

HB

252

<TARGET><BILL>HB 252</BILL><SUBJECT>HB  
252</SUBJECT><COMM>SF IN27</COMM></TARGET>

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/11/12

FURTHER: \_\_\_\_\_

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance Committee considered CS FOR HOUSE BILL NO. 252(FIN)

HB 252 SMALL BUSINESS INCOME TAX EXEMPTION

"An Act exempting certain small businesses from the corporate income tax; and providing for an effective date."

and recommends:

- be replaced with SCS \_\_\_\_\_ ( \_\_\_\_\_ )  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- adopt previous SCS CS HB 252 (FIN)  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_





- attached amendment(s)  
 adopt \_\_\_\_\_ Letter of Intent  
 further referral to \_\_\_\_\_ Committee

Dept Abbr.	ADM	LEG
CED	LAW	
COR	LWF	
CRT	MVA	
EED	DNR	
DEC	DPS	
DFG	REV	
GOV	DOT	
DHS	UA	

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Egan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR: _____					
CO-CHAIR: 	Adams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

cost # codes

Bill Version  
 Fiscal Note Number  
 Publish Date

**CSHB 252(FIN)**  
**2**  
**3/14/12 (H)**

Identifier (file name) HB252-DOR-TAX-02-29-12  
 Title Income Tax Exemption Representative Costello  
 Sponsor House Finance  
 Requester House Finance

Dept. Affected OMB Component Number  
 Appropriation Allocation 2476  
 Taxation and Treasury Tax Division

**Expenditures/Revenues**

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in FY13 Governor's Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services	108.5		108.5	108.5	108.5	108.5	108.5	108.5
Travel								
Services	4.7		4.7	4.7	4.7	4.7	4.7	4.7
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>113.2</b>	<b>0.0</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>

FUND SOURCE	(Thousands of Dollars)								
1002 Federal Receipts									
1003 GF Match									
1004 GF	113.2		113.2	113.2	113.2	113.2	113.2	113.2	
1005 GF/Prgm (DGF)									
1037 GF/MH (UGF)									
1178 temp code (UGF)									
<b>TOTAL</b>	<b>113.2</b>	<b>0.0</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	<b>113.2</b>	

POSITIONS									
Full-time	1			1	1	1	1	1	1
Part-time									
Temporary									
<b>CHANGE IN REVENUES</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

**Estimated SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**Why this fiscal note differs from previous version (if initial version, please note as such)** \_\_\_\_\_  
**New language adds new categories of businesses that do not qualify for the exemption.**

Prepared by Johanna Bales, Deputy Director Phone (907) 269-6628  
 Division Tax Date/Time 2/29/2012 10:30 a.m.  
 Approved by Alicia Egan, Legislative Liaison Date 2/29/2012  
Department of Revenue

**Analysis****Bill Language:**

This bill would exempt corporations from the corporate income tax if they are determined to be a "qualified small business" as that term is defined in Section 1202 of the Internal Revenue Code (IRC) as that section read on January 1, 2012. Under IRC Section 1202, a "qualified small business" is a corporation with no more than \$50 million in aggregate assets and is engaged in a "qualified trade or business". A "qualified trade or business" is any business *other than* personal services, banking, finance, insurance, farming, oil and gas, mining, hotel, motel, restaurant, construction, transportation, fisheries or utilities. Taxpayers engaged in businesses such as manufacturing, retail, wholesale, biotechnical and software development would qualify for the exemption. Taxpayers must also use at least 80% of their assets in the active conduct of the "qualified trade or business."

**Revenues:**

It is difficult to determine exactly how many companies would qualify for the exemption as, although DOR is able to identify those taxpayers with \$50 million or less in aggregate assets and the primary industry in which they are engaged, DOR cannot ascertain whether 80% or more of the corporation's assets are being used in the conduct of a qualified trade or business.

**Expenditures:**

This bill will exempt corporations from Alaska's corporate income tax based on certain criteria identified in IRC Section 1202. IRC Section 1202 is an individual income tax provision which allows individuals who invest in "qualified small businesses" to exclude 50% of the gain on the sale of stock from their individual income tax. IRC Section 1202 does not exempt "qualified small businesses" from federal corporate income tax. Therefore, corporations which believe they are exempt from Alaska corporate income tax would still be required to file an Alaska corporate income tax return along with a statement claiming this exemption. This bill would require the Department of Revenue to make independent determinations as to whether corporations, which believe they meet the requirements of IRC Section 1202 and are exempt from Alaska corporate income tax, are, in fact, exempt. The Department will be required to review a substantial number of tax returns each year to ascertain if a corporation meets the federal guidelines. The Department expects it will need one additional Corporate Income Tax Auditor II to ensure the proper administration of this legislation.

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By: Nadine Winters  
Introduced: 03/08/12  
Adopted: 03/08/12

FAIRBANKS NORTH STAR BOROUGH  
RESOLUTION NO. 2012 - 14

A RESOLUTION SUPPORTING CSHB 252, AN ACT EXEMPTING CERTAIN SMALL  
BUSINESSES FROM THE CORPORATE INCOME TAX

WHEREAS, HB 252 takes advantage of a provision in the federal tax code to promote the development of high-growth tech corporations in Alaska. It does this by exempting from the state corporate income tax small businesses incorporated as C-Corporations in Alaska in select industries identified in Section 1202 of the Internal Revenue Code; and

WHEREAS, CSHB 252 encourages investment in intellectual property and high growth type businesses through a short term exemption from Alaska corporate income taxation to Qualified Small Business Corporations (QSBC); and

