

Sukup, Ch.  
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2592

HSB 504

WAYS AND MEANS

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON VAN FOSSEN)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to deferment of taxable income for start-up  
2 businesses and providing an effective and retroactive  
3 applicability date.

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

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1 Section 1. NEW SECTION. 422.24A START-UP BUSINESS TAX  
2 DEFERMENT.

3 1. For purposes of this section, "start-up business" does  
4 not include any of the following:

5 a. An existing business locating in this state from  
6 another state or from another location in this state.

7 b. A newly created business which is the result of the  
8 merger of two or more businesses.

9 c. A newly created subsidiary of a corporation.

10 d. A previously existing business which has been dissolved  
11 and reincorporated.

12 e. An existing business operating under a different name  
13 and located in a different location.

14 f. A newly created partnership owned by many of the same  
15 partners as an existing business and engaging in similar  
16 business activity as the existing business.

17 g. A business entity that reorganizes or experiences a  
18 change in either the legal or trade name of the business.

19 h. A joint venture.

20 2. In order to qualify for a deferment of taxable income  
21 and the tax to be imposed on it pursuant to this section, a  
22 taxpayer must meet all of the following criteria:

23 a. The taxpayer is a business that is a wholly new start-  
24 up business beginning operations during the first tax year for  
25 which the deferment of taxable income is claimed.

26 b. The business has its commercial domicile, as defined in  
27 section 422.32, in the state.

28 c. The operations of the business are at least twenty-five  
29 percent funded by venture capital moneys.

30 d. The taxpayer does not have any delinquent taxes  
31 outstanding and owed to the state.

32 3. A taxpayer meeting the criteria provided in subsection  
33 2 may submit a request to the department for the deferment of  
34 taxable income for the first three tax years that the taxpayer  
35 business is in operation. If a deferment is approved by the

1 department pursuant to subsection 4, the taxpayer shall pay  
2 taxes on the deferred taxable income in five equal annual  
3 installments during the five tax years following the three  
4 years of taxable income deferment. Section 422.26 shall apply  
5 if the taxpayer refuses or neglects to pay the taxes owed on  
6 the deferred taxable income in the manner provided in this  
7 section. A taxpayer receiving a deferment shall file a return  
8 for each tax year in which a deferment is approved. If the  
9 taxpayer has a net loss during a tax year during the three-  
10 year period in which taxable income is deferred, the loss may  
11 be applied to any deferred taxable income during that period.

12 4. Upon a determination that the criteria provided in  
13 subsection 2 have been met, the department shall approve a  
14 request for deferment of taxable income.

15 5. For purposes of assessing penalty and interest, the tax  
16 on any deferred taxable income is not due and payable until  
17 the tax years in which the annual installments as provided in  
18 subsection 3 are due and payable.

19 6. The department shall adopt rules pursuant to chapter  
20 17A necessary for the administration of this section.

21 Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act,  
22 being deemed of immediate importance, takes effect upon  
23 enactment and is retroactively applicable to January 1, 2002.

24 EXPLANATION

25 This bill relates to certain businesses deferring taxable  
26 income.

27 The bill provides that start-up business meeting certain  
28 criteria may submit a request to the department of revenue and  
29 finance for the deferment of taxable income and the tax on it  
30 for the first three years that the business is in operation.  
31 The bill provides that if a deferment is approved, the  
32 taxpayer shall pay taxes owed on the deferred income in five  
33 equal annual installments during the five tax years following  
34 the three years of income deferment. The bill provides that  
35 the taxpayer shall file a return for each tax year in which a

1 deferment is approved. The bill provides that net losses  
2 during the three-year deferment period may be applied to any  
3 deferred income. The bill provides that the department shall  
4 approve a request for deferment if the business is a wholly  
5 new start-up business beginning operations during the first  
6 tax year for which the income deferment is claimed, the  
7 business has its commercial domicile in the state, the  
8 operations of the business are at least 25 percent funded by  
9 venture capital moneys, and the taxpayer does not have any  
10 delinquent taxes outstanding and owed to the state. Penalty  
11 and interest are not to be assessed until after the tax on the  
12 deferred income is due and payable. The bill provides that  
13 the department shall adopt rules necessary for the  
14 administration of the deferment program.

