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BY MCKIBBEN, REDWINE, MILLER,
TINSMAN, ANGELO, VEENSTRA,
JENSEN, MCKEAN, IVERSON,
KRAMER, DRAKE, BOETTGER,
BEHN, FREEMAN, LAMBERTI,
GASKILL, HOUSER, MADDOX,
SCHUERER, SEXTON, REHBERG,
ZIEMAN, and MCKINLEY

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

A BILL FOR

1 An Act relating to economic stimulus measures for businesses by
2 creating an Iowa capital investment board, authorizing the
3 organization of an Iowa capital investment corporation and an
4 Iowa fund of funds, and authorizing the issuance of contingent
5 tax credits to investors in the Iowa fund of funds;
6 establishing a new economy employment initiative by providing
7 for a partial deduction under the individual income tax for
8 the capital gain from the sale or exchange of capital stock of
9 a corporation which was acquired by an individual on account
10 of employment with the corporation, and limiting the fiscal
11 impact of the partial deductions; establishing a small
12 business growth initiative by adjusting the allocation to Iowa
13 of income earned by an S corporation for purposes of the state
14 individual income tax; and including effective and retroactive
15 applicability date provisions.

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

SF 2021

WAYS & MEANS

1 DIVISION I

2 IOWA FUND OF FUNDS

3 Section 1. NEW SECTION. 15E.221 FINDINGS -- PURPOSE.

4 The general assembly finds the following: Fundamental
5 changes have occurred in national and international financial
6 markets and in the financial markets of this state. A
7 critical shortage of seed and venture capital resources exists
8 in the state, and such shortage is impairing the growth of
9 commerce in the state. A need exists to increase the
10 availability of venture equity capital for emerging,
11 expanding, and restructuring enterprises in Iowa. Such
12 investments will create jobs for Iowans and will help to
13 diversify the state's economic base.

14 This division is enacted to fulfill the following purposes:

15 1. To mobilize private investment in a broad variety of
16 venture capital partnerships in diversified industries and
17 locales.

18 2. To retain the private-sector culture or focusing on
19 rate of return in the investing process.

20 3. To secure the services of the best managers in the
21 venture capital industry, regardless of location.

22 4. To facilitate the organization of the Iowa fund of
23 funds in which to seek such private investment and to create
24 interest in such investments by offering state incentives for
25 private persons to make investments in the Iowa fund of funds.

26 5. To enhance the venture capital culture and
27 infrastructure in the state of Iowa so as to increase venture
28 capital investment within the state and to promote venture
29 capital investing within Iowa.

30 6. To accomplish these purposes in such a manner as to
31 minimize any appropriations by the state of Iowa.

32 7. To effectuate specific, measurable results, including
33 all of the following:

34 a. The creation of five new venture capital fund offices
35 in Iowa within three years of the effective date of this Act.

1 b. The investment of a minimum of twenty-five million
2 dollars in Iowa businesses within three years of the effective
3 date of this Act.

4 c. A cumulative rate of return on venture investments of
5 the Iowa fund of funds equal to at least seventeen percent by
6 the end of five years following the effective date of this
7 Act.

8 Sec. 2. NEW SECTION. 15E.222 DEFINITIONS.

9 As used in this division, unless the context otherwise
10 requires:

11 1. "Board" means the Iowa capital investment board created
12 in section 15E.223.

13 2. "Certificate" means a contract between the board and a
14 designated investor pursuant to which a tax credit is
15 available and issued to the designated investor.

16 3. "Designated investor" means a person, other than the
17 Iowa capital investment corporation, who purchases an equity
18 interest in the Iowa fund of funds or a transferee of a
19 certificate or tax credit.

20 4. "Iowa capital investment corporation" means a private,
21 nonprofit corporation created pursuant to section 15E.224.

22 5. "Iowa fund of funds" means a private, for-profit
23 limited partnership or limited liability company established
24 by the Iowa capital investment corporation pursuant to section
25 15E.225 in which a designated investor purchases an equity
26 interest.

27 6. "Tax credit" means a contingent tax credit issued
28 pursuant to section 15E.226 that is available against tax
29 liabilities imposed by chapter 422, divisions II, III, and V,
30 and by chapter 432.

31 Sec. 3. NEW SECTION. 15E.223 IOWA CAPITAL INVESTMENT
32 BOARD.

33 1. The Iowa capital investment board is created as a state
34 governmental board and the exercise by the board of powers
35 conferred by this division shall be deemed and held to be the

1 performance of essential public purposes. The purpose of the
2 board shall be to mobilize venture equity capital for
3 investment in such a manner that will result in a significant
4 potential to create jobs and to diversify and stabilize the
5 economy of the state.

