credits were taken,
25 within three years of the fiscal year in which tax credits
26 were claimed.

27 (2) Invest at least fifty percent of its capital base,
28 raised through investments for which tax credits were taken,
29 within four years of the fiscal year in which tax credits were
30 claimed.

31 (3) Invest at least seventy percent of its capital base,
32 raised through investments for which tax credits were taken,
33 within five years of the fiscal year in which tax credits were
34 claimed.

35 e. More than twenty percent of the total funds raised for

1 which tax credits were claimed must not be invested in any one
2 qualified business.

3 4. A business, to be a qualified business under this
4 section, must meet all of the following conditions:

5 a. The business must be engaged in one or more of the
6 following activities:

7 (1) Interstate or intrastate commerce for the purpose of
8 manufacturing, processing, or assembling products.

9 (2) Agricultural, fishery, or forestry processing.

10 (3) Research and development of products and processes
11 associated with any of the activities enumerated in
12 subparagraph (1) or (2).

13 b. The shares must be purchased for money consideration
14 and carry full voting rights.

15 c. The shares must be sold in an offering registered under
16 an expedited registration by filing system as provided in
17 section 502.207A.

18 5. If during the tax year, the investment or a portion of
19 the investment is disposed of prior to having been owned by
20 the taxpayer for two years, the tax under this division is
21 increased by the amount of the credit taken on the investment
22 or portion of the investment.

23 6. Any credit in excess of the tax liability for the tax
24 year may be credited to the tax liability for the following
25 five years or until depleted, whichever is earlier.

557326 7. An offering of securities by a seed capital fund or
27 business which intends to apply for a tax credit under this
28 section must be for purposes of a bona fide offering to
29 unaffiliated and nonrelated persons.

30 8. The director may conduct an examination of a seed
31 capital fund or business to determine if it has met the
32 requirements of this section. The director may request and if
33 requested shall receive the assistance of the administrator of
34 chapter 502 to conduct an examination of a seed capital fund
35 or business.

1 9. The issuer must file a copy of its annual report with
2 the director and the administrator of chapter 502 for each of
3 the three years following the offering.

4 10. A violation of this section is grounds for
5 decertification of a seed capital fund or business as a
6 qualified seed capital fund or a qualified business. A seed
7 capital fund or a business alleged to have violated this
8 section, or to be out of compliance with this section, shall
9 be allowed a one hundred twenty day grace period to remedy the
10 violation or to comply with this section. Decertification
11 shall cause the forfeiture of any right or interest to a tax
12 credit under this section and shall cause the total amount of
13 tax credit for all tax years under this section to be due and
14 payable with income tax liability for the tax year when
15 decertification is effective.

16 Sec. 2. Section 422.33, Code Supplement 1989, is amended
17 by adding the following new subsection:

18 NEW SUBSECTION. 8. The taxes imposed under this division
19 shall be reduced by a seed capital credit.

20 a. The amount of the credit is equal to ten percent of a
21 taxpayer's investment, during the tax year, in an initial
22 offering of securities by a qualified business or a qualified
23 seed capital fund.

24 b. A seed capital fund, to be a qualified seed capital
25 fund under this section, must meet all of the following
26 conditions:

27 (1) The investment must be in shares or other equity
28 interests, which are purchased for money consideration and
29 carry voting rights.

30 (2) The issue of shares or other equity interests must be
31 registered under an expedited registration by filing system as
32 provided in section 502.207A.

33 (3) Its capital base must be used to make investments
34 exclusively in the types of businesses described in paragraph
35 "c", subparagraph (1).

1 (4) Its capital base must be used to make qualified
2 investments according to the following schedule:

3 (a) Invest at least thirty percent of its capital base,
4 raised through investments for which tax credits were taken,
5 within three years of the fiscal year in which tax credits
6 were claimed.

7 (b) Invest at least fifty percent of its capital base,
8 raised through investments for which tax credits were taken,
9 within four years of the fiscal year in which tax credits were
10 claimed.

11 (c) Invest at least seventy percent of its capital base,
12 raised through investments for which tax credits were taken,
13 within five years of the fiscal year in which tax credits were
14 claimed.

15 (5) More than twenty percent of the total funds raised for
16 which tax credits were claimed must not be invested in any one
17 qualifying business.

18 c. A business, to be a qualified business under this
19 subsection, must meet all of the following conditions:

20 (1) The business must be engaged in one or more of the
21 following activities:

22 (a) Interstate or intrastate commerce for the purpose of
23 manufacturing, processing, or assembling products.

24 (b) Agricultural, fishery, or forestry processing.

25 (c) Research and development of products and processes
26 associated with any of the activities enumerated in
27 subparagraph subdivision (a) or (b).

28 (2) The shares must be purchased for money consideration
29 and carry full voting rights.

30 (3) The shares must be sold in an offering registered
31 under an expedited registration by filing system as provided
32 in section 502.207A.

33 d. If during the tax year, the investment or a portion of
34 the investment is disposed of prior to having been owned by
35 the taxpayer for two years, the tax under this division is

1 increased by the amount of the credit taken on the investment.
2 or portion of the investment.

3 e. Any credit in excess of the tax liability for the tax
4 year may be credited to the tax liability for the following
5 five years or until depleted, whichever is earlier.

6 f. An offering of securities by a seed capital fund or
7 business which intends to apply for a tax credit under this
8 subsection must be for purposes of a bona fide offering to
9 unaffiliated and nonrelated persons.

10 g. The director may conduct an examination of a seed
11 capital fund or business to determine if it has met the
12 requirements of this subsection. The director may request and
13 if requested shall receive the assistance of the administrator
14 of chapter 502 to conduct an examination of a seed capital
15 fund or business.

16 h. The issuer must file a copy of its annual report with
17 the director and the administrator of chapter 502 for each of
18 the three years following the offering.

19 i. A violation of this subsection is grounds for
20 decertification of a seed capital fund or business as a
21 qualified seed capital fund or a qualified business. A seed
22 capital fund or a business alleged to have violated this
23 subsection, or to be out of compliance with this subsection,
24 shall be allowed a one hundred twenty day grace period to
25 remedy the violation or to comply with this subsection.
26 Decertification shall cause the forfeiture of any right or
27 interest to a tax credit under this subsection and shall cause
28 the total amount of tax credit for all tax years under this
29 subsection to be due and payable with income tax liability for
30 the tax year when decertification is effective.

31 Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY
32 FILING FOR SMALL ISSUERS.

33 1. A security meeting the conditions set forth in this
34 section may be registered by filing as provided in this
35 section.

1 2. In order to register under this section, the issuer
2 must meet all of the following conditions:

3 a. The issuer must be a corporation or partnership
4 organized under the laws of one of the states or possessions
5 of the United States which engages in or proposes to engage in
6 a business other than petroleum exploration or production
7 mining or other extractive industries.