15 The bill takes effect upon enactment and is retroactively  
16 applicable to January 1, 2002.

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MAR 21 2002  
WAYS & MEANS CALENDAR

HOUSE FILE 2592  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 504)

Passed House <sup>(P.1014)</sup> Date 3-27-02 Passed Senate <sup>(P.1119)</sup> Date 4-11-02  
Vote: Ayes 93 Nays 2 Vote: Ayes 50 Nays 0  
Approved April 22, 2002

**A BILL FOR**

1 An Act relating to deferment of taxable income for start-up  
2 businesses and providing an effective and retroactive  
3 applicability date.

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

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HF 2592

1 Section 1. NEW SECTION. 422.24A START-UP BUSINESS TAX  
2 DEFERMENT.

3 1. For purposes of this section, "start-up business" does  
4 not include any of the following:

5 a. An existing business locating in this state from  
6 another state or from another location in this state.

7 b. A newly created business which is the result of the  
8 merger of two or more businesses.

9 c. A newly created subsidiary or new business of a  
10 corporation.

11 d. A previously existing business which has been dissolved  
12 and reincorporated.

13 e. An existing business operating under a different name  
14 and located in a different location.

15 f. A newly created partnership owned by two or more of the  
16 same partners as an existing business and engaging in similar  
17 business activity as the existing business.

18 g. A business entity that reorganizes or experiences a  
19 change in either the legal or trade name of the business.

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21 2. In order to qualify for a deferment of taxable income  
22 and the tax to be imposed on it pursuant to this section, a  
23 taxpayer must meet all of the following criteria:

24 a. The taxpayer is a business that is a wholly new start-  
25 up business beginning operations during the first tax year for  
26 which the deferment of taxable income is claimed.

27 b. The business has its commercial domicile, as defined in  
28 section 422.32, in the state.

29 c. The operations of the business are at least twenty-five  
30 percent funded by venture capital moneys. For purposes of  
31 this section, "venture capital moneys" means an equity  
32 investment from an individual or a private seed and venture  
33 capital fund whose only business is investing in seed and  
34 venture capital opportunities. "Venture capital moneys" does  
35 not mean a loan or other nonequity financing from a person,

1 financial institution, or other entity.

2 d. The taxpayer does not have any delinquent taxes or  
3 other debt outstanding and owed to the state.

4 3. A taxpayer meeting the criteria provided in subsection  
5 2 may submit a request to the department for the deferment of  
6 taxable income for the first three tax years that the taxpayer  
7 business is in operation. If a deferment is approved by the  
8 department pursuant to subsection 4, the taxpayer shall pay  
9 taxes on the deferred taxable income in five equal annual  
10 installments during the five tax years following the three  
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15 for each tax year in which a deferment is approved. If the  
16 taxpayer has a net loss during a tax year during the three-  
17 year period in which taxable income is deferred, the loss may  
18 be applied to any deferred taxable income during that period.

19 4. Upon a determination that the criteria provided in  
20 subsection 2 have been met, the department shall approve a  
21 request for deferment of taxable income.

22 5. For purposes of assessing penalty and interest, the tax  
23 on any deferred taxable income is not due and payable until  
24 the tax years in which the annual installments as provided in  
25 subsection 3 are due and payable.

26 6. The department shall adopt rules pursuant to chapter  
27 17A necessary for the administration of this section.

28 Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act,  
29 being deemed of immediate importance, takes effect upon  
30 enactment and is retroactively applicable to January 1, 2002.

