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APPROPRIATIONS

HOUSE FILE 2332  
BY TEIG

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to providing a payment for investment in a  
2 sesquicentennial fund, providing penalties, and making an  
3 appropriation.

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

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HF 2332

1 Section 1. NEW SECTION. 15E.175 SESQUICENTENNIAL FUNDS

2 -- PURPOSE.

3 The purpose of this division is to encourage and strengthen  
4 economic development in Iowa by increasing the availability of  
5 development capital to new small businesses in Iowa, the  
6 rehabilitation of existing small businesses, and by  
7 stimulating the expansion of small business activities that  
8 promote and maintain the economic stability of the state. To  
9 carry out this purpose, a payment is authorized for  
10 sesquicentennial funds which make investments under this  
11 division.

12 Sec. 2. NEW SECTION. 15E.176 SESQUICENTENNIAL FUNDS  
13 ESTABLISHED -- QUALIFICATIONS.

14 A sesquicentennial fund, to qualify for the payment under  
15 section 15E.177, shall meet the following requirements:

16 1. The fund shall not be a public entity.

17 2. The fund may be either a for profit or not for profit  
18 entity created for the purpose of making capital available to  
19 businesses.

20 3. The fund shall register with the securities bureau of  
21 the insurance division of the department of commerce.  
22 Information to be filed with the securities bureau includes at  
23 least the following:

24 a. The name of the fund, which must be unique, and contain  
25 the words "sesquicentennial fund".

26 b. The principal place of business of the fund, which  
27 shall be in Iowa.

28 c. That the fund has a capital base of at least ten  
29 million dollars.

30 d. That the fund manager certifies that the fund makes  
31 only debt or equity investments in qualified businesses or in  
32 other businesses which may be located outside of the state,  
33 that moneys invested in the fund by an investor remain in the  
34 fund for at least twelve months following the date of original  
35 investment, and that the fund holds shares of the same value

1 for twelve months following the purchase of the shares, unless  
2 shares originally purchased are sold and replaced with other  
3 eligible shares from the same business.

4 Only investments in qualified businesses shall qualify for  
5 the refund.

6 4. To remain a qualified fund under this division, the  
7 business must renew its registration with the securities  
8 bureau annually, recertifying the facts upon which the initial  
9 qualification was based. The fund shall also file a report  
10 with the securities bureau detailing its investments upon  
11 dissolution of the fund.

12 Sec. 3. NEW SECTION. 15E.177 INVESTMENT PAYMENT --  
13 APPORTIONMENT TO INVESTORS -- PENALTY.

14 1. A qualified sesquicentennial fund shall receive the  
15 following payments on investments made by the fund in  
16 qualified businesses:

17 a. Twenty-five percent of the share of an early-phase  
18 investment in a qualified business.

19 b. Fifteen percent of the share of a growth-phase  
20 investment in a qualified business.

21 c. Ten percent of the share of a mezzanine-phase  
22 investment in a qualified business.

23 2. For the purposes of this division:

24 a. "Early-phase investment" means an investment in a  
25 business which is formed within the last three years and which  
26 has gross revenue over the last three years of one million  
27 dollars or less. The business may have conducted initial  
28 product development and market research. Investments by a  
29 fund may be used to provide product prototypes, commence  
30 production tooling, test market a product, or provide working  
31 capital for the early growth state of a portfolio company.  
32 Early-phase investments have significant speculative  
33 characteristics and high risk of loss.

34 b. "Growth-phase investment" means an investment in a  
35 company with an annual gross revenue between one million and

1 five million dollars with the prospect of rapid growth in  
2 revenues and earnings. A growth-phase investment may be used  
3 to finance new product introductions or working capital  
4 requirements.

5 c. "Mezzanine-phase investment" means an investment in a  
6 company with annual gross revenue of over five million  
7 dollars. A mezzanine-phase investment may be used to finance  
8 additional growth or expansion of the business, restructuring  
9 of business operations, or facilitate the acquisition of  
10 assets or another business.

11 d. To qualify for a payment under this section, an  
12 investment must be in an unaffiliated and nonrelated qualified  
13 business.

14 3. A qualified sesquicentennial fund may apply once each  
15 year to the department of revenue and finance for an  
16 investment payment. The application shall contain the  
17 information and be on a form prescribed by the department, and  
18 shall specify the amount of payment being claimed for each  
19 type of investment under subsection 1. The department shall  
20 review the application and shall issue a warrant in the amount  
21 of the combined payments under subsection 1 to the fund.  
22 Payments shall be made out of funds appropriated for that  
23 purpose.

24 4. The fund shall apportion the payment received among the  
25 investors in the fund in proportion to moneys invested in the  
26 fund by each investor. Apportionment shall be made within  
27 forty-five days of the receipt of the payment from the  
28 department. An investor shall only receive one payment per  
29 investment in the fund.

30 5. If the sesquicentennial fund fails to apportion the  
31 payment among the investors in the fund under subsection 4,  
32 the fund shall pay to the department a penalty equal to all  
33 the payments allowed the fund for the year plus interest at a  
34 rate of two percent per month from the date the warrant was  
35 issued to the fund. The department may abate the penalty if

1 the fund establishes reasonable cause for the failure to  
2 apportion the payment to investors in the fund.

3 Sec. 4. NEW SECTION. 15E.178 QUALIFIED BUSINESS.

4 As used in this division, "qualified business" means a  
5 business which meets the following requirements:

6 1. The business is designated a qualified business  
7 pursuant to an application filed with the securities bureau  
8 which contains at least the following:

9 a. A financial statement for the most recent fiscal year  
10 or years which has been prepared and certified by an  
11 independent certified public accountant showing that the  
12 business meets the income requirements for early, growth, or  
13 mezzanine-phase investments.