WHEREAS, the federal Small Business Jobs Act of 2010, passed as part of President Barack Obama's economic stimulus initiatives, enhanced incentives under Section 1202 for investment in qualified small businesses, which are small start-up corporations doing business in selected industries; and

WHEREAS, the corporations which qualify under Section 1202 are typically intellectual property-based research and technology companies, which tend to be highly mobile and have multiple options regarding where to locate their business; and

WHEREAS, if HB 252 passes, Alaska will be the most tax competitive state to grow these innovative companies; and

WHEREAS, the goal of HB252 is to support growth in high value Alaskan jobs and to support diversification of the Alaska economy; and

WHEREAS, the fiscal impact of the exemption created under HB252 is expected to be minimal while the economic benefits could be significant; and

NOW THEREFORE BE IT RESOLVED that the Fairbanks North Star Borough supports the passage of CSHB252 and urges the Interior Delegation to support its passage.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

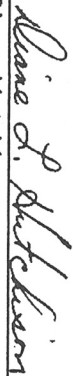
Text to be added is underlined  
Text to be deleted is [BRACKETED, CAPITALIZED]

Fairbanks North Star Borough, Alaska


RESOLUTION NO. 2012- 14

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PASSED AND APPROVED THIS 8<sup>th</sup> DAY OF MARCH, 2012.

  
Diane Hutchison  
Presiding Officer

ATTEST:

  
Nanci Ashford-Birgham, CMC, Deputy  
For Mona Lisa Drexlner, MMC  
Municipal Borough Clerk

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Ayes: Davies, Howard, Sattley, Dukes, Want, Winters, Musick, Kassel, Hutchison  
Noes: None

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined  
Text to be deleted is [BRACKETED, CAPITALIZED]

Fairbanks North Star Borough, Alaska

RESOLUTION NO. 2012-14

Page 2 of 2

## HB 252

Egan, Alicia R (DOR) [alicia.egan@alaska.gov]

**Sent:** Monday, March 12, 2012 6:12 PM

**To:** Joshua Walton

**Cc:** Tangeman, Bruce E (DOR) [bruce.tangeman@alaska.gov]; Bales, Johanna D (DOR) [johanna.bales@alaska.gov]; Fonder, Matthew R (DOR) [mattthew.fonder@alaska.gov]

**Attachments:**HB 252 revised qualified c~1.pdf (8 KB)

Josh,

Below is the email describing the details of the maximum exposure to the State of Alaska under HB 252.

Please let me know if we are able to provide further assistance.

Respectfully,

**Alicia R. Egan**

Oil & Gas Legislative Liaison

Commissioner's Office

Department of Revenue

(907) 269-0067 - Anchorage office

(907) 465-6829 - Juneau Office

(907) 229-9624 - cell

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**From:** Bales, Johanna D (DOR)

**Sent:** Monday, March 12, 2012 4:57 PM

**To:** Egan, Alicia R (DOR)

**Subject:** HB 252

Josh,

The Department of Revenue considered your request for an additional break down of potential revenue loss to the state if HB 252 passes. You requested the Department to further analyze the companies which make up the potential \$4.47 million revenue loss as provided in the attached spreadsheet. As we discussed, the attached represents the number of corporations that filed tax returns for calendar year 2010 that meet two of the three requirements for tax exemption as proposed in HB 252. These companies are engaged in a qualifying business and have less than \$50 million in total assets. We are unable to determine from tax return filings if these corporations use at least 80% of their assets in a qualifying business; the third requirement a company must meet to be exempt from corporate income tax under HB 252. As we have no additional information with which to make assumptions, further analysis is not possible. It is possible that none or all of these companies could qualify for the exemption. If all companies did use 80% of their assets in a qualifying business, total revenue loss would only be \$4.47 million. For calendar year 2010, Alaska received nearly \$700 million in total corporate income tax. These 502 companies, which may potentially be exempt from corporation income tax, under HB 252, represent less than 1% of total corporate income taxes paid in that year. I hope this information helps.

*Johanna Bales, CPA*

Deputy Director  
Alaska Department of Revenue  
Tax Division  
550 W 7th Ave, Suite 500  
Anchorage, AK 99501  
  
(phone) 907-269-6628  
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**CONFIDENTIALITY NOTICE:** This email message including any attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, or disclosure is prohibited.

Industry	Number of TPs	Tax
Manufacturing	36	\$ 186,682
Other Sectors	16	\$ 3,778
Retail	236	\$ 2,839,246
Wholesale	214	\$ 1,443,714
	<u>502</u>	<u>\$ 4,473,419</u>



REPRESENTATIVE MIA COSTELLO  
Member, House Finance Committee

### SPONSOR STATEMENT FOR HOUSE BILL 252

House Bill 252 seeks to encourage the development of high-growth technology and research companies in Alaska, improve Alaska's business climate, promote the diversification of Alaska's economy, and encourage entrepreneurship and the development of Alaska's venture capital investment sector. It would also enhance Alaskan entrepreneurs' ability to remain in Alaska to start their businesses and raise their families here at home.

House Bill 252 takes advantage of a provision in the federal tax code to promote the development of high-growth tech corporations in Alaska. It does this by exempting from the state corporate income tax small businesses incorporated as C-corporations in Alaska in select industries identified in section 1202 of the Internal Revenue Code.

The federal Small Business Jobs Act of 2010, passed as part of President Barack Obama's economic stimulus initiatives, enhanced incentives under section 1202 for investment in "qualified small businesses", which are small start-up corporations doing business in selected industries and with assets of less than \$50 million. The corporations which qualify under section 1202 are typically intellectual property-based research and technology companies, which tend to be highly mobile and have many options regarding where to locate their business.