31 EXPLANATION

32 This bill relates to certain businesses deferring taxable  
33 income.

34 The bill provides that start-up business meeting certain  
35 criteria may submit a request to the department of revenue and

1 finance for the deferment of taxable income and the tax on it  
2 for the first three years that the business is in operation.  
3 The bill provides that if a deferment is approved, the  
4 taxpayer shall pay taxes owed on the deferred income in five  
5 equal annual installments during the five tax years following  
6 the three years of income deferment. The bill provides that  
7 the taxpayer shall file a return for each tax year in which a  
8 deferment is approved. The bill provides that net losses  
9 during the three-year deferment period may be applied to any  
10 deferred income. The bill provides that the department shall  
11 approve a request for deferment if the business is a wholly  
12 new start-up business beginning operations during the first  
13 tax year for which the income deferment is claimed, the  
14 business has its commercial domicile in the state, the  
15 operations of the business are at least 25 percent funded by  
16 venture capital moneys, and the taxpayer does not have any  
17 delinquent taxes or other debt outstanding and owed to the  
18 state. Penalty and interest are not to be assessed until  
19 after the tax on the deferred income is due and payable. The  
20 bill provides that the department shall adopt rules necessary  
21 for the administration of the deferment program.

22 The bill takes effect upon enactment and is retroactively  
23 applicable to January 1, 2002.

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## HOUSE FILE 2592

S-5427

1 Amend House File 2592, as passed by the House, as  
2 follows:

3 1. Page 2, by inserting after line 27 the  
4 following:

5 "Sec. \_\_\_\_ . VOLUNTEER FIRE FIGHTERS PENSION TASK  
6 FORCE -- REPORT. A volunteer fire fighters pension  
7 task force is created concerning the establishment of  
8 a pension system for volunteer fire fighters in this  
9 state. The task force shall examine pension plans  
10 established by other states for volunteer fire  
11 fighters and shall solicit information from volunteer  
12 fire fighters, and cities and townships with volunteer  
13 fire fighters, concerning the establishment of a  
14 pension system for volunteer fire fighters.

15 Membership of the task force is to be determined by  
16 the legislative council. Members shall be appointed  
17 by the legislative council. The membership shall  
18 include, but not be limited to, the following:

19 1. The commissioner of insurance or the  
20 commissioner's designee.

21 2. The treasurer of state or the treasurer's  
22 designee.

23 3. A representative of a pension system  
24 established pursuant to Code chapter 411.

25 4. A representative of the Iowa public employees'  
26 retirement system.

27 5. A representative of a pension system  
28 established for private sector employees.

29 6. A representative of the state fire and  
30 emergency response council.

31 7. A representative of volunteer fire fighters in  
32 the state.

33 8. A representative of township trustees.

34 9. A representative of cities.

35 The legislative service bureau and the legislative  
36 fiscal bureau shall provide staffing assistance to the  
37 task force. The department of management shall  
38 provide other assistance to the task force in  
39 completing its duties.

40 The task force shall submit a report to the general  
41 assembly by January 1, 2003. The report shall contain  
42 the findings and recommendations of the task force."

43 2. Title page, by striking line 1 and inserting  
44 the following: "An Act relating to income by  
45 establishing a pension task force and deferring  
46 taxable income for start-up".

47 3. By renumbering as necessary.

By KITTY REHBERG

S-5427 FILED APRIL 9, 2002

W/10  
4/11/02  
(p. 1119)

# Legislative Fiscal Bureau

## Fiscal Note

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HF 2592 - Start-Up Company Initiative (LSB 5447 HV)  
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)  
Fiscal Note Version - New

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### Description

House File 2592 allows qualified start-up businesses to submit a request for tax deferral to the Department of Revenue and Finance. If the request is approved, a taxpayer may defer taxable income for up to three years. Any tax due during the deferral period would then be paid in equal installments over the next five tax years. The Department is required to approve a deferral if all of the following are true for the requesting business:

- The business is a wholly new start-up entity.
- The business is domiciled in Iowa.
- The business is at least 25.0% funded by venture capital.
- The taxpayer does not owe delinquent taxes.