14 b. That the business has its principal place of business  
15 in Iowa.

16 c. That the business engages in one of the following  
17 activities:

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

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

21 (3) Software development.

22 (4) Service-related industry.

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

26 2. To remain a qualified business, the business shall  
27 renew its registration annually by applying for renewal with  
28 the securities division. The application shall at least  
29 contain a financial statement for the most recent fiscal year  
30 and the certification of the business that the business  
31 continues to be a early, growth, or mezzanine-phase business.

32 3. Applications for registration and renewal of  
33 registration under this section shall be on forms prescribed  
34 by the administrator of the securities bureau. The  
35 administrator may require supporting documentation to be filed

1 with applications. All applications shall be signed by a  
2 person with the authority to enter into contracts on behalf of  
3 the business.

4 Sec. 5. NEW SECTION. 15E.179 EXAMINATIONS.

5 The administrator of the securities bureau may examine a  
6 business located in or outside of the state and the business  
7 records of a sesquicentennial fund at the times and in the  
8 manner the administrator determines to be necessary. The  
9 administrator may obtain the services of private persons with  
10 expertise in securities matters to conduct the examinations.  
11 Examinations of a fund may be made without prior notice to the  
12 fund. Expenses reasonably attributable to the examination  
13 shall be paid by the fund whose investments are being  
14 examined. The administrator is directed to cooperate with  
15 other state agencies to minimize duplicative examinations.

16 Sec. 6. NEW SECTION. 15E.180 VIOLATIONS -- REMEDIES.

17 In addition to any other penalties, a violation of any of  
18 the provisions of this division is grounds for loss of status  
19 as a qualifying business or sesquicentennial fund. A business  
20 or fund alleged to have violated a provision of this division  
21 shall be allowed a one-hundred-twenty-day grace period to  
22 remedy the violation or to comply with the provisions of this  
23 division. Loss of qualifying status shall cause the  
24 forfeiture of any right or interest to a payment under section  
25 15E.177 and shall cause the total amount of the payment for  
26 all tax years under section 15E.177 to be due and payable with  
27 income tax liability for the tax year when the loss of status  
28 is effective.

29 Sec. 7. NEW SECTION. 15E.181 LEGISLATIVE REVIEW AND  
30 OVERSIGHT.

31 The director of the department of revenue and finance and  
32 the administrator of the securities bureau of the insurance  
33 division shall each report on an annual basis to the ways and  
34 means committees of the senate and house of representatives  
35 concerning sesquicentennial funds receiving payments under

1 this division.

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EXPLANATION

3 This bill provides for the creation of sesquicentennial  
4 funds to provide capital for small businesses as a means to  
5 promote economic development in the state. The bill does the  
6 following:

7 1. Section 15E.176 authorizes the establishment of  
8 sesquicentennial funds. Funds are to be private entities  
9 which must register with the securities bureau of the  
10 insurance division of the department of commerce. Funds are  
11 limited to making debt or equity investments in Iowa or  
12 foreign businesses.

13 2. Section 15E.177 provides that a fund is to receive a  
14 payment from the state based upon the amount of investments  
15 made in qualified businesses. The payment is 25 percent of an  
16 early-phase investment by the fund in a qualified business, 15  
17 percent of a growth-phase investment in a qualified business,  
18 and 10 percent of a mezzanine-phase investment by the fund in  
19 a qualified business.

20 An early-phase investment is an investment in a business  
21 which has less than \$1 million in revenue over the previous  
22 three years and which may include funds for product  
23 prototypes, test marketing, or production tooling. A growth-  
24 phase investment is an investment in a business which has  
25 annual revenues between \$1 million and \$5 million with the  
26 prospect of rapid growth in earnings or revenues. A  
27 mezzanine-phase investment is an investment in a business with  
28 over \$5 million in annual revenues and which may include funds  
29 for a restructuring of business operations or the acquisition  
30 of additional assets.

31 A sesquicentennial fund which receives a payment shall  
32 apportion the refund among the investors of the fund within 45  
33 days. If the fund fails to do this, it is subject to repaying  
34 the amount of the payment paid to the fund.

35 3. Section 15E.178 sets out the requirements for a

1 qualified business. A qualified business is one which meets  
2 the requirements for early, growth, or mezzanine-phase  
3 investments, has its principal place of business in Iowa, and  
4 engages in certain activities, including interstate or  
5 intrastate, manufacturing or processing of products,  
6 agricultural processing, software development, or research and  
7 development. The business must certify its eligibility  
8 annually with the securities bureau of the insurance division.

9 4. Section 15E.179 provides for examinations of businesses  
10 in which a fund invests and examinations of sesquicentennial  
11 funds by the administrator of the securities bureau.

12 Examinations shall be in cooperation with those of other  
13 agencies to minimize duplication of effort.

14 5. Section 15E.180 provides that a business or fund which  
15 violates a provision relating to the qualification of the  
16 business or fund has 120 days to remedy the violation or be  
17 subject to loss of qualification status. A fund shall also  
18 forfeit the right to a payment and have to repay all payments  
19 received.

20 6. Section 15E.181 requires the director of the department  
21 of revenue and finance and the administrator of the securities  
22 bureau to report to the ways and means committees of the  
23 senate and house of representatives regarding the refunds  
24 received by sesquicentennial.

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