

MAR 6 1996  
APPROPRIATIONS

HOUSE FILE 2465  
BY COMMITTEE ON ECONOMIC  
DEVELOPMENT

(SUCCESSOR TO HF 2332)

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 business development fund, providing  
3 penalties, and making an appropriation.

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

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HF 2465

1 Section 1. NEW SECTION. 15E.175 SESQUICENTENNIAL  
2 BUSINESS DEVELOPMENT FUNDS -- 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 refund is authorized for  
10 sesquicentennial business development funds which make  
11 investments under this division.

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

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

- 17 1. The fund shall not be a governmental entity.
- 18 2. The fund may be either a for profit or not for profit  
19 entity created for the purpose of making capital available to  
20 businesses.
- 21 3. The fund shall comply with the provisions of chapter  
22 502 and shall register with the securities bureau of the  
23 insurance division of the department of commerce. Information  
24 to be filed with the securities bureau includes at least the  
25 following:
  - 26 a. The name of the fund, which must be unique, and contain  
27 the words "sesquicentennial business development fund".
  - 28 b. The principal place of business of the fund, which  
29 shall be in Iowa.
  - 30 c. That the fund has an initial capitalization of at least  
31 ten million dollars.
  - 32 d. That the fund manager certifies that the fund makes  
33 debt, equity, or other investments in qualified businesses or  
34 in other businesses which may be located outside of the state.
  - 35 e. Only investments in qualified businesses shall qualify

1 for the refund.

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

8 Sec. 3. NEW SECTION. 15E.177 INVESTMENT REFUND --  
9 APPORTIONMENT TO INVESTORS -- PENALTY.

10 1. A qualified sesquicentennial business development fund  
11 shall receive the following refunds on investments made by the  
12 fund in qualified businesses:

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

15 b. Fifteen percent of the share of a growth-phase  
16 investment in a qualified business.

17 c. Ten percent of the share of a mezzanine-phase  
18 investment in a qualified business.

19 2. For the purposes of this division:

20 a. "Early-phase investment" means an investment in a  
21 business which is formed within the last three years and which  
22 has gross revenue over the last three years of one million  
23 dollars or less.

24 b. "Growth-phase investment" means an investment in a  
25 company with an annual gross revenue between one million and  
26 five million dollars with the prospect of rapid growth in  
27 revenues and earnings.

28 c. "Mezzanine-phase investment" means an investment in a  
29 company with annual gross revenue of over five million  
30 dollars.

31 d. To qualify for a refund under this section, an  
32 investment must be in an unaffiliated and nonrelated qualified  
33 business.

34 3. An investor, in order to be qualified to receive a  
35 refund from the fund, shall leave moneys invested in the fund

1 for at least twelve months following the date of original  
2 investment.

3 4. The fund holds debt, equity, or other investments of  
4 the same value for twelve months following the date of the  
5 investment unless the debt, equity, or other investment is  
6 divested and replaced with other eligible investments of the  
7 same type.

8 5. A qualified sesquicentennial business development fund  
9 may apply once each year to the department of revenue and  
10 finance for an investment refund. The application shall  
11 contain the information and be on a form prescribed by the  
12 department, and shall specify the amount of refund being  
13 claimed for each type of investment under subsection 1. The  
14 department shall review the application and shall issue a  
15 warrant in the amount of the combined refunds under subsection  
16 1 to the fund. Refunds shall be made out of funds  
17 appropriated for that purpose.

18 6. The fund shall apportion the refund received among the  
19 qualified investors in the fund in proportion to moneys  
20 invested in the fund by each investor. Apportionment shall be  
21 made within forty-five days of the receipt of the refund from  
22 the department. An investor shall only receive one refund per  
23 investment per year in the fund.

24 7. If the sesquicentennial business development fund fails  
25 to apportion the refund among the investors in the fund under  
26 subsection 6, the fund shall pay to the department a penalty  
27 equal to all the refunds allowed the fund for the year plus  
28 interest at a rate of two percent per month from the date the  
29 warrant was issued to the fund. The department may abate the  
30 penalty if the fund establishes reasonable cause for the  
31 failure to apportion the refund to investors in the fund.

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

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

35 1. The business is designated a qualified business

1 pursuant to an application filed with the securities bureau  
2 which contains at least the following:

3 a. A financial statement for the most recent fiscal year  
4 or years which has been prepared and certified by an  
5 independent certified public accountant.

6 b. That the business has its principal place of business  
7 in Iowa.