When compared to other forms of corporations, C-corporations have fewer restrictions on the ownership and transferability of shares, and can more easily secure venture capital funding.

C-corporations in Alaska currently face the fifth highest state corporate income tax rate in the country. Such companies consequently tend to locate elsewhere, even when founded by Alaskan entrepreneurs.

House Bill 252 would remove one of the major obstacles preventing the development of high-growth technology companies in Alaska. The fiscal impact of the exemption created under this bill is expected to be minimal. The positive economic impacts of the bill, however, could be quite significant for the state of Alaska.

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Sand Lake, Jewel Lake and Kincaid



REPRESENTATIVE MIA COSTELLO  
Member, House Finance Committee

CSHB 252 (FIN) Sectional Summary

*"An Act exempting certain small businesses from the corporate income tax; and  
providing for an effective date."*

This is a summary only. Note that this sectional analysis should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1: Amends AS 43.20.012 to provide an exemption from Alaska's corporate income tax for Alaska corporations that are qualified small businesses meeting the active business requirement in section 1202 of the federal Internal Revenue Code (26 U.S.C. 1202(e)).

Section 2: Adds new subsections (c) and (d) to AS 43.20.012.

Subsection (c): Covers when the determination of whether a corporation qualifies must be made. Provides that all member corporations of a parent-subsidary controlled group are treated as being a single corporation.

Subsection (d): Defines the term "Alaska corporation" to be a corporation incorporated or authorized to do business in the state. Defines the terms "parent-subsidary controlled group" and "qualified small business" to match the definitions of those terms in section 1202 of the Internal Revenue Code (26 U.S.C. 1202). Specifies that construction, transportation, utility, and fisheries businesses are not included in the definition of "qualified small business."

Section 3: Restores AS 43.20.012 to its previous language upon sunset of this Act.

Section 4: Provides for an effective date of July 1, 2012.

Section 5: Provides for a sunset date of July 1, 2023.

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## ALASKA STATE LEGISLATURE

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REPRESENTATIVE MIA COSTELLO  
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### MEMORANDUM

**To:** House Finance Committee members

**From:** Representative Mia Costello

**Re:** Explanation of differences between CSHB252(L&C)and CSHB252(FIN)

**Date:** Monday, March 19, 2012

The following explains the changes made to CSHB252(L&C) by CSHB252(FIN) by section.

**Section 1:** Unchanged.

**Section 2:** This section was changed to specify that construction, transportation, utility, and fisheries businesses to not qualify for this exemption. This change was made to limit the potential revenue loss and to more narrowly focus the exemption on technology and research businesses.

**Section 3:** Unchanged.

**Section 4:** Unchanged.

**Section 5:** Unchanged.

# ALASKA STATE LEGISLATURE

*Session:*

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REPRESENTATIVE MIA COSTELLO

District 27 - Jewel Lake, Sand Lake, & Kincaid

## MEMORANDUM

**To:** House Finance Committee members  
**From:** Representative Mia Costello  
**Re:** Explanation of differences between HB252a and CSHB252(L&C)  
**Date:** Monday, February 27, 2012

The following explains the changes made to HB 252 (HB0252A) by CSHB252(L&C) by section.

**Section 1:** This section was changed to incorporate subsection (e) of Internal Revenue Code section 1202 (26 U.S.C. 1202). Subsection (e) contains the working asset requirement in 1202 that at least 80 percent of a qualifying business' assets be employed in the active conduct of one of more qualified trade or business. This also includes special treatment of research and start-up activities.

**Section 2:** This section was changed to remove the requirement that qualifying businesses file a report documenting their eligibility for the exemption. Removes the requirement that a qualifying business be headquartered in Alaska to avoid potential Equal Protection and Interstate Commerce Clause violations, and rearranges the placement of the "Alaska corporation" definition in the bill. Deletes definitions of terms no longer used in the statute.

**Section 3:** The effective date clause in this section was moved to section 4. The new section 3 restores AS 43.20.012 to its previous language upon sunset of this Act.

**Section 4:** This section provides for an effective date of July 1, 2012 for sections 1 and 2 of this Act.

**Section 5:** This section was added to provide for a sunset date of July 1, 2023.

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 252(FIN)

- 1 Page 1, line 9:
- 2 Delete "a tax year"
- 3 Insert "the 10 tax years"
- 4 Following "2012,"
- 5 Insert "or for the 10 tax years immediately following the first year a
- 6 corporation has taxable income,"

“(A) the amount determined under such section 55(a)(1) determined without regard to this subsection, or

“(B) the sum of—

“(i) the amount which would be determined under such section 55(a)(1) if the alternative minimum taxable income was the excess of—

“(I) the alternative minimum taxable income (within the meaning of section 55(b)(1) of such Code) of the taxpayer, over

“(II) the qualified net capital gain of the taxpayer, and

“(ii) 20 percent of the qualified net capital gain (or, if lesser, the alternative minimum taxable income within the meaning of section 55(b)(1) of such Code).

“(2) NO CREDITS ALLOWABLE.—For purposes of section 55(c) of such Code, no credit allowable under subpart A of part IV of subchapter A of chapter 1 of such Code [section 31 et seq. of this title] (other than section 33(a) of such Code) shall be allowable against the amount described in paragraph (1)(B)(i).

“(c) QUALIFIED NET CAPITAL GAIN.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified net capital gain’ means the lesser of—

“(A) the net capital gain for the taxable year, or

“(B) the net capital gain for the taxable year taking into account only gain or loss from sales or exchanges occurring after June 9, 1981.