6 2. The board shall consist of five voting members and two
7 nonvoting advisory members. The five voting members shall be
8 appointed by the governor and confirmed by the senate pursuant
9 to section 2.32. The five voting members shall be appointed
10 to five-year staggered terms that shall be structured to allow
11 the term of one member to expire each year. One nonvoting
12 member shall be appointed by the majority leader of the senate
13 after consultation with the president of the senate and the
14 minority leader of the senate. One nonvoting member shall be
15 appointed by the speaker of the house of representatives after
16 consultation with the majority and minority leaders of the
17 house o representatives. The nonvoting members shall be
18 appointed for two-year terms which shall expire upon the
19 convening of a new general assembly. Vacancies shall be
20 filled in the same manner as the appointment of the original
21 members. Members shall be compensated by the board for direct
22 expenses and mileage but members shall not receive a
23 director's fee, per diem, or salary for service on the board.
24 Members shall be selected based upon demonstrated expertise
25 and competence in the supervision of investment managers, in
26 the fiduciary management of investment funds, or in the
27 management and administration of tax credit allocation
28 programs. Members shall not have an interest in any person to
29 whom a tax credit is allocated and issued by the board.

30 3. The board shall have the power to engage consultants,
31 expend funds, invest funds, contract, bond or insure against
32 loss, or perform any other act necessary to carry out its
33 purpose, provided, however, that the board shall not hire
34 employees.

35 4. Members of the board shall be indemnified against loss

1 to the broadest extent permissible under chapter 669.

2 5. Meetings of the board shall, except to the extent
3 necessary to protect confidential information with respect to
4 investments in and investments made by the Iowa fund of funds,
5 be subject to chapter 21.

6 6. The board shall, in cooperation with the department of
7 revenue and finance, establish criteria and procedures for the
8 allocation and issuance of tax credits to designated investors
9 by means of certificates issued by the board. The criteria
10 shall include the contingencies that must be met for a
11 certificate to be redeemable by a designated investor or
12 transferee in order to receive a tax credit. The
13 contingencies to redemption shall be tied to the scheduled
14 rates of return and scheduled redemptions of equity interests
15 purchased by designated investors in the Iowa fund of funds.
16 The procedures established by the board, in cooperation with
17 the department of revenue and finance, shall relate to the
18 procedures for the issuance of the certificates and the
19 related tax credits, for the transfer of a certificate and
20 related tax credit by a designated investor, and for the
21 redemption of a certificate and related tax credit by a
22 designated investor or transferee. The board shall also
23 establish criteria and procedures for assessing the likelihood
24 of future certificate redemptions by designated investors and
25 transferees, including, without limitation, criteria and
26 procedures for evaluating the value of investments made by the
27 Iowa fund of funds and the returns from the Iowa fund of
28 funds.

29 7. Pursuant to section 15E.226, the board shall issue
30 certificates which may be redeemable for tax credits to
31 provide incentives to designated investors to make equity
32 investments in the Iowa fund of funds. The board shall issue
33 the certificates so that not more than twenty million dollars
34 of tax credits may be initially redeemable in any fiscal year.

35 8. The board may charge a placement fee to the Iowa fund

1 of funds with respect to the issuance of a certificate and
2 related tax credit to a designated investor, but the fee shall
3 be charged only to pay for reasonable and necessary costs of
4 the board and shall not exceed one-half of one percent of the
5 equity investment of the designated investor.

6 9. The board shall, in consultation with the Iowa capital
7 investment corporation, publish an annual report of the
8 activities conducted by the Iowa fund of funds, and present
9 the report to the governor and the general assembly. The
10 annual report shall include a copy of the audit of the Iowa
11 fund of funds and a valuation of the assets of the Iowa fund
12 of funds, review the progress of the investment fund
13 allocation manager in implementing its investment plan, and
14 describe any redemption or transfer of a certificate issued
15 pursuant to this division, provided, however, that the annual
16 report shall not identify any specific designated investor who
17 has redeemed or transferred a certificate. Every five years,
18 the board shall publish a progress report which shall evaluate
19 the progress of the state of Iowa in accomplishing the
20 purposes stated in section 15E.221.

21 10. The board shall redeem a certificate submitted to the
22 board by a designated investor and shall calculate the amount
23 of the allowable tax credit based upon the investment returns
24 received by the designated investor and its predecessors in
25 interest and the provisions of the certificate. Upon
26 submission of a certificate for redemption, the board shall
27 issue a verification to the department of revenue and finance
28 setting forth the maximum tax credit which may be claimed by
29 the designated investor with respect to the redemption of the
30 certificate.

31 11. The board shall adopt rules pursuant to chapter 17A
32 necessary to administer the duties of the board.