8 b. The securities must be offered and sold only on behalf
9 of the issuer, and must not be used by any selling security
10 holder to register securities for resale.

11 3. In order to register under this section, all of the
12 following conditions must be satisfied:

13 a. The offering price for common stock, the exercise price
14 if the securities are options, warrants, or rights for common
15 stock, or the conversion price if the securities are
16 convertible into common stock must be equal to or greater than
17 five dollars per share. The issuer must not split its common
18 stock, or declare a stock dividend, for two years after
19 effectiveness of the registration, except that in connection
20 with a subsequent registered public offering, the issuer may
21 upon application and consent of the administrator take such
22 action.

23 b. A commission, fee, or other remuneration shall not be
24 paid or given, directly or indirectly, for the sale of the
25 securities, except for a payment to a broker-dealer or agent
26 registered under this chapter, or except for a payment as
27 permitted by the administrator by rule or by order issued upon
28 written application showing good cause for allowance of a
29 commission, fee, or other remuneration.

30 c. The issuer or a broker-dealer offering or selling the
31 securities is not or would not be disqualified under rule 505,
32 17 C.F.R. § 230.505 (2)(iii), adopted under the Federal
33 Securities Act of 1933.

34 d. The aggregate offering price of the offering of
35 securities by the issuer within or outside this state must not

1 exceed one million dollars, less the aggregate offering price
2 for all securities sold within twelve months before the start
3 of, and during the offering of, the securities under rule 504,
4 17 C.F.R. § 230.504, in reliance on any exemption under
5 section 3(b) of the federal Securities Act of 1933 or in
6 violation of section 5(a) of that Act; provided, that if rule
7 504, 17 C.F.R. § 230.504, adopted under the Securities Act of
8 1933, is amended after the effective date of this section, the
9 administrator may by rule increase the limit under this
10 paragraph to conform to that increased amount.

11 e. An offering document meeting the disclosure
12 requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2),
13 adopted under the Securities Act of 1933, must be delivered to
14 each purchaser in the state prior to the sale of the
15 securities, unless the administrator by rule or order provides
16 for disclosure different from that rule.

17 f. The issuer must file with the administrator an
18 application for registration and the offering document to be
19 used in connection with the offer and sale of securities.

20 g. The issuer must pay to the administrator a fee of one
21 hundred dollars and is not required to pay the filing fee set
22 forth in section 502.208, subsection 2.

23 4. Unless the administrator issues a stop order denying
24 the effectiveness of the registration, as provided in section
25 502.209, the registration becomes effective on the fifth
26 business day after the registration has been filed with the
27 administrator, or earlier if the administrator permits a
28 shorter time period between registration and effectiveness.

29 5. In connection with an offering registered under this
30 section, a person may be registered as an agent of the issuer
31 under section 502.301 by the filing of an application by the
32 issuer with the administrator for the registration of the
33 person as an agent of the issuer and the paying of a fee of
34 ten dollars. Notwithstanding any other provision of this
35 chapter, the registration of the agent shall be effective

1 until withdrawn by the issuer or until the securities
2 registered pursuant to the registration statement have all
3 been sold, whichever occurs first. The registration of an
4 agent shall become effective when ordered by the administrator
5 or on the fifth business day after the agent's application has
6 been filed with the administrator, whichever occurs first, and
7 the administrator shall not impose further conditions upon the
8 registration of the agent. However, the administrator may
9 deny, revoke, suspend, or withdraw the registration of the
10 agent at any time as provided in section 502.304.

11 Notwithstanding section 502.302, subsection 5, for the
12 purposes of registration of agents under this section, the
13 issuer and agent are not required to post bond. An agent
14 registered solely pursuant to this section is entitled to sell
15 only securities registered under this section.

16 6. This section is not applicable to any of the following
17 issuers:

- 18 a. An investment company, including a mutual fund.
- 19 b. An issuer subject to the reporting requirements of
20 section 13 or 15(d) of the federal Securities Exchange Act of
21 1934.
- 22 c. A direct participation program, unless otherwise
23 permitted by the administrator by rule or order for good
24 cause.
- 25 d. A blind pool or other offering for which the specific
26 business or properties cannot now be described, unless the
27 administrator determines that the blind pool is a community
28 development, seed, or venture capital fund for which the
29 administrator permits a waiver.

30 7. Notwithstanding any other provision of this chapter,
31 the administrator shall not deny effectiveness to or suspend
32 or revoke the effectiveness of a registration under this
33 section on the basis of section 502.209, subsection 1,
34 paragraph "h", and the administrator shall not impose the
35 conditions specified in section 502.208, subsection 8,

1 subsection 9, paragraph "b", or subsection 12. The
2 administrator may issue a stop order pursuant to section
3 502.209 to filers under this section for any of the following
4 additional reasons:

5 a. The issuer's principal place of business is not in this
6 state.

7 b. At least fifty percent of the issuer's full-time
8 employees are not located in this state.

9 c. At least eighty percent of the net proceeds of the
10 offering are not going to be used in connection with the
11 operations of the issuer in this state.

12 d. If the issuer is a seed or venture capital fund, at
13 least fifty percent of the moneys received from the sale of
14 the securities will not be used to make seed or venture
15 capital investments in this state.

16 Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND
17 OVERSIGHT.

18 The director of revenue and finance and the administrator
19 of the securities bureau of the insurance division shall each
20 report on an annual basis to the senate's and house of
21 representatives' committees on ways and means concerning
22 issuers using the seed capital tax credit, as authorized for
23 personal taxpayers by section 422.11D and for corporate
24 taxpayers by section 422.33, subsection 8, and the expedited
25 filing by registration system provided by section 502.207A.

26 Sec. 5. Section 502.611, Code 1989, is amended by adding
27 the following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. This chapter may be construed
29 and implemented to effectuate its general purpose to protect
30 investors, and consistent with that purpose, to encourage
31 capital formation, job creation, and free and competitive
32 securities markets and to minimize regulatory burdens on
33 issuers and persons subject to this chapter, especially small
34 businesses.

35 Sec. 6.

1 Sections 1, 3, and 5 of this Act, being deemed of immediate
2 importance, take effect upon enactment.

3 Sec. 7.

4 Section 2 of this Act takes effect July 1, 1991, and
5 applies to eligible investments made on or after that date.

6 Sec. 8.

7 Section 1 of this Act is repealed January 1, 1993.

8 Sec. 9.

9 Section 2 of this Act is repealed January 1, 1994.

10 EXPLANATION

11 This bill provides an income tax credit for an investment
12 in new issues of shares or equity interests by a qualified
13 corporation or a qualified seed capital fund. The credit is
14 10 percent of the taxpayer's qualified investment and may be
15 credited to the tax liabilities of the following 5 tax years.

16 A qualified corporation or seed capital fund shall meet
17 several requirements in order to qualify for the tax credit.