8 c. That the business engages in one of the following  
9 activities:

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

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

13 (3) Software development.

14 (4) Service-related industry.

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

18 d. The business meets the income requirements for early,  
19 growth, or mezzanine-phase investments.

20 2. To remain a qualified business, the business shall  
21 renew its registration annually by applying for renewal with  
22 the securities division. The application shall at least  
23 contain a financial statement for the most recent fiscal year  
24 and information sufficient to show that the business continues  
25 to be a early, growth, or mezzanine-phase business.

26 3. Applications for registration and renewal of  
27 registration under this section shall be on forms prescribed  
28 by the administrator of the securities bureau. The  
29 administrator may require supporting documentation to be filed  
30 with applications. All applications shall be signed by a  
31 person with the authority to enter into contracts on behalf of  
32 the business.

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

34 The administrator of the securities bureau may examine the  
35 business records of a sesquicentennial business development

1 fund at the times and in the manner the administrator  
2 determines to be necessary. The administrator may obtain the  
3 services of private persons with expertise in securities  
4 matters to conduct the examinations. Examinations of a fund  
5 may be made without prior notice to the fund. Expenses  
6 reasonably attributable to the examination shall be paid by  
7 the fund whose investments are being examined. The  
8 administrator is directed to cooperate with other state  
9 agencies to minimize duplicative examinations.

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

11 In addition to any other penalties, a violation of any of  
12 the provisions of this division is grounds for loss of status  
13 as a qualifying business. A business alleged to have violated  
14 a provision of this division shall be allowed a one hundred  
15 twenty-day grace period to remedy the violation or to comply  
16 with the provisions of this division.

17 Sec. 7. NEW SECTION. 15E.181 LEGISLATIVE REVIEW AND  
18 OVERSIGHT.

19 The director of the department of revenue and finance and  
20 the administrator of the securities bureau of the insurance  
21 division shall each report on an annual basis in accordance  
22 with section 7A.11 concerning sesquicentennial funds receiving  
23 refunds under this division.

24 EXPLANATION

25 This bill provides for the creation of sesquicentennial  
26 business development funds to provide capital for small  
27 businesses as a means to promote economic development in the  
28 state. The bill does the following:

29 1. Section 15E.176 authorizes the establishment of  
30 sesquicentennial business development funds. Funds are to be  
31 nongovernmental entities which must register with the  
32 securities bureau of the insurance division of the department  
33 of commerce. Funds are limited to making debt, equity, or  
34 other investments in Iowa or foreign businesses.

35 2. Section 15E.177 provides that a fund is to receive a

1 payment from the state based upon the amount of investments  
2 made in qualified businesses. The payment is 25 percent of an  
3 early-phase investment by the fund in a qualified business, 15  
4 percent of a growth-phase investment in a qualified business,  
5 and 10 percent of a mezzanine-phase investment by the fund in  
6 a qualified business.

7 An early-phase investment is an investment in a business  
8 which has less than \$1 million in revenue over the previous  
9 three years. A growth-phase investment is an investment in a  
10 business which has annual revenues between \$1 million and \$5  
11 million. A mezzanine-phase investment is an investment in a  
12 business with over \$5 million in annual revenues.

13 A sesquicentennial business development fund which receives  
14 a payment shall apportion the moneys received among the  
15 investors of the fund within 45 days. If the fund fails to do  
16 this, it is subject to repaying the amount of the payment paid  
17 to the fund.

18 3. Section 15E.178 sets out the requirements for a  
19 qualified business. A qualified business is one which meets  
20 the requirements for early, growth, or mezzanine-phase  
21 investments, has its principal place of business in Iowa, and  
22 engages in certain activities, including interstate or  
23 intrastate, manufacturing or processing of products,  
24 agricultural processing, software development, or research and  
25 development. The business must show that it meets eligibility  
26 requirements annually with the securities bureau of the  
27 insurance division.

28 4. Section 15E.179 provides for examinations of businesses  
29 in which a fund invests and examinations of sesquicentennial  
30 funds by the administrator of the securities bureau.  
31 Examinations shall be in cooperation with those of other  
32 agencies to minimize duplication of effort.

33 5. Section 15E.180 provides that a business which violates  
34 a provision relating to the qualification of the business has  
35 120 days to remedy the violation or be subject to loss of

1 qualification status.

2 6. Section 15E.181 requires the director of the department  
3 of revenue and finance and the administrator of the securities  
4 bureau to report to the general assembly regarding the  
5 payments received by sesquicentennial business development  
6 funds.

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