33 Sec. 4. NEW SECTION. 15E.224 IOWA CAPITAL INVESTMENT
34 CORPORATION.

35 1. An Iowa capital investment corporation may be organized

1 as a private, not-for-profit corporation under chapter 504A.
2 The Iowa capital investment corporation is not a public
3 corporation or instrumentality of the state and shall not
4 enjoy any of the privileges and shall not be required to
5 comply with any of the requirements of a state agency. Except
6 as otherwise provided in this division, this division does not
7 exempt the corporation from the requirements under state law
8 which apply to other corporations organized under chapter
9 504A. The purposes of an Iowa capital investment corporation
10 shall be to organize the Iowa fund of funds, to select a
11 venture capital investment fund allocation manager to select
12 venture capital fund investments by the Iowa fund of funds, to
13 negotiate the terms of a contract with the venture capital
14 investment fund allocation manager, to execute the contract
15 with the selected venture capital investment fund manager on
16 behalf of the Iowa fund of funds, to receive investment
17 returns from the Iowa fund of funds, and to reinvest the
18 investment returns in additional venture capital investments
19 designed to result in a significant potential to create jobs
20 and to diversify and stabilize the economy of the state. The
21 corporation shall not exercise governmental functions and
22 shall not have members. The obligations of the corporation
23 are not obligations of this state or any political subdivision
24 of this state within the meaning of any constitutional or
25 statutory debt limitations, but are obligations of the
26 corporation payable solely and only from the corporation's
27 funds. The corporation shall not pledge the credit or taxing
28 power of this state or any political subdivision of this state
29 or make its debts payable out of any moneys except those of
30 the corporation.

31 2. To facilitate the organization of an Iowa capital
32 investment corporation, both of the following persons shall
33 serve as incorporators as provided in section 504A.28:

34 a. The chairperson of the Iowa economic development board
35 or a designee of the chairperson.

1 b. The director of the department of economic development
2 or a designee of the director.

3 3. After incorporation, the initial board of directors
4 shall be elected by the members of an appointment committee.
5 The members of the appointment committee shall be appointed by
6 the Iowa economic development board. The initial board of
7 directors shall consist of five members. The persons elected
8 to the initial board of directors by the appointment committee
9 shall include persons who have an expertise in the areas of
10 the selection and supervision of investment managers or in the
11 fiduciary management of investment funds, and other areas of
12 expertise as deemed appropriate by the appointment committee.

13 After the election of the initial board of directors,
14 vacancies in the board of directors of the corporation shall
15 be elected by the remaining directors of the corporation.
16 Members of the board of directors shall be subject to any
17 restrictions on conflicts of interest specified in the
18 organizational documents and shall have no interest in any
19 venture capital investment fund allocation manager selected by
20 the corporation pursuant to the provisions of this division or
21 in any investments made by the Iowa fund of funds.

22 4. The members of the appointment committee shall exercise
23 due care to assure that persons elected to the initial board
24 of directors have the requisite financial experience necessary
25 in order to carry out the duties of the corporation as
26 established in this division, including in areas related to
27 venture capital investment, investment management, and
28 supervision of investment managers and investment funds.

29 5. Upon the election of the initial board of directors,
30 the terms of the members of the appointment committee shall
31 expire.

32 6. The department of economic development shall assist the
33 incorporators and the appointment committee in any manner
34 determined necessary and appropriate by the incorporators and
35 appointment committee.

1 7. After incorporation, the Iowa capital investment
2 corporation shall conduct a national solicitation for
3 investment plan proposals from qualified venture capital
4 investment fund allocation managers for the raising and
5 investing of capital by the Iowa fund of funds in accordance
6 with the requirements of this division. Any proposed
7 investment plan shall address the applicant's level of
8 experience, quality of management, investment philosophy and
9 process, probability of success in fund-raising, prior
10 investment fund results, and plan for achieving the purposes
11 of this division. The selected venture capital investment
12 fund allocation manager shall be a person with substantial,
13 successful experience in the design, implementation, and
14 management of seed and venture capital investment programs and
15 in capital formation. The corporation shall only select a
16 venture capital investment fund allocation manager with
17 demonstrated expertise in the management and fund allocation
18 of investments in venture capital funds. The corporation
19 shall select the venture capital investment fund allocation
20 manager deemed best qualified to generate the amount of
21 capital required by this division and to invest the capital of
22 the Iowa fund of funds.

23 8. The Iowa capital investment corporation may charge a
24 management fee on assets under management in the Iowa fund of
25 funds. The fee shall be in addition to any fee charged to the
26 Iowa fund of funds by the venture capital investment fund
27 allocation manager selected by the corporation, but the fee
28 shall be charged only to pay for reasonable and necessary
29 costs of the Iowa capital investment corporation and shall not
30 exceed one-half of one percent per year of the value of assets
31 under management.

32 9. Directors of the Iowa capital investment corporation
33 shall be compensated for direct expenses and mileage but shall
34 not receive a director's fee or salary for service as
35 directors.

1 10. The Iowa capital investment corporation shall have the
2 power to engage consultants, expend funds, invest funds,
3 contract, bond or insure against loss, or perform any other
4 act necessary to carry out its purpose. However, the
5 corporation shall not hire staff as employees except to
6 administer the rural and small business loan guarantee program
7 of the Iowa fund of funds.

8 11. Upon the dissolution of the Iowa fund of funds, the
9 Iowa capital investment corporation shall be liquidated and
10 dissolved, and any assets owned by the corporation shall be
11 distributed to the state of Iowa and deposited in the general
12 fund.

13 Sec. 5. NEW SECTION. 15E.225 IOWA FUND OF FUNDS.

14 1. The Iowa capital investment corporation shall organize
15 the Iowa fund of funds. The Iowa fund of funds shall be
16 authorized to make investments in private seed and venture
17 capital partnerships or entities in a manner which will
18 encourage the availability of a wide variety of venture
19 capital in the state, strengthen the economy of the state,
20 help business in Iowa gain access to sources of capital, help
21 build a significant, permanent source of capital available to
22 serve the needs of Iowa businesses, and accomplish all these
23 benefits in a way that minimizes the use of tax credits.