18 The bill also authorizes an expedited registration by
19 filing system for certain securities issues by qualified small
20 issuers.

21 The seed capital tax credit for personal income tax,
22 section 1 of the bill; the expedited registration by filing
23 for small issuers, section 3; and section 5 relating to
24 statutory construction of chapter 502, of the Iowa blue sky
25 law, are made effective upon enactment by section 6.

26 The seed capital tax credit for corporate filers authorized
27 by section 2 is given a delayed effective date of July 1,
28 1991, by section 7, and is effective through January 1, 1994,
29 when it is repealed by section 9.

30 Section 8 repeals section 1, the seed capital tax credit
31 for personal income tax filers, effective January 1, 1993.

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SENATE FILE 2411

S-5573

1. Amend Senate File 2411 as follows:

2 1. Page 1, line 3, by striking the word and
3 figure "and 422.12" and inserting the following:
4 "422.12, and 422.12B".

5 2. Page 1, line 4, by inserting after the word
6 "credit." the following: "An individual may claim the
7 seed capital credit allowed a partnership, subchapter
8 S corporation, or estate or trust electing to have the
9 income taxed directly to the individual. The amount
10 claimed by the individual shall be based upon the pro
11 rata share of the individual's earnings of a
12 partnership, subchapter S corporation, or estate or
13 trust."

14 3. Page 2, by striking lines 26 through 29, and
15 inserting the following:

16 "7. An investment in securities offered by a seed
17 capital fund or qualified business qualifies for a tax
18 credit only if the investment is in an unaffiliated
19 and nonrelated person, partnership, or corporation."

20 4. Page 5, by striking lines 6 through 9, and
21 inserting the following:

22 "f. An investment in securities offered by a seed
23 capital fund or qualified business qualifies for a tax
24 credit only if the investment is in an unaffiliated
25 and nonrelated person, partnership, or corporation."

26 5. By renumbering as necessary.

By ELAINE SZYMONIAK

S-5573 FILED MARCH 19, 1990

Adopted 5/20 (p. 1203)

SENATE FILE 2411
FISCAL NOTE

A fiscal note for Senate File 2411 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2411 provides income tax credits for investment in new issues of shares or equity interests by qualified corporations or seed capital fund. The credit is 10 percent of the taxpayer's investment and may be credited to the tax liability of the following 5 tax years.

The Bill requires the Department of Revenue and Finance and the Department of Commerce to report annually to the Ways and Means Committees of the Senate and the House of Representatives concerning issuers using the seed capital tax credit.

ASSUMPTIONS:

1. The maximum capital which could be absorbed into Iowa's seed and venture capital community would not exceed \$100,000,000. The maximum tax revenue loss would be \$10,000,000.
2. The funds flowing into these programs under the incentive plan will be funds not generally placed in the present Iowa stream of active commerce.
3. Funds flowing into these types of programs would probably turn over on a multiplier of roughly 2.2.

FISCAL IMPACT:

The Department of Commerce anticipates that the Program would start having positive revenue impact during or after FY 1994 due to increased economic activity.

The Department of Revenue and Finance cannot determine the fiscal impact of this legislation. According to the Department, no specific estimates can be provided because the levels of participation and investment that would occur cannot be determined.

Source: Department of Commerce, Insurance Division.
Department of Revenue and Finance

(LSB 8421SV, KNM)

FILED MARCH 20, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

1 Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

2 1. The taxes imposed under this division less credits
3 allowed under sections 422.10, 422.11A, 422.11B, 422.12, and
4 422.12B, shall be reduced by a seed capital credit. An
5 individual may claim the seed capital credit allowed a
6 partnership, subchapter S corporation, or estate or trust
7 electing to have the income taxed directly to the individual.
8 The amount claimed by the individual shall be based upon the
9 pro rata share of the individual's earnings of a partnership,
10 subchapter S corporation, or estate or trust.

11 2. The amount of the credit is equal to ten percent of a
12 taxpayer's investment, during the tax year, in an initial
13 offering of securities by a qualified business or a qualified
14 seed capital fund.

15 3. A seed capital fund, to be a qualified seed capital
16 fund under this section, must meet all of the following
17 conditions:

18 a. The investment must be in shares or other equity
19 interests, which are purchased for money consideration and
20 carry voting rights.

21 b. The issue of shares or other equity interests must be
22 registered under an expedited registration by filing system as
23 provided in section 502.207A.

24 c. Its capital base must be used to make investments
25 exclusively in the types of businesses described in subsection
26 4, paragraph "a".

27 d. Its capital base must be used to make qualified
28 investments according to the following schedule:

29 (1) Invest at least thirty percent of its capital base,
30 raised through investments for which tax credits were taken,
31 within three years of the fiscal year in which tax credits
32 were claimed.

33 (2) Invest at least fifty percent of its capital base,
34 raised through investments for which tax credits were taken,
35 within four years of the fiscal year in which tax credits were

1 claimed.

2 (3) Invest at least seventy percent of its capital base,
3 raised through investments for which tax credits were taken,
4 within five years of the fiscal year in which tax credits were
5 claimed.

6 e. More than twenty percent of the total funds raised for
7 which tax credits were claimed must not be invested in any one
8 qualified business.

9 4. A business, to be a qualified business under this
10 section, must meet all of the following conditions:

11 a. The business must be engaged in one or more of the
12 following activities:

13 (1) Interstate or intrastate commerce for the purpose of
14 manufacturing, processing, or assembling products.

15 (2) Agricultural, fishery, or forestry processing.

16 (3) Research and development of products and processes
17 associated with any of the activities enumerated in
18 subparagraph (1) or (2).

19 b. The shares must be purchased for money consideration
20 and carry full voting rights.

21 c. The shares must be sold in an offering registered under
22 an expedited registration by filing system as provided in
23 section 502.207A.

24 5. If during the tax year, the investment or a portion of
25 the investment is disposed of prior to having been owned by
26 the taxpayer for two years, the tax under this division is
27 increased by the amount of the credit taken on the investment
28 or portion of the investment.

29 6. Any credit in excess of the tax liability for the tax
30 year may be credited to the tax liability for the following
31 five years or until depleted, whichever is earlier.

32 7. An investment in securities offered by a seed capital
33 fund or qualified business qualifies for a tax credit only if
34 the investment is in an unaffiliated and nonrelated person,
35 partnership, or corporation.

1 8. The director may conduct an examination of a seed
2 capital fund or business to determine if it has met the
3 requirements of this section. The director may request and if
4 requested shall receive the assistance of the administrator of
5 chapter 502 to conduct an examination of a seed capital fund
6 or business.

7 9. The issuer must file a copy of its annual report with
8 the director and the administrator of chapter 502 for each of
9 the three years following the offering.

