



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

June 2, 2006

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2661, an Act relating to the Linked Investments For Tomorrow Act.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom J. Vilsack", with a long horizontal flourish extending to the right.

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2661

AN ACT

RELATING TO THE LINKED INVESTMENTS FOR TOMORROW ACT.

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

Section 1. Section 12.31, Code 2005, is amended to read as follows:

12.31 SHORT TITLE.

This section and sections 12.32 through ~~12.43B~~ 12.43 shall be known as the "Linked Investments for Tomorrow Act".

Sec. 2. Section 12.32, Code 2005, is amended to read as follows:

12.32 DEFINITIONS.

As used in section 12.31, this section, and sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43, unless the context otherwise requires:

1. "Eligible borrower" means any person who is ~~in-the business-or-is-entering-the-business-of-producing,-processing, or-marketing-horticultural-crops-or-nontraditional-crops-in this-state-or-any-person-in-this-state-who-is~~ qualified to participate in one of the programs in this section and sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43. "Eligible borrower" does not include a person who has been determined to be delinquent in making child support payments or any other payments due the state.

2. "Eligible lending institution" means a financial institution that is empowered to make commercial loans and is

eligible pursuant to chapter 12C to be a depository of state funds.

3. "Linked investment" means a certificate of deposit placed issued pursuant to this section and sections ~~12.33~~ 12.34 through ~~12.43B~~ by 12.43 to the treasurer of state with by an eligible lending institution, at an interest rate not more than three percent below current market rate on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit. The treasurer of state shall determine and make available the current market rate which shall be used each month.

~~4. -- "Qualified linked investment" means a linked investment in which a certificate of deposit is placed by the treasurer of state with an eligible lending institution under the traditional livestock producers linked investment loan program established under section 12.43A.~~

Sec. 3. Section 12.34, Code 2005, is amended to read as follows:

12.34 LINKED INVESTMENTS -- LIMITATIONS -- RULES -- MATURITY AND RENEWAL OF CERTIFICATES.

1. The treasurer of state may invest up to the lesser of one hundred eight million dollars or ~~ten~~ twenty-five percent of the balance of the state pooled money fund in certificates of deposit in eligible lending institutions as provided in sections section 12.32 and ~~12.33~~, this section, and sections 12.35 through ~~12.43B~~ 12.43. ~~The moneys invested pursuant to this section shall be used as follows:~~

~~a. -- The treasurer of state may invest up to sixty-eight million dollars to support programs provided in sections 12.32 and 12.33, this section, and sections 12.35 through 12.43B other than the traditional livestock producers linked investment loan program as provided in section 12.43A and the value added agricultural linked investment loan program as provided in section 12.43B.~~

~~b. -- The treasurer of state shall invest the remaining amount as follows:~~

~~(1)--At least twenty million dollars shall be invested in order to support the traditional livestock producers linked investment loan program as provided in section 12.43A.~~

~~(2)--At least twenty million dollars shall be invested in order to support the value added agricultural linked investment loan program as provided in section 12.43B.~~ One-half of the moneys invested pursuant to this section shall be made available under the program implemented pursuant to section 12.43 to increase the availability of lower cost moneys for purposes of injecting needed capital into small businesses which are fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with disabilities. "Disability" means the same as defined in section 15.102, subsection 5. A "minority person" means the same as defined in section 15.102, subsection 5. The treasurer shall invest the remaining one-half of the moneys invested pursuant to this section to support any other eligible applicant as provided in section 12.43.

2. a. The treasurer of state shall adopt rules pursuant to chapter 17A to administer ~~sections~~ section 12.32 and 12.33, this section, and sections 12.35 through ~~12.43B~~ 12.43.

~~b.--The treasurer of state in cooperation with the board of directors of the agricultural development authority as established in section 175.3 shall adopt rules for the administration of the traditional livestock producers linked investment loan program as provided in section 12.43A.--The treasurer of state in cooperation with the agricultural products advisory council established in section 15.203 shall adopt rules for the administration of the value added agricultural linked investment loan program as provided in section 15.204.~~

3. A certificate of deposit, ~~which is placed by~~ that is issued to the treasurer of state with by an eligible lending institution on or after July 1, ~~1996~~ 2006, may be renewed at the option of the treasurer on an annual basis for a total term not to exceed five years. ~~The following shall apply to the certificate of deposit:~~

~~a. For a linked investment other than a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed five years.~~

~~b. For a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed three years.~~ All participants with certificates of deposit issued prior to July 1, 2006, are subject, for renewal certificates of deposit, to the requirements and terms applicable to the certificates of deposit issued prior to July 1, 2006.

Sec. 4. Section 12.35, subsection 1, Code 2005, is amended to read as follows:

1. An eligible lending institution that desires to receive a linked investment shall enter into an agreement with the treasurer of state, which shall include requirements necessary for the eligible lending institution to comply with sections 12.32 through 12.34, this section, and sections 12.36 through ~~12.43B~~ 12.43.