24 2. The Iowa capital investment corporation shall organize
25 the Iowa fund of funds in the following manner:

26 a. The Iowa fund of funds shall be organized as a private,
27 for-profit, limited partnership or limited liability company
28 under Iowa law pursuant to which the Iowa capital investment
29 corporation shall be the general partner or manager. The
30 entity shall be organized so as to provide for equity
31 interests for designated investors which provide for a
32 designated scheduled rate of return and a scheduled redemption
33 which shall occur not less than five years following the
34 issuance of such equity interests. The interest of the Iowa
35 capital investment corporation in the Iowa fund of funds shall

1 be to serve as general partner or manager and to be paid a
2 management fee for the service as provided in section 15E.224,
3 subsection 8, and to receive investment returns of the Iowa
4 fund of funds in excess of those payable to designated
5 investors. Any returns in excess of those payable to
6 designated investors shall be reinvested by the Iowa capital
7 investment corporation by being held in the Iowa fund of funds
8 as a revolving fund for reinvestment in venture capital funds
9 or investments until the termination of the Iowa fund of
10 funds. Any returns received from these reinvestments shall be
11 deposited in the revolving fund.

12 b. The Iowa fund of funds shall principally make
13 investments in high-quality venture capital funds managed by
14 investment managers who have made a commitment to consider
15 equity investments in businesses located within the state of
16 Iowa and which have committed to maintain a physical presence
17 within the state of Iowa. The investments by the Iowa fund of
18 funds shall be focused principally on partnership interests in
19 private venture capital funds and not in direct investments in
20 individual businesses. The Iowa fund of funds shall invest in
21 venture capital funds with experienced managers or management
22 teams with demonstrated expertise and a successful history in
23 the investment of venture capital funds. The Iowa fund of
24 funds may invest in newly created venture capital funds as
25 long as the managers or management teams of the funds have the
26 experience, expertise, and a successful history in the
27 investment of venture capital funds described in this
28 paragraph.

29 c. The Iowa fund of funds shall establish and administer a
30 program to provide loan guarantees and other related credit
31 enhancements on loans to rural and small business borrowers
32 within the state of Iowa. The Iowa fund of funds shall invest
33 a minimum of five percent of its assets in investments for
34 this program.

35 d. The Iowa fund of funds shall have the power to engage

1 consultants, expend funds, invest funds, contract, bond or
2 insure against loss, or perform any other act necessary to
3 carry out its purpose, including, without limitation, engaging
4 and agreeing to compensate a venture capital investment fund
5 allocation manager. Such compensation shall be in addition to
6 the management fee paid to the Iowa capital investment
7 corporation. However, the Iowa fund of funds shall not hire
8 employees except to administer its rural and small business
9 loan guarantee and credit enhancement program.

10 e. The Iowa fund of funds may issue debt and borrow such
11 funds as may be needed to accomplish its goals. However, such
12 debt shall not be secured by tax credits issued by the board.
13 The Iowa fund of funds may open and manage bank and short-term
14 investment accounts as deemed necessary by the venture capital
15 investment fund allocation manager.

16 f. The Iowa fund of funds may expend moneys to secure
17 investment ratings for investments by designated investors in
18 the Iowa fund of funds.

19 g. The Iowa fund of funds shall engage a certified public
20 accountant to conduct an annual audit of the activities of the
21 Iowa fund of funds. The audit shall be delivered to the Iowa
22 capital investment corporation and the board each year and
23 shall include a valuation of the assets owned by the Iowa fund
24 of funds as of the end of each year.

25 h. Fifty years after the organization of the Iowa fund of
26 funds, the Iowa capital investment corporation shall cause the
27 Iowa fund of funds to be liquidated with all of its assets
28 distributed to its owners in accordance with the provisions of
29 its organizational documents.

30 Sec. 6. NEW SECTION. 15E.226 CERTIFICATES AND TAX
31 CREDITS.

32 1. The board may issue certificates and related tax
33 credits to designated investors which, if redeemed for the
34 maximum possible amount, shall not exceed a total aggregate of
35 one hundred million dollars of tax credits. The certificates

1 shall be issued contemporaneously with an investment in the
2 Iowa fund of funds by a designated investor. A certificate
3 issued by the board shall have a specific calendar year
4 maturity date designated by the board of not less than five
5 years after the date of issuance and shall be redeemable on a
6 schedule similar to the scheduled redemption of investments by
7 designated investors. A certificate and the related tax
8 credit shall be transferable by the designated investor. A
9 tax credit shall not be claimed or redeemed except by a
10 designated investor or transferee in accordance with the terms
11 of a certificate from the board. A tax credit shall be
12 claimed for a tax year that begins during the calendar year
13 maturity date stated on the certificate. An individual may
14 claim the credit of a partnership, limited liability company,
15 S corporation, estate, or trust electing to have the income
16 taxed directly to the individual. The amount claimed by the
17 individual shall be based upon the pro rata share of the
18 individual's earnings from the partnership, limited liability
19 company, S corporation, estate, or trust. Any tax credit in
20 excess of the taxpayer's tax liability for the tax year may be
21 credited to the tax liability for the following seven years,
22 or until depleted, whichever is earlier.