The Bill is retroactive to tax years beginning on or after January 1, 2002.

### Assumptions

1. The taxable income deferral applies only to corporate income tax.
2. Qualified businesses will apply to the Department of Revenue and Finance, beginning in calendar year 2002.
3. The fiscal impact of the Bill is dependant on the following for which sufficient information is not available to base an estimate:
  - The number of start-up businesses meeting the requirements of the Bill.
  - The profitability and tax liability in the first three years of the qualified companies.
  - The number of qualified companies that will incur deferred tax liability in the first three years, but go out of business before paying some or all of the five deferred installments.
  - The effectiveness of Department of Revenue and Finance delinquent tax recovery efforts.

### Fiscal Impact

House File 2592 will have a negative fiscal impact beginning in FY 2003. The fiscal impact would be the amount of taxes deferred that would have been paid under current law. The Bill would also have negative impacts in FY 2004 and FY 2005. The Bill could have a positive impact in fiscal years after FY 2005 if deferred tax payments exceed the new deferrals in a year. The projected negative General Fund impact is \$45,000 in FY 2003 and \$100,000 in FY 2004.

### Sources

Legislative Fiscal Bureau Analysis  
Department of Revenue and Finance

/s/ Dennis C Prouty

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March 26, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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HOUSE FILE 2592

AN ACT  
RELATING TO DEFERMENT OF TAXABLE INCOME FOR START-UP  
BUSINESSES AND PROVIDING AN EFFECTIVE AND RETROACTIVE  
APPLICABILITY DATE.

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

Section 1. NEW SECTION. 422.24A START-UP BUSINESS TAX  
DEFERMENT.

1. For purposes of this section, "start-up business" does not include any of the following:
  - a. An existing business locating in this state from another state or from another location in this state.
  - b. A newly created business which is the result of the merger of two or more businesses.
  - c. A newly created subsidiary or new business of a corporation.
  - d. A previously existing business which has been dissolved and reincorporated.
  - e. An existing business operating under a different name and located in a different location.
  - f. A newly created partnership owned by two or more of the same partners as an existing business and engaging in similar business activity as the existing business.
  - g. A business entity that reorganizes or experiences a change in either the legal or trade name of the business.
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  - a. The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.

b. The business has its commercial domicile, as defined in section 422.32, in the state.

c. The operations of the business are at least twenty-five percent funded by venture capital moneys. For purposes of this section, "venture capital moneys" means an equity investment from an individual or a private seed and venture capital fund whose only business is investing in seed and venture capital opportunities. "Venture capital moneys" does not mean a loan or other nonequity financing from a person, financial institution, or other entity.

d. The taxpayer does not have any delinquent taxes or other debt outstanding and owed to the state.

3. A taxpayer meeting the criteria provided in subsection 2 may submit a request to the department for the deferment of taxable income for the first three tax years that the taxpayer business is in operation. If a deferment is approved by the department pursuant to subsection 4, the taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of taxable income deferment. Section 422.26 shall apply if the taxpayer refuses or neglects to pay the taxes owed on the deferred taxable income in the manner provided in this section. A taxpayer receiving a deferment shall file a return for each tax year in which a deferment is approved. If the taxpayer has a net loss during a tax year during the three-year period in which taxable income is deferred, the loss may be applied to any deferred taxable income during that period.

4. Upon a determination that the criteria provided in subsection 2 have been met, the department shall approve a request for deferment of taxable income.

5. For purposes of assessing penalty and interest, the tax on any deferred taxable income is not due and payable until the tax years in which the annual installments as provided in subsection 3 are due and payable.

6. The department shall adopt rules pursuant to chapter 17A necessary for the administration of this section.

Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2002.

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2592, Seventy-ninth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 4/22, 2002

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THOMAS J. VILSACK  
Governor