10 10. A violation of this section is grounds for
11 decertification of a seed capital fund or business as a
12 qualified seed capital fund or a qualified business. A seed
13 capital fund or a business alleged to have violated this
14 section, or to be out of compliance with this section, shall
15 be allowed a one hundred twenty day grace period to remedy the
16 violation or to comply with this section. Decertification
17 shall cause the forfeiture of any right or interest to a tax
18 credit under this section and shall cause the total amount of
19 tax credit for all tax years under this section to be due and
20 payable with income tax liability for the tax year when
21 decertification is effective.

22 Sec. 2. Section 422.33, Code Supplement 1989, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 8. The taxes imposed under this division
25 shall be reduced by a seed capital credit.

26 a. The amount of the credit is equal to ten percent of a
27 taxpayer's investment, during the tax year, in an initial
28 offering of securities by a qualified business or a qualified
29 seed capital fund.

30 b. A seed capital fund, to be a qualified seed capital
31 fund under this section, must meet all of the following
32 conditions:

33 (1) The investment must be in shares or other equity
34 interests, which are purchased for money consideration and
35 carry voting rights.

1 (2) The issue of shares or other equity interests must be
2 registered under an expedited registration by filing system as
3 provided in section 502.207A.

4 (3) Its capital base must be used to make investments
5 exclusively in the types of businesses described in paragraph
6 "c", subparagraph (1).

7 (4) Its capital base must be used to make qualified
8 investments according to the following schedule:

9 (a) Invest at least thirty percent of its capital base,
10 raised through investments for which tax credits were taken,
11 within three years of the fiscal year in which tax credits
12 were claimed.

13 (b) Invest at least fifty percent of its capital base,
14 raised through investments for which tax credits were taken,
15 within four years of the fiscal year in which tax credits were
16 claimed.

17 (c) Invest at least seventy percent of its capital base,
18 raised through investments for which tax credits were taken,
19 within five years of the fiscal year in which tax credits were
20 claimed.

21 (5) More than twenty percent of the total funds raised for
22 which tax credits were claimed must not be invested in any one
23 qualifying business.

24 c. A business, to be a qualified business under this
25 subsection, must meet all of the following conditions:

26 (1) The business must be engaged in one or more of the
27 following activities:

28 (a) Interstate or intrastate commerce for the purpose of
29 manufacturing, processing, or assembling products.

30 (b) Agricultural, fishery, or forestry processing.

31 (c) Research and development of products and processes
32 associated with any of the activities enumerated in
33 subparagraph subdivision (a) or (b).

34 (2) The shares must be purchased for money consideration
35 and carry full voting rights.

1 (3) The shares must be sold in an offering registered
2 under an expedited registration by filing system as provided
3 in section 502.207A.

4 d. If during the tax year, the investment or a portion of
5 the investment is disposed of prior to having been owned by
6 the taxpayer for two years, the tax under this division is
7 increased by the amount of the credit taken on the investment
8 or portion of the investment.

9 e. Any credit in excess of the tax liability for the tax
10 year may be credited to the tax liability for the following
11 five years or until depleted, whichever is earlier.

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13 fund or qualified business qualifies for a tax credit only if
14 the investment is in an unaffiliated and nonrelated person,
15 partnership, or corporation.

16 g. The director may conduct an examination of a seed
17 capital fund or business to determine if it has met the
18 requirements of this subsection. The director may request and
19 if requested shall receive the assistance of the administrator
20 of chapter 502 to conduct an examination of a seed capital
21 fund or business.

22 h. The issuer must file a copy of its annual report with
23 the director and the administrator of chapter 502 for each of
24 the three years following the offering.

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26 decertification of a seed capital fund or business as a
27 qualified seed capital fund or a qualified business. A seed
28 capital fund or a business alleged to have violated this
29 subsection, or to be out of compliance with this subsection,
30 shall be allowed a one hundred twenty day grace period to
31 remedy the violation or to comply with this subsection.
32 Decertification shall cause the forfeiture of any right or
33 interest to a tax credit under this subsection and shall cause
34 the total amount of tax credit for all tax years under this
35 subsection to be due and payable with income tax liability for

1 the tax year when decertification is effective.

2 Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY
3 FILING FOR SMALL ISSUERS.

4 1. A security meeting the conditions set forth in this
5 section may be registered by filing as provided in this
6 section.

7 2. In order to register under this section, the issuer
8 must meet all of the following conditions:

9 a. The issuer must be a corporation or partnership
10 organized under the laws of one of the states or possessions
11 of the United States which engages in or proposes to engage in
12 a business other than petroleum exploration or production
13 mining or other extractive industries.

14 b. The securities must be offered and sold only on behalf
15 of the issuer, and must not be used by any selling security
16 holder to register securities for resale.

17 3. In order to register under this section, all of the
18 following conditions must be satisfied:

19 a. The offering price for common stock, the exercise price
20 if the securities are options, warrants, or rights for common
21 stock, or the conversion price if the securities are
22 convertible into common stock must be equal to or greater than
23 five dollars per share. The issuer must not split its common
24 stock, or declare a stock dividend, for two years after
25 effectiveness of the registration, except that in connection
26 with a subsequent registered public offering, the issuer may
27 upon application and consent of the administrator take such
28 action.

29 b. A commission, fee, or other remuneration shall not be
30 paid or given, directly or indirectly, for the sale of the
31 securities, except for a payment to a broker-dealer or agent
32 registered under this chapter, or except for a payment as
33 permitted by the administrator by rule or by order issued upon
34 written application showing good cause for allowance of a
35 commission, fee, or other remuneration.

1 c. The issuer or a broker-dealer offering or selling the
2 securities is not or would not be disqualified under rule 505,
3 17 C.F.R. § 230.505 (2)(iii), adopted under the federal
4 Securities Act of 1933.

5 d. The aggregate offering price of the offering of
6 securities by the issuer within or outside this state must not
7 exceed one million dollars, less the aggregate offering price
8 for all securities sold within twelve months before the start
9 of, and during the offering of, the securities under rule 504,
10 17 C.F.R. § 230.504, in reliance on any exemption under
11 section 3(b) of the federal Securities Act of 1933 or in
12 violation of section 5(a) of that Act; provided, that if rule
13 504, 17 C.F.R. § 230.504, adopted under the Securities Act of
14 1933, is amended after the effective date of this section, the
15 administrator may by rule increase the limit under this
16 paragraph to conform to that increased amount.

17 e. An offering document meeting the disclosure
18 requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2),
19 adopted under the Securities Act of 1933, must be delivered to
20 each purchaser in the state prior to the sale of the
21 securities, unless the administrator by rule or order provides
22 for disclosure different from that rule.

23 f. The issuer must file with the administrator an
24 application for registration and the offering document to be
25 used in connection with the offer and sale of securities.

26 g. The issuer must pay to the administrator a fee of one
27 hundred dollars and is not required to pay the filing fee set
28 forth in section 502.208, subsection 2.