23 2. The board shall certify the maximum amount of a tax
24 credit which could be issued to a designated investor and
25 identify the specific calendar year the certificate may be
26 redeemed pursuant to this division. The amount of the tax
27 credit shall be limited to an amount equivalent to any
28 difference between the scheduled aggregate return to the
29 designated investor at rates of return authorized by the board
30 and aggregate actual return received by the designated
31 investor and any predecessor in interest of capital and
32 interest on the capital. The rates, whether fixed rates or
33 variable rates, shall be determined pursuant to a formula
34 stipulated in the certificate. The board shall clearly
35 indicate on the certificate the schedule, the amount of equity

1 investment, the calculation formula for determining the
2 scheduled aggregate return on invested capital, and the
3 calculation formula for determining the amount of the tax
4 credit that may be claimed. Once moneys are invested by a
5 designated investor, the certificate shall be binding on the
6 board and the department of revenue and finance and shall not
7 be modified, terminated, or rescinded.

8 3. If a designated investor elects to redeem a
9 certificate, the certificate shall be redeemed on June 30 of
10 the calendar year maturity date stated on the certificate. At
11 the time of redemption, the board shall determine the amount
12 of the tax credit that may be claimed by the designated
13 investor based upon the returns received by the designa'ed
14 investor and its predecessors in interest and the provisions
15 of the certificate. The board shall issue a verification to
16 the department of revenue and finance setting forth the
17 maximum tax credit which can be claimed by the designated
18 investor with respect to the redemption of the certificate.

19 4. The board shall, in conjunction with the department of
20 revenue and finance, develop a system for registration of any
21 certificate and related tax credit issued or transferred
22 pursuant to this section and a system that permits
23 verification that any tax credit claimed upon a tax return is
24 valid and that any transfers of the certificate and related
25 tax credit are made in accordance with the requirements of
26 this division.

27 5. The board shall issue the tax credits in such a manner
28 that not more than twenty million dollars of tax credits may
29 be initially redeemable in any fiscal year.

30 6. A certificate or tax credit issued or transferred
31 pursuant to this division shall not be considered a security
32 pursuant to chapter 502.

33 7. In determining the one hundred million dollar maximum
34 limit in subsection 1 and the twenty million dollar limitation
35 in subsection 5, the board shall use the cumulative amount of

1 scheduled aggregate returns on certificates issued by the
2 board to designated investors. However, certificates and
3 related tax credits which have expired shall not be included
4 and certificates and related tax credits which have been
5 redeemed shall be included only to the extent of tax credits
6 actually allowed.

7 Sec. 7. NEW SECTION. 15E.227 POWERS AND EFFECTIVENESS.

8 This division shall not be construed as a restriction or
9 limitation upon any power which the board might otherwise have
10 under any other law of this state and the provisions of this
11 division are cumulative to such powers. This division shall
12 be construed to provide a complete, additional, and
13 alternative method for performing the duties authorized and
14 shall be regarded as supplemental and additional powers
15 conferred by any other laws. The level, timing, or degree of
16 success of the Iowa fund of funds or the investment funds in
17 which the Iowa fund of funds invests in, or the extent to
18 which the investment funds are invested in Iowa venture
19 capital projects, or are successful in accomplishing any
20 economic development objectives, shall not compromise,
21 diminish, invalidate, or affect the provisions of any contract
22 entered into by the board or the Iowa fund of funds.

23 Sec. 8. NEW SECTION. 15E.228 PERMISSIBLE INVESTMENTS.

24 Investments by designated investors in the Iowa fund of
25 funds shall be deemed permissible investments for state-
26 chartered banks and for domestic insurance companies under
27 applicable state laws.

28

DIVISION II

29

NEW ECONOMY EMPLOYMENT INITIATIVE

30 Sec. 9. Section 422.7, Code Supplement 2001, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 38. a. For purposes of this subsection:

33 (1) "Capital stock" means voting and nonvoting common and
34 preferred stock and stock options issued pursuant to an
35 incentive stock option plan. "Capital stock" does not include

1 stock rights, stock warrants, or debt securities, and does not
2 include stock or stock options issued by a corporation which
3 does not offer incentive stock options to all full-time
4 employees. A corporation does not offer incentive stock
5 options to all full-time employees unless each of those
6 employees is issued at least a number of incentive stock
7 options equal to twenty percent of all issued outstanding
8 incentive stock options divided by the number of full-time
9 employees.

10 (2) "Corporation" means any of the following:

11 (a) A corporation which at the time of the first sale or
12 exchange for which an election is made under paragraph "c" has
13 been in existence and actively doing business for at least
14 three years and is not a personal holding company as defined
15 in section 542(a) of the Internal Revenue Code.