“(2) NET CAPITAL GAIN.—For purposes of this subsection, the term ‘net capital gain’ has the meaning given such term by section 1222(1) of the Internal Revenue Code of 1986.

“(d) SPECIAL RULE FOR PASS-THRU ENTITIES.—

“(1) IN GENERAL.—In applying subsections (a), (b), and (c) with respect to any pass-thru entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

“(2) PASS-THRU ENTITY DEFINED.—For purposes of paragraph (1), the term ‘pass-thru entity’ means—

“(A) a regulated investment company,

“(B) a real estate investment trust,

“(C) an electing small business corporation,

“(D) a partnership,

“(E) an estate or trust, and

“(F) a common trust fund.”

**SPECIAL RULE FOR PASS-THROUGH ENTITIES**

Section 104(a)(2)(C) of Pub. L. 96-222, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—In applying sections 1201(c)(2)(A)(i) and 1202(c)(1)(B) of the Internal Revenue Code of 1986 (formerly I.R.C. 1954) with respect to any pass-through entity, the determination of the period for which gain or loss is properly taken into account shall be made at the entity level.

“(ii) PASS-THROUGH ENTITY DEFINED.—For purposes of clause (1), the term ‘pass-through entity’ means—

“(I) a regulated investment company,

“(II) a real estate investment trust,

“(iii) an electing small business corporation,

“(iv) a partnership,

“(v) an estate or trust, and

“(vi) a common trust fund.”

**STUDY OF EFFECTS OF CHANGES IN THE TAX TREATMENT OF CAPITAL GAINS ON STIMULATING INVESTMENT AND ECONOMIC GROWTH**

Section 565 of Pub. L. 95-600 required the Secretary of the Treasury to submit to specific committees of Congress a report, not later than Sept. 30, 1981, respecting effects of changes in tax treatment of capital gains on stimulating investment and economic growth as a result of the enactment of title V of Pub. L. 95-600.

**§ 1202. Partial exclusion for gain from certain small business stock**

**(a) Exclusion**

**(1) In general**

In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

**(2) Empowerment zone businesses**

**(A) In general**

In the case of qualified small business stock acquired after the date of the enactment of this paragraph in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (1) shall be applied by substituting “60 percent” for “50 percent”.

**(B) Certain rules to apply**

Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

**(C) Gain after 2016 not qualified**

Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2016.

**(D) Treatment of DC zone**

The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.

**(3) Special rules for 2009 and certain periods in 2010**

In the case of qualified small business stock acquired after the date of the enactment of this paragraph and on or before the date of the enactment of the Creating Small Business Jobs Act of 2010—

(A) paragraph (1) shall be applied by substituting “75 percent” for “50 percent”, and (B) paragraph (2) shall not apply.

**(4) 100 percent exclusion for stock acquired during certain periods in 2010 and 2011**

In the case of qualified small business stock acquired after the date of the enactment of the Creating Small Business Jobs Act of 2010 and before January 1, 2012—

(A) paragraph (1) shall be applied by substituting “100 percent” for “50 percent”,

(B) paragraph (2) shall not apply, and

(C) paragraph (7) of section 57(a) shall not apply.

**(b) Per-issuer limitation on taxpayer’s eligible gain**

**(1) In general**

If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock issued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

(A) \$10,000,000 reduced by the aggregate amount of eligible gain taken into account

by the taxpayer under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or

(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

**(2) Eligible gain**

For purposes of this subsection, the term "eligible gain" means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

**(3) Treatment of married individuals**

**(A) Separate returns**

In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting "\$5,000,000" for "\$10,000,000".

**(B) Allocation of exclusion**

In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

**(C) Marital status**

For purposes of this subsection, marital status shall be determined under section 7703.

**(c) Qualified small business stock**

For purposes of this section—

**(1) In general**

Except as otherwise provided in this section, the term "qualified small business stock" means any stock in a C corporation which is originally issued after the date of the enactment of the Revenue Reconciliation Act of 1993, if—

(A) as of the date of issuance, such corporation is a qualified small business, and

(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

(i) in exchange for money or other property (not including stock), or

(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

**(2) Active business requirement; etc.**

**(A) In general**

Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

**(B) Special rule for certain small business investment companies**  
**(i) Waiver of active business requirement**

Notwithstanding any provision of subsection (e), a corporation shall be treated as meeting the active business requirements of such subsection for any period during which such corporation qualifies as a specialized small business investment company.

**(ii) Specialized small business investment company**

For purposes of clause (i), the term "specialized small business investment company" means any eligible corporation (as defined in subsection (e)(4)) which is licensed to operate under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

**(3) Certain purchases by corporation of its own stock**

**(A) Redemptions from taxpayer or related person**

Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

**(B) Significant redemptions**

Stock issued by a corporation shall not be treated as qualified business stock if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

**(C) Treatment of certain transactions**

If any transaction is treated under section 304(a) as a distribution in redemption of the stock of any corporation, for purposes of subparagraphs (A) and (B), such corporation shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

**(d) Qualified small business**

For purposes of this section—

**(1) In general**

The term "qualified small business" means any domestic corporation which is a C corporation if—

(A) the aggregate gross assets of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of the Revenue Reconciliation Act of 1993 and before the issuance did not exceed \$50,000,000.

(B) the aggregate gross assets of such corporation immediately after the issuance (determined by taking into account amounts

received in the issuance) do not exceed \$50,000,000, and

(C) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

**(2) Aggregate gross assets**

**(A) In general**

For purposes of paragraph (1), the term “aggregate gross assets” means the amount of cash and the aggregate adjusted bases of other property held by the corporation.