29 4. Unless the administrator issues a stop order denying
30 the effectiveness of the registration, as provided in section
31 502.209, the registration becomes effective on the fifth
32 business day after the registration has been filed with the
33 administrator, or earlier if the administrator permits a
34 shorter time period between registration and effectiveness.

35 5. In connection with an offering registered under this

1 section, a person may be registered as an agent of the issuer
2 under section 502.301 by the filing of an application by the
3 issuer with the administrator for the registration of the
4 person as an agent of the issuer and the paying of a fee of
5 ten dollars. Notwithstanding any other provision of this
6 chapter, the registration of the agent shall be effective
7 until withdrawn by the issuer or until the securities
8 registered pursuant to the registration statement have all
9 been sold, whichever occurs first. The registration of an
10 agent shall become effective when ordered by the administrator
11 or on the fifth business day after the agent's application has
12 been filed with the administrator, whichever occurs first, and
13 the administrator shall not impose further conditions upon the
14 registration of the agent. However, the administrator may
15 deny, revoke, suspend, or withdraw the registration of the
16 agent at any time as provided in section 502.304.

17 Notwithstanding section 502.302, subsection 5, for the
18 purposes of registration of agents under this section, the
19 issuer and agent are not required to post bond. An agent
20 registered solely pursuant to this section is entitled to sell
21 only securities registered under this section.

22 6. This section is not applicable to any of the following
23 issuers:

- 24 a. An investment company, including a mutual fund.
- 25 b. An issuer subject to the reporting requirements of
26 section 13 or 15(d) of the federal Securities Exchange Act of
27 1934.
- 28 c. A direct participation program, unless otherwise
29 permitted by the administrator by rule or order for good
30 cause.
- 31 d. A blind pool or other offering for which the specific
32 business or properties cannot now be described, unless the
33 administrator determines that the blind pool is a community
34 development, seed, or venture capital fund for which the
35 administrator permits a waiver.

1 7. Notwithstanding any other provision of this chapter,
2 the administrator shall not deny effectiveness to or suspend
3 or revoke the effectiveness of a registration under this
4 section on the basis of section 502.209, subsection 1,
5 paragraph "h", and the administrator shall not impose the
6 conditions specified in section 502.208, subsection 8,
7 subsection 9, paragraph "b", or subsection 12. The
8 administrator may issue a stop order pursuant to section
9 502.209 to filers under this section for any of the following
10 additional reasons:

11 a. The issuer's principal place of business is not in this
12 state.

13 b. At least fifty percent of the issuer's full-time
14 employees are not located in this state.

15 c. At least eighty percent of the net proceeds of the
16 offering are not going to be used in connection with the
17 operations of the issuer in this state.

18 d. If the issuer is a seed or venture capital fund, at
19 least fifty percent of the moneys received from the sale of
20 the securities will not be used to make seed or venture
21 capital investments in this state.

22 Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND
23 OVERSIGHT.

24 The director of revenue and finance and the administrator
25 of the securities bureau of the insurance division shall each
26 report on an annual basis to the senate's and house of
27 representatives' committees on ways and means concerning
28 issuers using the seed capital tax credit, as authorized for
29 personal taxpayers by section 422.11D and for corporate
30 taxpayers by section 422.33, subsection 8, and the expedited
31 filing by registration system provided by section 502.207A.

32 Sec. 5. Section 502.611, Code 1989, is amended by adding
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. This chapter may be construed
35 and implemented to effectuate its general purpose to protect

1 investors, and consistent with that purpose, to encourage
2 capital formation, job creation, and free and competitive
3 securities markets and to minimize regulatory burdens on
4 issuers and persons subject to this chapter, especially small
5 businesses.

6 Sec. 6.

7 Sections 1, 3, and 5 of this Act, being deemed of immediate
8 importance, take effect upon enactment.

9 Sec. 7.

10 Section 2 of this Act takes effect July 1, 1991, and
11 applies to eligible investments made on or after that date.

12 Sec. 8.

13 Section 1 of this Act is repealed January 1, 1993.

14 Sec. 9.

15 Section 2 of this Act is repealed January 1, 1994.

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SZYMONIAK, CH.
CONNOLLY
HULTMAN

SSB 2295
WAYS & MEANS

LSB

SENATE FILE 2411
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON DIELEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing a seed capital income tax credit, authorizing
2 expedited registration by filing for small issues under the
3 state securities law, and providing effective and
4 applicability dates.

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

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1 Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

2 1. The taxes imposed under this division less credits
3 allowed under sections 422.10, 422.11A, 422.11B, and 422.12,
4 shall be reduced by a seed capital credit.

5 2. The amount of the credit is equal to ten percent of a
6 taxpayer's investment, during the tax year, in an initial
7 offering of securities by a qualified business or a qualified
8 seed capital fund.

9 3. A seed capital fund, to be a qualified seed capital
10 fund under this section, must meet all of the following
11 conditions:

12 a. The investment must be in shares or other equity
13 interests, which are purchased for money consideration and
14 carry voting rights.

15 b. The issue of shares or other equity interests must be
16 registered under an expedited registration by filing system as
17 provided in section 502.207A.

18 c. Its capital base must be used to make investments
19 exclusively in the types of businesses described in subsection
20 4, paragraph "a".

21 d. Its capital base must be used to make qualified
22 investments according to the following schedule:

23 (1) Invest at least thirty percent of its capital base,
24 raised through investments for which tax credits were taken,
25 within three years of the fiscal year in which tax credits
26 were claimed.

27 (2) Invest at least fifty percent of its capital base,
28 raised through investments for which tax credits were taken,
29 within four years of the fiscal year in which tax credits were
30 claimed.

31 (3) Invest at least seventy percent of its capital base,
32 raised through investments for which tax credits were taken,
33 within five years of the fiscal year in which tax credits were
34 claimed.

35 e. More than twenty percent of the total funds raised for

1 which tax credits were claimed must not be invested in any one
2 qualified business.

3 4. A business, to be a qualified business under this
4 section, must meet all of the following conditions:

5 a. The business must be engaged in one or more of the
6 following activities:

7 (1) Interstate or intrastate commerce for the purpose of
8 manufacturing, processing, or assembling products.

9 (2) Agricultural, fishery, or forestry processing.

10 (3) Research and development of products and processes
11 associated with any of the activities enumerated in
12 subparagraph (1) or (2).

13 b. The shares must be purchased for money consideration
14 and carry full voting rights.

15 c. The shares must be sold in an offering registered under
16 an expedited registration by filing system as provided in
17 section 502.207A.

18 5. If during the tax year, the investment or a portion of
19 the investment is disposed of prior to having been owned by
20 the taxpayer for two years, the tax under this division is
21 increased by the amount of the credit taken on the investment
22 or portion of the investment.