16 (b) A corporation which is a member of an affiliated
17 group, as defined in section 1504(a) of the Internal Revenue
18 Code, which group includes a corporation described in
19 subparagraph subdivision (a) and which group has been in
20 existence and actively doing business for at least three
21 years.

22 (c) A predecessor or successor corporation of a
23 corporation described in subparagraph subdivision (a). A
24 corporation is a predecessor or successor corporation if the
25 corporation was a party to a reorganization that was entirely
26 or substantially income tax free and that occurred during or
27 after the employment of the taxpayer making an election under
28 paragraph "c".

29 (3) "Incentive stock option" means the same as defined in
30 section 422(b) of the Internal Revenue Code.

31 b. For purposes of this subsection, the corporation
32 issuing capital stock for which an election under paragraph
33 "c" is made must, at the time of the first sale or exchange
34 for which the election is made, have at least five
35 shareholders and at least two shareholders or groups of

1 shareholders who are not related to each other and each of
2 which owns at least five percent of the capital stock.

3 For purposes of this paragraph "b", two persons shall be
4 considered to be related when, under section 318 of the
5 Internal Revenue Code, one is a person who owns, directly or
6 indirectly, capital stock that if directly owned would be
7 attributed to the other person or is the spouse, child,
8 parent, grandparent, brother, sister, aunt, uncle, cousin,
9 niece, or nephew of the other person who owns capital stock
10 either directly or indirectly.

11 c. (1) In the manner provided in paragraph "d", an
12 individual may elect to subtract one-half of the capital gain
13 from the sale or exchange of capital stock of a corporation
14 acquired by the individual on account of employment with that
15 corporation. However, for tax years beginning in the 2002
16 calendar year, the amount that may be subtracted is one-fourth
17 of such capital gain.

18 (2) (a) Each individual shall be entitled to two
19 elections under subparagraph (1) during the individual's
20 lifetime for the capital stock of two different corporations.

21 (b) The election applies only to the tax year for which
22 the election was made and applies to all sales and exchanges
23 in the tax year for which the election was made of capital
24 stock in the same corporation which was acquired as provided
25 in subparagraph (1).

26 (c) After the individual makes an election for the tax
27 year, the election shall also apply to the sale or exchange in
28 that tax year of capital stock of the corporation which had
29 been transferred by inter vivos gift from the individual to
30 the individual's spouse if the capital stock was acquired as
31 provided in subparagraph (1). This provision applies in the
32 case of the spouse, only if the spouse was married to such
33 individual on the date of sale or exchange or the date of
34 death of the individual and if the spouse and individual file
35 a joint Iowa income tax return on which the election is made.

1 If the individual dies without making an election, the
2 surviving spouse may make the election for capital stock that
3 would have qualified under this subparagraph subdivision.
4 However, if there is no surviving spouse, the oldest surviving
5 issue who owns capital stock that would have qualified under
6 this subparagraph subdivision may make the election.

7 d. An election under paragraph "c" shall be made by
8 including a written statement with the taxpayer's Iowa income
9 tax return for the tax year for which the election is made.
10 The written statement shall identify the corporation that
11 issued the capital stock, the grounds for the election under
12 this subsection, and that the taxpayer elects to have this
13 subsection apply to sales and exchanges in that tax year.

14 (1) In order for the taxpayer to claim the benefits of the
15 partial deduction of the capital gain under this subsection,
16 the taxpayer must completely fill out the tax return,
17 determine the taxpayer's income tax liability without the
18 benefit of this subsection, and pay the amount of tax owed.
19 The taxpayer shall recompute the taxpayer's income tax
20 liability, by applying the provisions of this subsection on a
21 special return. This special return shall be filed under
22 rules of the director and constitutes a claim for refund of
23 the difference between the amount of tax the taxpayer paid as
24 determined without the application of the provisions of this
25 subsection and the amount of tax determined with the
26 application of the provisions of this subsection.

27 (2) This subsection shall not affect the amount of the
28 taxpayer's checkoff to the Iowa election campaign fund under
29 section 56.18, the checkoff for the state fish and game
30 protection fund in section 456A.16, the credits from tax
31 provided in sections 422.10, 422.11A, and 422.12 and the
32 allocation of these credits between spouses if the taxpayers
33 filed separate returns or separately on combined returns.

34 (3) For any tax year, the aggregate amount of refund
35 claims that shall be paid pursuant to this subsection shall

1 not exceed three million dollars. If, for a tax year, the
2 aggregate amount of refund claims filed pursuant to this
3 subsection exceeds three million dollars, each claim for
4 refund shall be paid on a pro rata basis so that the aggregate
5 amount of refund claims paid does not exceed three million
6 dollars. In the case where refund claims are not paid in
7 full, the amount of the refund to which the taxpayer is
8 entitled under this subsection is the pro rata amount that was
9 paid and the taxpayer is not entitled to a refund of the
10 unpaid portion and is not entitled to carry that amount
11 forward or backward to another tax year. Taxpayers shall not
12 use refunds as estimated payments for the succeeding tax year.
13 Taxpayers whose tax years begin on January 1 must file their
14 refund claims by October 31 of the calendar year following the
15 end of their tax years to be eligible for refunds. Taxpayers
16 whose tax years begin on a date other than January 1 must file
17 their refund claims by the end of the tenth month following
18 the end of their tax years to be eligible. The department
19 shall determine on February 1 of the second succeeding
20 calendar year if the total amount of claims for refund exceeds
21 three million dollars for the tax year. Notwithstanding any
22 other provision, interest shall not be due on any refund
23 claims that are paid by the last day of February of the second
24 succeeding calendar year. If the claim is not payable on
25 February 1 of the second succeeding calendar year, because the
26 taxpayer is a fiscal year filer, the claim shall be considered
27 a claim for the following tax year.