**(B) Treatment of contributed property**

For purposes of subparagraph (A), the adjusted basis of any property contributed to the corporation (or other property with a basis determined in whole or in part by reference to the adjusted basis of property so contributed) shall be determined as if the basis of the property contributed to the corporation (immediately after such contribution) were equal to its fair market value as of the time of such contribution.

**(3) Aggregation rules**

**(A) In general**

All corporations which are members of the same parent-subsidiary controlled group shall be treated as 1 corporation for purposes of this subsection.

**(B) Parent-subsidiary controlled group**

For purposes of subparagraph (A), the term “parent-subsidiary controlled group” means any controlled group of corporations as defined in section 1563(a)(1), except that—

- (i) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563(a)(1), and
- (ii) section 1563(a)(4) shall not apply.

**(e) Active business requirement**

**(1) In general**

For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of 1 or more qualified trades or businesses, and

(B) such corporation is an eligible corporation.

**(2) Special rule for certain activities**

For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

(A) start-up activities described in section 195(c)(1)(A),

(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

(C) activities with respect to in-house research expenses described in section 41(b)(4), assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard

to whether a corporation has any gross income from such activities at the time of the determination.

**(3) Qualified trade or business**

For purposes of this subsection, the term “qualified trade or business” means any trade or business other than—

(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

(B) any banking, insurance, financing, leasing, investing, or similar business,

(C) any farming business (including the business of raising or harvesting trees),

(D) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

(E) any business of operating a hotel, motel, restaurant, or similar business.

**(4) Eligible corporation**

For purposes of this subsection, the term “eligible corporation” means any domestic corporation, except that such term shall not include—

(A) a DISC or former DISC,

(B) a corporation with respect to which an election under section 936 is in effect or which has a direct or indirect subsidiary with respect to which such an election is in effect,

(C) a regulated investment company, real estate investment trust, or REMMIC, and

(D) a cooperative.

**(5) Stock in other corporations**

**(A) Look-thru in case of subsidiaries**

For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary’s assets, and to conduct its ratable share of the subsidiary’s activities.

**(B) Portfolio stock or securities**

A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

**(C) Subsidiary**

For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

**(6) Working capital**

For purposes of paragraph (1)(A), any assets which—

(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

(B) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business.

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

**(7) Maximum real estate holdings**

A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

**(8) Computer software royalties**

For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

**(f) Stock acquired on conversion of other stock**

If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified small business stock in the hands of the taxpayer—

- (1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and
- (2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

**(g) Treatment of pass-thru entities**

**(1) In general**

If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

- (A) such amount shall be treated as gain described in subsection (a), and
- (B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

**(2) Requirements**

An amount meets the requirements of this paragraph if—

(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (deter-

mined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

(B) such amount is includable in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

**(3) Limitation based on interest originally held by taxpayer**

Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

**(4) Pass-thru entity**

For purposes of this subsection, the term "pass-thru entity" means—

- (A) any partnership,
- (B) any S corporation,
- (C) any regulated investment company, and
- (D) any common trust fund.

**(h) Certain tax-free and other transfers**

For purposes of this section—

**(1) In general**

In the case of a transfer described in paragraph (2), the transferee shall be treated as—

- (A) having acquired such stock in the same manner as the transferor, and
- (B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

**(2) Description of transfers**

A transfer is described in this subsection if such transfer is—

- (A) by gift,
- (B) at death, or
- (C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).

**(3) Certain rules made applicable**

Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

**(4) Incorporations and reorganizations involving nonqualified stock**

**(A) In general**

In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

**(B) Limitation**

This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time. The preceding sentence shall not apply if the stock which is treated as qualified small business stock by reason of subparagraph (A) is issued by a corporation which (as of the time of the transfer described in subparagraph (A)) is a qualified small business.

**(C) Successive application**

For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which such limitation applied (determined after the application of the second sentence of subparagraph (B)).

**(D) Control test**

In the case of a transaction described in section 351, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

**(i) Basis rules**

For purposes of this section—

**(1) Stock exchanged for property**

In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

**(2) Treatment of contributions to capital**

If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

**(j) Treatment of certain short positions****(1) In general**

If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

**(2) Offsetting short position**

For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if—

(A) the taxpayer has made a short sale of substantially identical property,

(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

**(k) Regulations**

The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise.

(Added Pub. L. 103-66, title XIII, §13113(a), Aug. 10, 1993, 107 Stat. 422; amended Pub. L. 104-188, title I, §1621(b)(7), Aug. 20, 1996, 110 Stat. 1867; Pub. L. 106-554, §1(a)(7) [title I, §117(a), (b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604; Pub. L. 108-357, title VIII, §835(b)(9), Oct. 22, 2004, 118 Stat. 1594; Pub. L. 111-5, div. B, title I, §1241(a), Feb. 17, 2009, 123 Stat. 342; Pub. L. 111-240, title II, §2011(a), (b), Sept. 27, 2010, 124 Stat. 2554; Pub. L. 111-312, title VII, §§753(b), 760(a), Dec. 17, 2010, 124 Stat. 3321, 3323.)

**REFERENCES IN TEXT**

The date of the enactment of this paragraph, referred to in subsec. (a)(2)(A), is the date of enactment of Pub. L. 106-554, which was approved Dec. 21, 2000.

The date of the enactment of this paragraph, referred to in subsec. (a)(3), is the date of enactment of Pub. L. 111-5, which was approved Feb. 17, 2009.

The date of the enactment of the Creating Small Business Jobs Act of 2010, referred to in subsec. (a)(3), (4), is the date of enactment of Pub. L. 111-240, which was approved Sept. 27, 2010.