Sec. 5. Section 12.36, subsection 2, Code 2005, is amended to read as follows:

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall ~~place certificates of deposit funds~~ place a certificate of deposit funds with the eligible lending institution ~~at a rate not more than three percent below the current market rate~~ and the eligible lending institution shall issue to the treasurer of state one or more certificates of deposit with interest at a rate determined pursuant to section 12.32, subsection 3. The treasurer of state shall not ~~place a certificate of deposit funds~~ place a certificate of deposit funds with an eligible lending institution pursuant to sections 12.32 ~~through, 12.34,~~ through, 12.34, 12.35, this section, and sections 12.37 through ~~12.43B~~ 12.43, unless the certificate of deposit earns a rate of interest of at least ~~two~~ one percent. Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit

matures. Interest from the linked investments for tomorrow program shall be considered earnings of the general fund of the state. Certificates of deposit ~~placed~~ issued pursuant to sections 12.32 ~~through, 12.34,~~ 12.35, this section, and sections 12.37 through ~~12.43B~~ 12.43 are not subject to a penalty for early withdrawal.

Sec. 6. Section 12.38, Code 2005, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow programs for the preceding calendar year to the governor, the department of economic development, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the house co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the house which customarily consider legislation regarding agriculture, and commerce, and economic growth, and the president of the senate shall transmit copies of this report to the senate co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture, and commerce, and economic growth. The report shall set forth the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and the a listing of eligible borrowers to which the loans were made.

Sec. 7. Section 12.43, Code 2005, is amended to read as follows:

12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM CREATED -- DEFINITIONS.

The treasurer of state shall adopt rules to implement a ~~focused~~ small business linked investments program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated ~~by-women-or~~

minorities in this state by residents of this state, which is the public policy of the state. The rules shall be in accordance with the following:

1. As used in this section,

~~a.--"Disability" is defined as provided in section 15.102, subsection 5.~~

~~b.--"Focused small~~ "small business" means a one of the following:

a. A new or existing small business which is fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability, provided the business that meets all the requirements of subsection 5.

~~c.--"Major life activity" is defined as provided in section 15.102, subsection 5.~~

~~d.--"Minority person" is defined as provided in section 15.102, subsection 5.~~

b. For applications to transfer an existing small business to a new owner, the small business must also meet the requirements of subsection 5 when local competition does not exist in the principal area of business activity of the existing small business, and the loss of the existing small business would result in a hardship on the community.

2. Loan applications for a focused new or existing small business shall be for the purchase of land, improvements, fixtures, machinery, inventory, supplies, equipment, information technology, or licenses, or patent, trademark, or copyright fees and expenses. Loan applications for the transfer of an existing small business shall be to assist in the transfer of ownership of retail, wholesale, manufacturing, service, or agricultural business that may close in the absence of sufficient financial assistance.

3. During the lifetime of this loan program, the maximum amount of assistance that an eligible borrower or business may borrow or receive through this loan program shall be ~~one~~ two hundred thousand dollars. An eligible borrower or business under this program shall be limited to one loan from one financial institution.

4. A preference shall be given to those persons who are less able than other persons to secure funds for a ~~focused~~ small business without participation in the ~~focused~~ small business linked investment program.

5. In order to qualify under this program, all owners of the business or borrowers must not have a combined net worth exceeding ~~five~~ seven hundred ~~fifty~~ thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the ~~focused~~ small business must meet all of the following criteria:

a. Be a for-profit business.

b. Have If an application involves an existing business or the transfer of an existing business to a new owner, the business must have annual gross sales of two million dollars or less at the time the application is submitted under section 12.35.

c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.

d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.

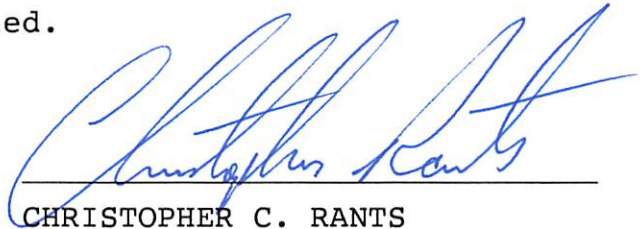
e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class "C" liquor license issued pursuant to section 123.30.

f. If an application involves the transfer of an existing small business, the transfer must be by purchase, lease-purchase, or contract of sale. The purchase must be for all or a portion of the business which is essential to its continued viability, including land where the business is located, fixtures attached to the land, machinery, inventory, supplies, equipment, information technology, or licenses, patents, trademarks, copyrights, or other intellectual property relied upon by the business, and inventory for sale by the business.

6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer of state's approval of the linked investment loan package.

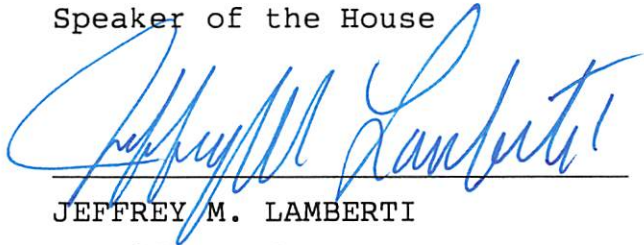
7. Eligible lending institutions shall verify the borrower is eligible to participate under the provisions of this section pursuant to rules adopted by the treasurer of state pursuant to chapter 17A.

Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and 15.204, Code 2005, are repealed.



CHRISTOPHER C. RANTS

Speaker of the House



JEFFREY M. LAMBERTI

President of the Senate

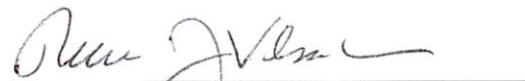
I hereby certify that this bill originated in the House and is known as House File 2661, Eighty-first General Assembly.



MARGARET THOMSON

Chief Clerk of the House

Approved June 2, 2006



THOMAS J. VILSACK

Governor