23 6. Any credit in excess of the tax liability for the tax
24 year may be credited to the tax liability for the following
25 five years or until depleted, whichever is earlier.

26 7. An offering of securities by a seed capital fund or
27 business which intends to apply for a tax credit under this
28 section must be for purposes of a bona fide offering to
29 unaffiliated and nonrelated persons.

30 8. The director may conduct an examination of a seed
31 capital fund or business to determine if it has met the
32 requirements of this section. The director may request and if
33 requested shall receive the assistance of the administrator of
34 chapter 502 to conduct an examination of a seed capital fund
35 or business.

1 9. The issuer must file a copy of its annual report with
2 the director and the administrator of chapter 502 for each of
3 the three years following the offering.

4 10. A violation of this section is grounds for
5 decertification of a seed capital fund or business as a
6 qualified seed capital fund or a qualified business. A seed
7 capital fund or a business alleged to have violated this
8 section, or to be out of compliance with this section, shall
9 be allowed a one hundred twenty day grace period to remedy the
10 violation or to comply with this section. Decertification
11 shall cause the forfeiture of any right or interest to a tax
12 credit under this section and shall cause the total amount of
13 tax credit for all tax years under this section to be due and
14 payable with income tax liability for the tax year when
15 decertification is effective.

16 Sec. 2. Section 422.33, Code Supplement 1989, is amended
17 by adding the following new subsection:

18 NEW SUBSECTION. 8. The taxes imposed under this division
19 shall be reduced by a seed capital credit.

20 a. The amount of the credit is equal to ten percent of a
21 taxpayer's investment, during the tax year, in an initial
22 offering of securities by a qualified business or a qualified
23 seed capital fund.

24 b. A seed capital fund, to be a qualified seed capital
25 fund under this section, must meet all of the following
26 conditions:

27 (1) The investment must be in shares or other equity
28 interests, which are purchased for money consideration and
29 carry voting rights.

30 (2) The issue of shares or other equity interests must be
31 registered under an expedited registration by filing system as
32 provided in section 502.207A.

33 (3) Its capital base must be used to make investments
34 exclusively in the types of businesses described in paragraph
35 "c", subparagraph (1).

1 (4) Its capital base must be used to make qualified
2 investments according to the following schedule:

3 (a) Invest at least thirty percent of its capital base,
4 raised through investments for which tax credits were taken,
5 within three years of the fiscal year in which tax credits
6 were claimed.

7 (b) Invest at least fifty percent of its capital base,
8 raised through investments for which tax credits were taken,
9 within four years of the fiscal year in which tax credits were
10 claimed.

11 (c) Invest at least seventy percent of its capital base,
12 raised through investments for which tax credits were taken,
13 within five years of the fiscal year in which tax credits were
14 claimed.

15 (5) More than twenty percent of the total funds raised for
16 which tax credits were claimed must not be invested in any one
17 qualifying business.

18 c. A business, to be a qualified business under this
19 subsection, must meet all of the following conditions:

20 (1) The business must be engaged in one or more of the
21 following activities:

22 (a) Interstate or intrastate commerce for the purpose of
23 manufacturing, processing, or assembling products.

24 (b) Agricultural, fishery, or forestry processing.

25 (c) Research and development of products and processes
26 associated with any of the activities enumerated in
27 subparagraph subdivision (a) or (b).

28 (2) The shares must be purchased for money consideration
29 and carry full voting rights.

30 (3) The shares must be sold in an offering registered
31 under an expedited registration by filing system as provided
32 in section 502.207A.

33 d. If during the tax year, the investment or a portion of
34 the investment is disposed of prior to having been owned by
35 the taxpayer for two years, the tax under this division is

1 increased by the amount of the credit taken on the investment
2 or portion of the investment.

3 e. Any credit in excess of the tax liability for the tax
4 year may be credited to the tax liability for the following
5 five years or until depleted, whichever is earlier.

6 f. An offering of securities by a seed capital fund or
7 business which intends to apply for a tax credit under this
8 subsection must be for purposes of a bona fide offering to
9 unaffiliated and nonrelated persons.

10 g. The director may conduct an examination of a seed
11 capital fund or business to determine if it has met the
12 requirements of this subsection. The director may request and
13 if requested shall receive the assistance of the administrator
14 of chapter 502 to conduct an examination of a seed capital
15 fund or business.

16 h. The issuer must file a copy of its annual report with
17 the director and the administrator of chapter 502 for each of
18 the three years following the offering.

19 i. A violation of this subsection is grounds for
20 decertification of a seed capital fund or business as a
21 qualified seed capital fund or a qualified business. A seed
22 capital fund or a business alleged to have violated this
23 subsection, or to be out of compliance with this subsection,
24 shall be allowed a one hundred twenty day grace period to
25 remedy the violation or to comply with this subsection.
26 Decertification shall cause the forfeiture of any right or
27 interest to a tax credit under this subsection and shall cause
28 the total amount of tax credit for all tax years under this
29 subsection to be due and payable with income tax liability for
30 the tax year when decertification is effective.

31 Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY
32 FILING FOR SMALL ISSUERS.

33 1. A security meeting the conditions set forth in this
34 section may be registered by filing as provided in this
35 section.

1 2. In order to register under this section, the issuer
2 must meet all of the following conditions:

3 a. The issuer must be a corporation or partnership
4 organized under the laws of one of the states or possessions
5 of the United States which engages in or proposes to engage in
6 a business other than petroleum exploration or production
7 mining or other extractive industries.

8 b. The securities must be offered and sold only on behalf
9 of the issuer, and must not be used by any selling security
10 holder to register securities for resale.

11 3. In order to register under this section, all of the
12 following conditions must be satisfied:

13 a. The offering price for common stock, the exercise price
14 if the securities are options, warrants, or rights for common
15 stock, or the conversion price if the securities are
16 convertible into common stock must be equal to or greater than
17 five dollars per share. The issuer must not split its common
18 stock, or declare a stock dividend, for two years after
19 effectiveness of the registration, except that in connection
20 with a subsequent registered public offering, the issuer may
21 upon application and consent of the administrator take such
22 action.

23 b. A commission, fee, or other remuneration shall not be
24 paid or given, directly or indirectly, for the sale of the
25 securities, except for a payment to a broker-dealer or agent
26 registered under this chapter, or except for a payment as
27 permitted by the administrator by rule or by order issued upon
28 written application showing good cause for allowance of a
29 commission, fee, or other remuneration.

30 c. The issuer or a broker-dealer offering or selling the
31 securities is not or would not be disqualified under rule 505,
32 17 C.F.R. § 230.505 (2)(iii), adopted under the federal
33 Securities Act of 1933.