The date of the enactment of the Revenue Reconciliation Act of 1993, referred to in subsecs. (c)(1) and (d)(1)(A), is the date of enactment of Pub. L. 103-66, which was approved Aug. 10, 1993.

Section 301(d) of the Small Business Investment Act of 1958, referred to in subsec. (c)(2)(B)(ii), was classified to section 681(d) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 104-208, div. D, title II, §208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009-742.

**PRIOR PROVISIONS**

A prior section 1202, acts Aug. 16, 1954, ch. 736, 68A Stat. 320; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1901(d)(3)(M), 90 Stat. 1802; Nov. 6, 1979, Pub. L. 95-600, title IV, §402(a), 92 Stat. 2867; Apr. 1, 1980, Pub. L. 96-222, title I, §104(a)(2)(A), 94 Stat. 214, authorized deduction for capital gains, prior to repeal by Pub. L. 99-514, title III, §301(a), (c), Oct. 22, 1986, 100 Stat. 2216, 2218, applicable to taxable years beginning after Dec. 31, 1986.

## AMENDMENTS

2010—Subsec. (a)(2)(C). Pub. L. 111-312, §753(b), substituted “2016” for “2014” in heading and “December 31, 2016” for “December 31, 2014” in text.

Subsec. (a)(3). Pub. L. 111-240, §2011(b), inserted “certain periods in” before “2010” in heading and substituted “on or before the date of the enactment of the Creating Small Business Jobs Act of 2010” for “before January 1, 2011” in text.

Subsec. (a)(4). Pub. L. 111-312, §760(a), inserted “and 2011” after “2010” in heading and substituted “January 1, 2012” for “January 1, 2011” in introductory provisions.

Pub. L. 111-240, §2011(a), added par. (4).

2009—Subsec. (a)(3). Pub. L. 111-5 added par. (3).

2004—Subsec. (e)(4)(C). Pub. L. 108-357 substituted “or REMIC” for “REMIC, or FASIT”.

2000—Pub. L. 106-554, §1(a)(7) [title I, §117(b)(2)], substituted “Partial” for “50-percent” in section catchline.

Subsec. (a). Pub. L. 106-554, §1(a)(7) [title I, §117(a)], amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.”

1996—Subsec. (e)(4)(C). Pub. L. 104-188 substituted “REMIC, or FASIT” for “or REMIC”.

## EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, §753(d), Dec. 17, 2010, 124 Stat. 3321, provided that: “The amendments made by this section [amending this section and section 1391 of this title] shall apply to periods after December 31, 2009.”

Pub. L. 111-312, title VII, §760(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendments made by this section [amending this section] shall apply to stock acquired after December 31, 2010.”

Pub. L. 111-240, title II, §2011(c), Sept. 27, 2010, 124 Stat. 2554, provided that: “The amendments made by this section [amending this section] shall apply to stock acquired after the date of the enactment of this Act [Sept. 27, 2010].”

## EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, §1241(b), Feb. 17, 2009, 123 Stat. 342, provided that: “The amendment made by this section [amending this section] shall apply to stock acquired after the date of the enactment of this Act [Feb. 17, 2009].”

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 effective Jan. 1, 2005, with exception for any FASIT in existence on Oct. 22, 2004, to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance, see section 855(c) of Pub. L. 108-357, set out as a note under section 56 of this title.

## EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 applicable to stock acquired after Dec. 21, 2000, see section 1(a)(7) [title I, §117(c)] of Pub. L. 106-554, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104-188, set out as a note under section 26 of this title.

## EFFECTIVE DATE

Section applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 53 of this title.

## PART II—TREATMENT OF CAPITAL LOSSES

Sec. 1211. Limitation on capital losses.  
1212. Capital loss carrybacks and carryovers.

## AMENDMENTS

1969—Pub. L. 91-172, title V, §512(f)(2), Dec. 30, 1969, 83 Stat. 641, substituted “carrybacks and carryovers” for “carryover” in item 1212.

## § 1211. Limitation on capital losses

## (a) Corporations

In the case of a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of gains from such sales or exchanges.

## (b) Other taxpayers

In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

(1) \$3,000 (\$1,500 in the case of a married individual filing a separate return), or

(2) the excess of such losses over such gains.

(Aug. 16, 1954, ch. 736, 68A Stat. 321; Pub. L. 91-172, title V, §513(a), Dec. 30, 1969, 83 Stat. 642; Pub. L. 94-455, title V, §501(b)(6), title XIV, §1401(a), (b), Oct. 4, 1976, 90 Stat. 1559, 1731; Pub. L. 95-30, title I, §102(b)(14), May 23, 1977, 91 Stat. 138; Pub. L. 99-514, title III, §301(b)(10), Oct. 22, 1986, 100 Stat. 2217.)

## AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514 amended subsec. (b) generally, substituting present provisions for provisions which had declared in: par. (1), general rule for limitation on capital losses for taxpayer other than corporation; in par. (2), meaning of term “applicable amount”; and in par. (3), rule relating to computation of taxable income.

1977—Subsec. (b)(1)(A). Pub. L. 95-30 inserted “reduced (but not below zero) by the zero bracket amount” after “taxable year”.

1976—Subsec. (b)(1)(B). Pub. L. 94-455, §1401(a), substituted “the applicable amount” for “\$1,000”.

Subsec. (b)(2). Pub. L. 94-455, §1401(b), substituted provision relating to “applicable amount” for prior provision limiting amount of capital losses for married individuals and reading “In the case of a husband or wife who files a separate return, the amount specified in paragraph 1)(B) shall be \$500 in lieu of \$1,000.”