28 e. The deduction under this subsection is in lieu of any
29 deduction allowable under section 1202 of the Internal Revenue
30 Code for the capital gain from the sale or exchange of the
31 same capital stock.

32 Sec. 10. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.

33 This division of this Act, being deemed of immediate
34 importance, takes effect upon enactment and applies
35 retroactively to January 1, 2002, for tax years beginning on

1 or after that date.

2

DIVISION III

3

SMALL BUSINESS GROWTH INITIATIVE

4 Sec. 11. Section 422.8, subsection 2, paragraph b,
5 subparagraph (2), Code 2001, is amended to read as follows:

6 (2) Any cash or the value of property distributions which
7 are made only to the extent that they are paid from income
8 upon which Iowa income tax has not been paid, as determined
9 under rules of the director, reduced by ~~fifty-percent-of~~ the
10 amount of any of these distributions that are made to enable
11 the shareholder to pay federal income tax on items of income,
12 loss, and expenses from the corporation.

13 Sec. 12. APPLICABILITY PROVISION. This division of this
14 Act applies retroactively to January 1, 2002, for tax years
15 beginning on or after that date.

16

EXPLANATION

17 This bill relates to economic stimulus measures for
18 businesses. The bill is divided into three divisions with
19 division I relating to a venture capital initiative, division
20 II relating to a new economy employment initiative, and
21 division III relating to a small business growth initiative.

22 Division I - Division I of this bill creates a state
23 governmental entity, the Iowa capital investment board, and
24 authorizes the organization of a private, not-for-profit
25 corporation, the Iowa capital investment corporation, and the
26 organization of a for-profit, limited partnership or limited
27 liability company, the Iowa fund of funds. The division also
28 authorizes the issuance of tax credits to investors in the
29 Iowa fund of funds.

30 The division creates the Iowa capital investment board as a
31 governmental entity. The division provides that the board
32 shall consist of five voting members and two nonvoting
33 members. The division provides the board with powers to carry
34 out its purpose and prohibits the board from hiring employees.
35 The division provides that board members are indemnified

1 against loss under Code chapter 669. The division provides
2 that board meetings shall comply with open meetings laws,
3 except to the extent necessary to protect confidential
4 information with respect to investments in and investments
5 made by the Iowa fund of funds. The division provides that
6 the board, in cooperation with the department of revenue and
7 finance, shall establish criteria and procedures for the
8 allocation and issuance of tax credits to designated investors
9 by means of certificates issued by the board. The division
10 provides that the board shall issue certificates which may be
11 redeemable for tax credits as incentives to designated
12 investors to make equity investments. The division provides
13 that the board shall issue the certificates so that not more
14 than \$20 million of tax credits may be initially redeemable in
15 any fiscal year. The division provides that the board may
16 charge a placement fee to the Iowa fund of funds with respect
17 to the issuance of a certificate and related tax credit. The
18 division provides that the board, in consultation with the
19 Iowa capital investment corporation, shall publish an annual
20 report of the activities conducted by the Iowa fund of funds.
21 The division provides that the board shall redeem a
22 certificate submitted by a designated investor, shall
23 calculate the amount of the allowable tax credit, and issue a
24 verification to the department of revenue and finance setting
25 forth the maximum tax credit which may be claimed. The
26 division requires the board to adopt administrative rules
27 necessary to administer the duties of the board.

28 The division authorizes the organization of an Iowa capital
29 investment corporation as a private, not-for-profit
30 corporation. The division provides a method for
31 incorporation, including providing for incorporators, an
32 appointment committee, and an initial board of directors. The
33 division provides that the department of economic development
34 shall assist the incorporators and the appointment committee
35 in any manner determined necessary and appropriate. The

1 division provides that the corporation shall conduct a
2 national solicitation for an investment plan proposal. The
3 division provides that the corporation may charge a management
4 fee on assets under management in the Iowa fund of funds which
5 shall not exceed one-half of 1 percent per year of the value
6 of the assets under management. The division provides that
7 the directors of the corporation shall be compensated for
8 direct expenses and mileage, but shall not receive a
9 director's fee or salary for their service. The division
10 provides the corporation with various business-related powers.
11 The division provides that, upon the dissolution of the Iowa
12 fund of funds, the corporation shall be liquidated and
13 dissolved, and any assets owned by it shall be distributed to
14 the state of Iowa.