34 d. The aggregate offering price of the offering of
35 securities by the issuer within or outside this state must not

1 exceed one million dollars, less the aggregate offering price
2 for all securities sold within twelve months before the start
3 of, and during the offering of, the securities under rule 504,
4 17 C.F.R. § 230.504, in reliance on any exemption under
5 section 3(b) of the federal Securities Act of 1933 or in
6 violation of section 5(a) of that Act; provided, that if rule
7 504, 17 C.F.R. § 230.504, adopted under the Securities Act of
8 1933, is amended after the effective date of this section, the
9 administrator may by rule increase the limit under this
10 paragraph to conform to that increased amount.

11 e. An offering document meeting the disclosure
12 requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2),
13 adopted under the Securities Act of 1933, must be delivered to
14 each purchaser in the state prior to the sale of the
15 securities, unless the administrator by rule or order provides
16 for disclosure different from that rule.

17 f. The issuer must file with the administrator an
18 application for registration and the offering document to be
19 used in connection with the offer and sale of securities.

20 g. The issuer must pay to the administrator a fee of one
21 hundred dollars and is not required to pay the filing fee set
22 forth in section 502.208, subsection 2.

23 4. Unless the administrator issues a stop order denying
24 the effectiveness of the registration, as provided in section
25 502.209, the registration becomes effective on the fifth
26 business day after the registration has been filed with the
27 administrator, or earlier if the administrator permits a
28 shorter time period between registration and effectiveness.

29 5. In connection with an offering registered under this
30 section, a person may be registered as an agent of the issuer
31 under section 502.301 by the filing of an application by the
32 issuer with the administrator for the registration of the
33 person as an agent of the issuer and the paying of a fee of
34 ten dollars. Notwithstanding any other provision of this
35 chapter, the registration of the agent shall be effective

1 until withdrawn by the issuer or until the securities
2 registered pursuant to the registration statement have all
3 been sold, whichever occurs first. The registration of an
4 agent shall become effective when ordered by the administrator
5 or on the fifth business day after the agent's application has
6 been filed with the administrator, whichever occurs first, and
7 the administrator shall not impose further conditions upon the
8 registration of the agent. However, the administrator may
9 deny, revoke, suspend, or withdraw the registration of the
10 agent at any time as provided in section 502.304.

11 Notwithstanding section 502.302, subsection 5, for the
12 purposes of registration of agents under this section, the
13 issuer and agent are not required to post bond. An agent
14 registered solely pursuant to this section is entitled to sell
15 only securities registered under this section.

16 6. This section is not applicable to any of the following
17 issuers:

18 a. An investment company, including a mutual fund.

19 b. An issuer subject to the reporting requirements of
20 section 13 or 15(d) of the federal Securities Exchange Act of
21 1934.

22 c. A direct participation program, unless otherwise
23 permitted by the administrator by rule or order for good
24 cause.

25 d. A blind pool or other offering for which the specific
26 business or properties cannot now be described, unless the
27 administrator determines that the blind pool is a community
28 development, seed, or venture capital fund for which the
29 administrator permits a waiver.

30 7. Notwithstanding any other provision of this chapter,
31 the administrator shall not deny effectiveness to or suspend
32 or revoke the effectiveness of a registration under this
33 section on the basis of section 502.209, subsection 1,
34 paragraph "h", and the administrator shall not impose the
35 conditions specified in section 502.208, subsection 8,

1 subsection 9, paragraph "b", or subsection 12. The
2 administrator may issue a stop order pursuant to section
3 502.209 to filers under this section for any of the following
4 additional reasons:

5 a. The issuer's principal place of business is not in this
6 state.

7 b. At least fifty percent of the issuer's full-time
8 employees are not located in this state.

9 c. At least eighty percent of the net proceeds of the
10 offering are not going to be used in connection with the
11 operations of the issuer in this state.

12 d. If the issuer is a seed or venture capital fund, at
13 least fifty percent of the moneys received from the sale of
14 the securities will not be used to make seed or venture
15 capital investments in this state.

16 Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND
17 OVERSIGHT.

18 The director of revenue and finance and the administrator
19 of the securities bureau of the insurance division shall each
20 report on an annual basis to the senate's and house of
21 representatives' committees on ways and means concerning
22 issuers using the seed capital tax credit, as authorized for
23 personal taxpayers by section 422.11D and for corporate
24 taxpayers by section 422.33, subsection 8, and the expedited
25 filing by registration system provided by section 502.207A.

26 Sec. 5. Section 502.611, Code 1989, is amended by adding
27 the following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. This chapter may be construed
29 and implemented to effectuate its general purpose to protect
30 investors, and consistent with that purpose, to encourage
31 capital formation, job creation, and free and competitive
32 securities markets and to minimize regulatory burdens on
33 issuers and persons subject to this chapter, especially small
34 businesses.

35 Sec. 6.

1 Sections 1, 3, and 5 of this Act, being deemed of immediate
2 importance, take effect upon enactment.

3 Sec. 7.

4 Section 2 of this Act takes effect July 1, 1991, and
5 applies to eligible investments made on or after that date.

6 Sec. 8.

7 Section 1 of this Act is repealed January 1, 1993.

8 Sec. 9.

9 Section 2 of this Act is repealed January 1, 1994.

10 EXPLANATION

11 This bill provides an income tax credit for an investment
12 in new issues of shares or equity interests by a qualified
13 corporation or a qualified seed capital fund. The credit is
14 10 percent of the taxpayer's qualified investment and may be
15 credited to the tax liabilities of the following 5 tax years.

16 A qualified corporation or seed capital fund shall meet
17 several requirements in order to qualify for the tax credit.

18 The bill also authorizes an expedited registration by
19 filing system for certain securities issues by qualified small
20 issuers.

21 The seed capital tax credit for personal income tax,
22 section 1 of the bill; the expedited registration by filing
23 for small issuers, section 3; and section 5 relating to
24 statutory construction of chapter 502, of the Iowa blue sky
25 law, are made effective upon enactment by section 6.

26 The seed capital tax credit for corporate filers authorized
27 by section 2 is given a delayed effective date of July 1,
28 1991, by section 7, and is effective through January 1, 1994,
29 when it is repealed by section 9.

30 Section 8 repeals section 1, the seed capital tax credit
31 for personal income tax filers, effective January 1, 1993.

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SENATE FILE 2411

AN ACT

PROVIDING A SEED CAPITAL INCOME TAX CREDIT, AUTHORIZING EXPEDITED REGISTRATION BY FILING FOR SMALL ISSUES UNDER THE STATE SECURITIES LAW, AND PROVIDING EFFECTIVE AND APPLICABILITY DATES.

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

Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

1. The taxes imposed under this division less credits allowed under sections 422.10, 422.11A, 422.11B, 422.12, and 422.12B, shall be reduced by a seed capital credit. An individual may claim the seed capital credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the 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 of a partnership, subchapter S corporation, or estate or trust.

2. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial

offering of securities by a qualified business or a qualified seed capital fund.

3. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

a. The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

b. The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

c. Its capital base must be used to make investments exclusively in the types of businesses described in subsection 4, paragraph "a".

d. Its capital base must be used to make qualified investments according to the following schedule:

(1) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(2) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(3) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

e. More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualified business.

4. A business, to be a qualified business under this section, must meet all of the following conditions:

a. The business must be engaged in one or more of the following activities:

(1) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(2) Agricultural, fishery, or forestry processing.

(3) Research and development of products and processes associated with any of the activities enumerated in subparagraph (1) or (2).

b. The shares must be purchased for money consideration and carry full voting rights.

c. The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

5. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

6. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

7. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

8. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this section. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

9. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

10. A violation of this section is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed

capital fund or a business alleged to have violated this section, or to be out of compliance with this section, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this section. Decertification shall cause the forfeiture of any right or interest to a tax credit under this section and shall cause the total amount of tax credit for all tax years under this section to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 2. Section 422.33, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The taxes imposed under this division shall be reduced by a seed capital credit.

a. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial offering of securities by a qualified business or a qualified seed capital fund.

b. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

(1) The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

(2) The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

(3) Its capital base must be used to make investments exclusively in the types of businesses described in paragraph "c", subparagraph (1).

(4) Its capital base must be used to make qualified investments according to the following schedule:

(a) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(b) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(c) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

(5) More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualifying business.

c. A business, to be a qualified business under this subsection, must meet all of the following conditions:

(1) The business must be engaged in one or more of the following activities:

(a) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(b) Agricultural, fishery, or forestry processing.

(c) Research and development of products and processes associated with any of the activities enumerated in subparagraph subdivision (a) or (b).

(2) The shares must be purchased for money consideration and carry full voting rights.

(3) The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

d. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

e. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

f. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

g. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this subsection. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

h. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

i. A violation of this subsection is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed capital fund or a business alleged to have violated this subsection, or to be out of compliance with this subsection, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this subsection. Decertification shall cause the forfeiture of any right or interest to a tax credit under this subsection and shall cause the total amount of tax credit for all tax years under this subsection to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY FILING FOR SMALL ISSUERS.

1. A security meeting the conditions set forth in this section may be registered by filing as provided in this section.

2. In order to register under this section, the issuer must meet all of the following conditions:

a. The issuer must be a corporation or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in

a business other than petroleum exploration or production mining or other extractive industries.

b. The securities must be offered and sold only on behalf of the issuer, and must not be used by any selling security holder to register securities for resale.

3. In order to register under this section, all of the following conditions must be satisfied:

a. The offering price for common stock, the exercise price if the securities are options, warrants, or rights for common stock, or the conversion price if the securities are convertible into common stock must be equal to or greater than five dollars per share. The issuer must not split its common stock, or declare a stock dividend, for two years after effectiveness of the registration, except that in connection with a subsequent registered public offering, the issuer may upon application and consent of the administrator take such action.

b. A commission, fee, or other remuneration shall not be paid or given, directly or indirectly, for the sale of the securities, except for a payment to a broker-dealer or agent registered under this chapter, or except for a payment as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission, fee, or other remuneration.

c. The issuer or a broker-dealer offering or selling the securities is not or would not be disqualified under rule 505, 17 C.F.R. § 230.505 (2)(iii), adopted under the federal Securities Act of 1933.

d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. § 230.504, in reliance on any exemption under section 3(b) of the federal Securities Act of 1933 or in

violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. § 230.504, adopted under the Securities Act of 1933, is amended after the effective date of this section, the administrator may by rule increase the limit under this paragraph to conform to that increased amount.

e. An offering document meeting the disclosure requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2), adopted under the Securities Act of 1933, must be delivered to each purchaser in the state prior to the sale of the securities, unless the administrator by rule or order provides for disclosure different from that rule.

f. The issuer must file with the administrator an application for registration and the offering document to be used in connection with the offer and sale of securities.

g. The issuer must pay to the administrator a fee of one hundred dollars and is not required to pay the filing fee set forth in section 502.208, subsection 2.

4. Unless the administrator issues a stop order denying the effectiveness of the registration, as provided in section 502.209, the registration becomes effective on the fifth business day after the registration has been filed with the administrator, or earlier if the administrator permits a shorter time period between registration and effectiveness.

5. In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.301 by the filing of an application by the issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has

been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.304.

Notwithstanding section 502.302, subsection 5, for the purposes of registration of agents under this section, the issuer and agent are not required to post bond. An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

6. This section is not applicable to any of the following issuers:

- a. An investment company, including a mutual fund.
- b. An issuer subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934.
- c. A direct participation program, unless otherwise permitted by the administrator by rule or order for good cause.
- d. A blind pool or other offering for which the specific business or properties cannot now be described, unless the administrator determines that the blind pool is a community development, seed, or venture capital fund for which the administrator permits a waiver.

7. Notwithstanding any other provision of this chapter, the administrator shall not deny effectiveness to or suspend or revoke the effectiveness of a registration under this section on the basis of section 502.209, subsection 1, paragraph "h", and the administrator shall not impose the conditions specified in section 502.208, subsection 8, subsection 9, paragraph "b", or subsection 12. The administrator may issue a stop order pursuant to section 502.209 to filers under this section for any of the following additional reasons:

- a. The issuer's principal place of business is not in this state.
- b. At least fifty percent of the issuer's full-time employees are not located in this state.
- c. At least eighty percent of the net proceeds of the offering are not going to be used in connection with the operations of the issuer in this state.
- d. If the issuer is a seed or venture capital fund, at least fifty percent of the moneys received from the sale of the securities will not be used to make seed or venture capital investments in this state.

Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND OVERSIGHT.

The director of revenue and finance and the administrator of the securities bureau of the insurance division shall each report on an annual basis to the senate's and house of representatives' committees on ways and means concerning issuers using the seed capital tax credit, as authorized for personal taxpayers by section 422.11D and for corporate taxpayers by section 422.33, subsection 8, and the expedited filing by registration system provided by section 502.207A.

Sec. 5. Section 502.611, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This chapter may be construed and implemented to effectuate its general purpose to protect investors, and consistent with that purpose, to encourage capital formation, job creation, and free and competitive securities markets and to minimize regulatory burdens on issuers and persons subject to this chapter, especially small businesses.

Sec. 6.

Sections 1, 3, and 5 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 7.

Section 2 of this Act takes effect July 1, 1991, and applies to eligible investments made on or after that date.

Sec. 8.

Section 1 of this Act is repealed January 1, 1993.

Sec. 9.

Section 2 of this Act is repealed January 1, 1994.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2411, Seventy-third General Assembly.

Item Veto
426

JOHN F. DWYER
Secretary of the Senate

Approved _____, 1990

TERRY E. BRANSTAD
Governor