Subsec. (b)(3). Pub. L. 94-455, §501(b)(6), struck out last sentence “If the taxpayer elects to pay the optional tax imposed by section 3, ‘taxable income’ as used in this subsection shall read as ‘adjusted gross income.’”

1969—Subsec. (b). Pub. L. 91-172 provided for only 50 percent of an individual’s long-term capital losses to be offset against his ordinary income up to the \$1,000 limit although short-term capital losses continue to be fully deductible within the \$1,000 limit and the deduction of capital losses against ordinary income for married persons filing separate returns to be limited to \$500 for each spouse rather than the \$1,000 formerly allowed.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

## EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of

Industries that don't qualify under HB 252:

Banking	Performance of services in the
Insurance	fields of:
Financing	health
Leasing	law
Investing	engineering
Farming	architecture
Oil production or extraction	accounting
Gas production or extraction	actuarial science
Mineral production or extraction	performing arts
Hotel or motel	consulting
Restaurants	athletics
Construction	financial services
Transportation	brokerage services
Fisheries	any trade or business where
Utilities	the principal asset of such
	trade or business is the
	reputation or skill of 1 or
	more of its employees

Distributed by Rep. Mia Costello

Typical 1202 Qualifying Small Businesses

Software development

Biotech

Pharmaceuticals

Telecommunications

Superconductors

Business technologies and solutions

Media storage, servers

Video games, mobile apps





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Anchorage Economic  
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Ted Stevens Anchorage International Airport John Parrot  
University of Alaska Anchorage Eshu "Beau" Baker  
Vist Anchorage Jake Savage

February 29, 2012

Representative Mia Costello  
Alaska State Legislature  
State Capitol, Room 412  
Juneau, AK 99801

Re: HB 252

Dear Representative Costello:

I write to you today to offer Anchorage Economic Development Corporation's support for the passage of HB252, "An Act exempting certain small businesses from the corporate income tax." Focused on promoting investment in intellectual property and high growth types of businesses, HB252 will be an important step in the broader effort to further diversify the Alaska economy.

HB252 will exempt corporations from Alaska's corporate income tax based on certain criteria identified in the existing U.S. Internal Revenue Code (IRC) Section 1202, which already offers individuals who invest in "qualified small businesses" to exclude 50% of the gain on the sale of stock from their individual income tax. In effect, HB252 sweetens the investment opportunity in types of businesses identified in the bill and puts Alaska on a very competitive footing compared to other U.S. states and regions in the global effort to attract venture capital investments.

Alaska already offers a moderately competitive state and local taxation structure for the business and industry sectors HB252 would address. With the passage of HB 252, Alaska would become a very attractive region for venture capital investments. In a recent survey of global corporate executives conducted by Area Development Online, when asked what incentive is considered most important when making a location investment decision, 67% responded that tax incentives such as credits and exemptions were by far the most important. HB252 will help to address this expectation of global business leaders.

HB252 will also foster locally generated venture investments by the private sector in Alaska startup businesses. Currently, there appear to be no businesses currently located within Alaska that are qualified investments under IRC Section 1202. By rewarding both Alaska and out of state based investors who are willing to take the risks associated with investments in a startup business venture, HB252 will help to create new economic growth and the creation of new jobs across Alaska.

AEDC supports the passage of HB252 and urges all members of the legislature and Governor Parnell to support this important legislation.

Sincerely,

Bill Popp

President & CEO

510 L Street, Suite 603

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February 2, 2012

The Honorable Mia Costello  
Alaska House of Representatives  
Capitol Room 412  
Juneau, AK 99801

Re: Support of House Bill 252

Dear Representative Costello,

The Alaska State Chamber of Commerce (Alaska Chamber) is an organization dedicated to improving the business climate in Alaska. The Alaska Chamber represents hundreds of statewide businesses from Ketchikan to Barrow that share a common goal: to make Alaska a viable and competitive place to do business. Today, I am writing in support of House Bill (HB) 252.

Last fall, Alaska Chamber members adopted twenty-six positions they believe will positively impact the business environment in Alaska. One of the positions is: "Support High Growth Tech Industries." The Alaska Chamber encourages the State of Alaska to take advantage of the Small Business Jobs Act of 2010 to provide incentives to Alaska businesses to incorporate as C corporations, making it easier to attract investment to Alaska. Currently, Alaska faces the fifth highest state corporate income tax rate in the country. Many States are taking advantage of a provision in the Small Business Jobs Act of 2010 to provide a limited exemption for businesses that fall under the Qualified Small Business definition under section 1202 of the Internal Revenue Code. The Alaska Chamber supports appropriate incentives, through legislation, which will aide the diversification of Alaska and help secure a sustainable economy far into the future.

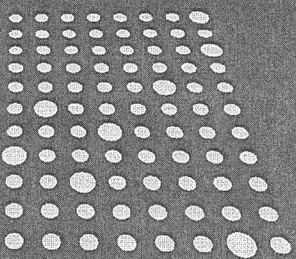
HB 252 seeks to encourage the development of high-growth technology and research companies in Alaska by utilizing the provision in the Small Business Jobs Act of 2010, referenced above. The fiscal impact of the exemption created under HB 252 is expected to be minimal.

The Alaska Chamber looks forward to continued support and eventual passage of HB 252.

Sincerely,



Rachael A. Petro  
President/CEO



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## The Entrepreneurs and Mentors Network Inc.

