

they are paid from income upon which Iowa income tax has not been paid, as determined under rules of the director, reduced by ~~fifty percent~~ of the amount of any of these distributions that are made to enable the shareholder to pay federal income tax on items of income, loss, and expenses from the corporation.

Sec. 11. **APPLICABILITY PROVISION.** Section 10 of this Act applies retroactively to January 1, 2002, for tax years beginning on or after that date.

Approved February 28, 2002

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## CHAPTER 1006

### INVESTMENT TAX CREDITS — QUALIFYING BUSINESSES — COMMUNITY-BASED SEED CAPITAL FUNDS

H.F. 2271

**AN ACT** creating a tax credit for investments in qualifying businesses and community-based seed capital funds and including effective and retroactive applicability date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

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

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

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

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

1. “Affiliate” means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.
2. “Board” means the Iowa capital investment board, if created in House File 2078<sup>1</sup> as enacted by the Seventy-ninth General Assembly.
3. “Investor” means an individual making a cash investment in a qualifying business or a person making a cash investment in a community-based seed capital fund. “Investor” does not include a person which is a current or previous owner, member, or shareholder in a qualified<sup>2</sup> business.
4. “Near equity” means debt that may be converted to equity at the option of the debt holder, and royalty agreements.
5. “Qualifying business” means a business meeting the criteria defined in section 15E.44.

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

1. a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, division II, for a portion of an individual taxpayer’s equity investment, as provided in subsection 2, in a qualified<sup>3</sup> business. An individual shall

<sup>1</sup> Chapter 1005 herein

<sup>2</sup> See chapter 1175, §75 herein

<sup>3</sup> See chapter 1175, §76 herein

not claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual.

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

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

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

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

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

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

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

7. The board may cooperate with the small business development centers in an effort to disseminate information regarding the availability of tax credits for investments in qualifying businesses under this division. The board may also cooperate with the small business development centers to develop a standard seed capital application form that the small business development centers may submit to the board on behalf of clients seeking seed capital. The board shall distribute copies of the application forms to all community-based seed capital funds and potential individual investors.

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

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

deemed. The list of shareholders who may qualify for the tax credits shall be amended as new equity investments are sold or as any information on the list shall change.

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

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

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

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

(1) An entrepreneurial venture development curriculum.

(2) Three years of relevant business experience.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to 2002 Iowa Acts, House File 2078,<sup>4</sup> if enacted.

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

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

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

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

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

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

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

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

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

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

<sup>4</sup> Chapter 1005 herein

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

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

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

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

Sec. 14. 2002 Iowa Acts, House File 2078,<sup>5</sup> is amended by adding the following new section:  
**SEC. 12. EFFECTIVE DATE.** Sections 1 through 9 of this Act, being deemed of immediate importance, take effect upon the enactment of the Act creating a tax credit for investments in qualifying businesses and community-based seed capital funds as enacted by the Seventy-ninth General Assembly, 2002 Regular Session.

Approved February 28, 2002

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## CHAPTER 1007

### IOWA ENGLISH LANGUAGE REAFFIRMATION ACT

S.F. 165

**AN ACT** enacting the Iowa English language reaffirmation Act of 2001.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 1.18 IOWA ENGLISH LANGUAGE REAFFIRMATION.

1. The general assembly of the state of Iowa finds and declares the following:
  - a. The state of Iowa is comprised of individuals from different ethnic, cultural, and linguistic backgrounds. The state of Iowa encourages the assimilation of Iowans into Iowa's rich culture.
  - b. Throughout the history of Iowa and of the United States, the common thread binding individuals of differing backgrounds together has been the English language.
  - c. Among the powers reserved to each state is the power to establish the English language as the official language of the state, and otherwise to promote the English language within the state, subject to the prohibitions enumerated in the Constitution of the United States and in laws of the state.
2. In order to encourage every citizen of this state to become more proficient in the English language, thereby facilitating participation in the economic, political, and cultural activities of this state and of the United States, the English language is hereby declared to be the official language of the state of Iowa.
3. Except as otherwise provided for in subsections 4 and 5, the English language shall be the language of government in Iowa. All official documents, regulations, orders, transactions, proceedings, programs, meetings, publications, or actions taken or issued, which are conducted or regulated by, or on behalf of, or representing the state and all of its political subdivisions shall be in the English language.

For the purposes of this section, "official action" means any action taken by the government in Iowa or by an authorized officer or agent of the government in Iowa that does any of the following:

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<sup>5</sup> Chapter 1005 herein