15 The division provides for the organization of the Iowa fund
16 of funds by the Iowa capital investment corporation. The
17 division provides that the Iowa fund of funds shall be
18 organized as a for-profit limited partnership or limited
19 liability company to which the Iowa capital investment
20 corporation shall be the general partner or manager. The
21 division provides that the Iowa fund of funds shall be
22 organized so as to provide for equity interests for designated
23 investors which provide for a designated scheduled rate of
24 return and a scheduled redemption which shall occur not less
25 than five years following the issuance of such equity
26 interests.

27 The division provides that the Iowa fund of funds shall
28 principally make investments in high-quality venture capital
29 funds managed by investment managers who have made a
30 commitment to consider equity investments in businesses
31 located within the state of Iowa and which have committed to
32 maintain a physical presence within the state of Iowa. The
33 division provides that the Iowa fund of funds shall invest a
34 minimum of 5 percent of its assets in investments in the form
35 of loan guarantees and other related credit enhancements on

1 loans to rural and small business borrowers within the state
2 of Iowa. The division provides the Iowa fund of funds with
3 certain business-related powers. The division provides that
4 the Iowa fund of funds may issue debt and borrow and may open
5 and manage bank and short-term investment accounts. The
6 division provides that the Iowa fund of funds may expend
7 moneys to secure investment ratings for investments by
8 designated investors. The division provides that the Iowa
9 fund of funds shall engage a certified public accountant to
10 conduct an annual audit. The division provides that the Iowa
11 fund of funds shall be liquidated 50 years following the
12 organization of the Iowa fund of funds.

13 The division provides that the Iowa capital investment
14 board may issue to designated investors certificates and
15 related tax credits which shall not exceed a total aggregate
16 of \$100 million of tax credits. The division provides the
17 certificates shall be issued contemporaneously with an
18 investment in the Iowa fund of funds by a designated investor.
19 The division provides that the certificates and tax credits
20 are transferable. The division provides that a tax credit
21 shall be claimed for a tax year that begins during the
22 calendar year maturity date stated on the certificate. The
23 division provides that the amount of the tax credit shall be
24 limited to the equivalent of any difference between the
25 scheduled aggregate return to the designated investor and the
26 aggregate return on invested capital at rates of return
27 authorized by the board. The division provides that any tax
28 credit in excess of the designated investor's tax liability
29 for the tax year may be credited to the tax liability for the
30 following seven years, or until depleted, whichever is
31 earlier. The division provides that the board, in conjunction
32 with the department of revenue and finance, develop a system
33 for registration of any certificate and related tax credit
34 issued or transferred and a verification system. The division
35 provides that the board shall issue tax credits in such a

1 manner that not more than \$20 million of tax credits may be
2 initially redeemable in any fiscal year. The division
3 provides that a certificate or tax credit issued pursuant to
4 the division is not considered a security.

5 The division provides provisions relating to statutory
6 construction and the powers of the Iowa capital investment
7 board.

8 The division provides that investments by designated
9 investors in the Iowa fund of funds shall be deemed
10 permissible investments for state-chartered banks and for
11 domestic insurance companies under applicable state laws.

12 Division II - Division II of this bill provides a deduction
13 under the individual income tax of 50 percent (25 percent for
14 the 2002 tax year) of the capital gain from the sale or
15 exchange of capital stock of a corporation acquired by the
16 taxpayer on account of employment with the corporation. The
17 taxpayer must make an election to take the deduction and the
18 election only applies for that tax year. The election is made
19 by a written statement filed with the department. In
20 addition, the benefits of the deduction are realized by means
21 of a refund claim. This involves the taxpayer filing a return
22 with tax liability determined without deduction for the
23 capital gain and a special return with tax liability
24 determined with the deduction for the capital gain. The
25 reduction in tax liability will be treated as a claim for
26 refund of the amount of the reduction. However, not more than
27 \$3 million in tax refunds may be allowed for any tax year. If
28 more refunds are claimed, then each refund claim is payable at
29 a pro rata amount, which is the final amount of the taxpayer's
30 actual refund. A taxpayer may make two elections for two
31 different corporations during the taxpayer's lifetime. The
32 election would also apply to stock sold during that tax year
33 which was previously granted to a spouse of the taxpayer but
34 only if they file a joint Iowa income tax return. The
35 election would not apply to capital gains from stock or stock

1 options unless the corporation issuing the options offered
2 them to all full-time employees.

3 The deduction is in lieu of the deduction that may be
4 allowable under the Internal Revenue Code for sale or exchange
5 of stock in a small business held for five years.

6 The division takes effect upon enactment and applies
7 retroactively to January 1, 2002, for tax years beginning on
8 or after that date.

9 Division III - Under the state individual income tax,
10 resident shareholders of S corporations doing business within
11 and without the state are allowed to allocate income between
12 Iowa and other states in determining their state income tax.
13 As part of the allocation procedure, under current law, 50
14 percent of the amount of an S corporation distribution
15 received by a shareholder, which is used to pay federal income
16 tax, is not allocated to Iowa. Division III of the bill
17 increases this percentage to 100 percent.

18 The division applies retroactively to January 1, 2002, for
19 tax years beginning on or after that date.

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