*Mentors empowering Entrepreneurs*

**Colin V. Palmer**  
Executive Director

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**Allan R Johnston**  
Chief Encouragement Officer

(907) 727-1187  
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February 10, 2012

Re: House Bill 252 Qualifying Small Business Corporation Tax Exemption

Representative Kurt Olson, Chair  
House Labor & Commerce Committee  
State Capitol, Room 24  
Juneau, Alaska 99801-1182

Dear Representative Olson,

Please accept this letter of support for HB 252. I believe that Alaskans need to be more proactive in implementing programs and legislation to nurture innovation and entrepreneurship in Alaska. We are the only state that doesn't have an organized Angel Investor network. We are one of only a few states that doesn't have a Small Business Investment Corporation, a business incubator or a business accelerator.

If the Milken Risk Capital and Entrepreneurial Infrastructure Composite Index were considered a reasonable proxy of our Aspiration Index, which I believe that it does, then Alaska is near the bottom in entrepreneurial capacity nationwide. HB 252 gives us a tool to help address our unacceptable position and could potentially help us attract talent and new international business opportunities that currently aren't viable. This bill has the potential of giving Alaska some positive national and international attention that money alone could not buy. I am proud to support this visionary legislation and I am confident that many new high quality jobs and opportunities are going to be created in Alaska that would not exist otherwise.

Sincerely,

Allan R. Johnston  
Chief Encouragement Officer  
The Entrepreneurs and Mentors Network Inc

**P.O. Box 244821, Anchorage, Alaska 99524-4821**

Enabling mentors to empower entrepreneurs  
[www.teamak.com](http://www.teamak.com)



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## State Technology and Science Index

Enduring Lessons for the Intangible Economy  
June 2008

### Risk Capital and Entrepreneurial Infrastructure Composite Index

This measures the stock of capable entrepreneurs and risk capital available to support the conversion of research into commercially viable technology products and services. Eleven indicators are included in this Composite Index, listed at the bottom of this page. Click on an indicator to see further data comparisons at the individual indicator level.

State	2008		2004		2002	
	Rank	Average Score	Rank	Average Score	Rank	Average Score
Nebbraska	44	38.60	44	30.22	44	29.33
Montana	45	38.57	45	28.67	45	27.56
North Dakota	46	36.25	46	27.56	46	27.33
Iowa	47	34.22	47	24.67	47	18.44
West Virginia	48	32.18	48	23.78	48	18.00
Mississippi	49	30.40	49	22.22	49	15.33
Alaska	50	21.71	50	16.22	50	9.78

Average Annual SBIC Funds Disbursed per \$1,000 of GSP

Increase in Number of Companies Receiving VC Investment

IPO Proceeds as Percent of GSP

Number of Business Incubators per 10,000 Business Establishments

Number of Business Starts per 100,000 People

Number of Companies Receiving VC Investment per 10,000 Business Establishments

Patents Issued per 100,000 People

Total Venture Capital Investment Growth

VC Investment in Clean Technology per \$1,000 of GSP

VC Investment in Nanotechnology per \$1,000 of GSP

Venture Capital Investment as Percent of GSP

<http://www.milkeninstitute.org/tech/tech taf?sub=rcic>

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301 Cushman St., Suite 301, Fairbanks, AK 99701

February 27, 2012

Representative Kurt Olson, Chair  
House Labor and Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801-1182

Dear Representative Olson,

Representative Mia Costello has introduced House Bill 252 to encourage investment in intellectual property and high growth type businesses through a short term exemption from Alaska corporate income taxation to Qualified Small Business Corporations (QSBC's) focusing on Software, Manufacturing, Technology Innovation, and Invention.

At the Fairbanks Economic Development Corporation (FEDC), we recognize the need for this type of legislation. FEDC believes that this could significantly contribute to the Alaska economy through supporting growth in high value Alaskan jobs, supporting diversification of the Alaska economy and helping to reduce emigration due to lack of economic opportunities.

Although S Corp and LLC entities are exempt from AK corporate income tax, a C Corp structure better serves the legal, accounting and capital raising needs of targeted high growth industries. In addition, investment advocates desire front-end tax breaks due to the risk of young companies. Today investors only obtain capital-gains tax breaks after many years, generally when a company is sold or goes public. Businesses often fail, yielding no capital-gain.

HB 252 introduced by Representative Mia Costello exempts QSBCs structured as C Corporations from Alaska corporate income taxation.

Currently, the Administration and Congress are proposing a permanent federal exemption of capital-gain taxes on QSBC's during the 2012 session. If this legislation passes and HB 252 passes, Alaska will be the most tax competitive state to grow these innovative companies.

Thank you,

A handwritten signature in black ink, appearing to read "Jim Dedson", is written over a horizontal line.

Jim Dedson  
President & CEO  
Fairbanks Economic Development Corporation

# ALASKA VENTURE PARTNERS

Ph. 907.830.3000  
john@alaskaventurepartners.com

February 15, 2012

Re: House Bill 252 Qualifying Small Business Corporation Tax Exemption

Representative Kurt Olson, Chair  
House Labor & Commerce Committee  
State Capitol, Room 24  
Juneau, Alaska 99801-1182

Dear Representative Olson:

I make my living by investing in early-stage companies, primarily technology companies. Regretfully, most of my business activity takes place outside of Alaska, but I choose to remain here (where I was born) and raise my family here.

Much of my civic energy is spent trying to build in (or bring to) Alaska new opportunities around technology and innovation. Please accept this letter of support for HB 252. HB 252 is an example of legislation that can assist us broadening our economic base and creating new jobs.

I hope that you will both move the bill thru committee and support its passage. Policy tools like this are a definitive way government can encourage growth in the private sector economy.

Cordially:



John Niles Wanamaker  
Principal