

Reprint 3/29

MAR 12 1982

HOUSE FILE 2464

BY COMMITTEE ON COMMERCE

Place On Calendar

(Formerly Study Bill 672)

Passed House, Date 3-25-82 (p. 1002) Passed Senate, Date 4-15-82 (p. 1222)
Vote: Ayes 91 Nays 6 Vote: Ayes 45 Nays 0
Approved 5/19/82

A BILL FOR

1 An Act relating to the Iowa small business loan program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2464

1 Section 1. Section 220.1, Code 1981, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. "Cost" as applied to Iowa small business
4 loan program projects means the cost of acquisition and
5 construction, including the cost of acquisition of all land,
6 rights-of-way, property rights, easements, franchise rights,
7 and interests required for acquisition and construction.
8 It also means the cost of demolishing or removing structures
9 on acquired land, the cost of access roads to private property,
10 including the cost of land or easements, and the cost of all
11 machinery, furnishings, and equipment, financing charges,
12 and interest prior to and during construction and for no more
13 than eighteen months after completion of construction. Cost
14 also means the cost of engineering, legal expenses, plans,
15 specifications, surveys, estimates of cost and revenues, as
16 well as other expenses incidental to determining the
17 feasibility or practicability of acquiring or constructing
18 a project. It also means other expenses incidental to the
19 acquisition or construction of the project, the financing
20 of the acquisition or construction, including the amount
21 authorized in the resolution of the authority providing for
22 the issuance of bonds, to be paid into any special funds from
23 the proceeds of the bonds, and the financing of the placing
24 of a project in operation.

25 NEW SUBSECTION. "Project" means real or personal property
26 connected with a facility to be acquired, constructed,
27 improved, or equipped, with the aid of the Iowa small business
28 loan program as provided in this Act.

29 NEW SUBSECTION. "Iowa small business loan program" or
30 "loan program" means the program for lending moneys to small
31 business established under this Act.

32 NEW SUBSECTION. "Small business" means a business entity
33 organized for profit, including but not limited to an
34 individual, partnership, corporation, joint venture,
35 association or cooperative, to which the following apply:

1 a. It is not an affiliate or subsidiary of a business
2 dominant in its field of operation.

3 b. It has either twenty or fewer full-time equivalent
4 positions or not more than the equivalent of one million
5 dollars in annual gross revenues in the preceding fiscal year.

6 c. It does not involve the operation of a farm and does
7 not involve the practice of a profession.

8 For purposes of this definition "dominant in its field
9 of operation" means having more than twenty full-time
10 equivalent positions and more than one million dollars in
11 annual gross revenues, and "affiliate or subsidiary of a
12 business dominant in its field of operation" means a business
13 which is at least twenty percent owned by a business dominant
14 in its field of operation, or by partners, officers, directors,
15 majority stockholders, or their equivalent, of a business
16 dominant in that field of operation.

17 Sec. 2. Section 220.1, subsection 14, Code 1981, is amended
18 to read as follows:

19 14. "Mortgage lender" means any bank, trust company,
20 mortgage company, national banking association, savings and
21 loan association, life insurance company, any governmental
22 agency, or any other financial institution authorized to make
23 mortgage loans in this state and includes a financial
24 institution as defined in section 496B.2, subsection 2, which
25 lends moneys for industrial or business purposes.

26 Sec. 3. Section 220.26, subsection 1, Code 1981, is amended
27 to read as follows:

28 1. The authority may issue its negotiable bonds and notes
29 in principal amounts as, in the opinion of the authority,
30 are necessary to provide sufficient funds for achievement
31 of its corporate purposes, the payment of interest on its
32 bonds and notes, the establishment of reserves to secure its
33 bonds and notes, and all other expenditures of the authority
34 incident to and necessary or convenient to carry out its
35 purposes and powers. However, the authority may not have

1 a total principal amount of bonds and notes outstanding at
2 any time in excess of five hundred million dollars plus fifty
3 million dollars for property improvement loans to finance
4 solar and other renewable energy systems in housing as
5 authorized by section 220.37. Fifty million dollars of the
6 total principal amount of bonds and notes may be issued
7 pursuant to the small business loan program established under
8 section 5 of this Act. The bonds and notes shall be deemed
9 to be investment securities and negotiable instruments within
10 the meaning of and for all purposes of the uniform commercial
11 code.

12 Sec. 4. Section 5 of this Act is enacted as a new divi-
13 sion of chapter 220.

14 Sec. 5. Chapter 220, Code 1981, is amended by adding the
15 following new sections:

16 NEW SECTION. LEGISLATIVE FINDINGS--PURPOSES--PUBLIC POLICY.

17 1. The general assembly finds and declares as follows:

18 a. A viable small business community is essential to the
19 continuing welfare of Iowans who depend on small business
20 for employment.

21 b. Iowa small business must continue to expand and develop
22 if they are to remain competitive in state and local markets.

23 c. Small business expansion and development is dependent
24 upon the availability of financing for expansion and develop-
25 ment at interest rates which small businesses may reasonably
26 pay.

27 d. Private financing for small businesses at low interest
28 rates is unavailable to assist small business expansion and
29 development. The Iowa small business loan program is neces-
30 sary to encourage the investment of private capital in small
31 business expansion and development through the use of public
32 financing as provided in this Act.

33 2. The purposes of the small business loan program are:

34 a. To promote the business prosperity and economic welfare
35 of Iowa and Iowans.

1 b. To assist, through loans, investments, and other trans-
2 actions, the location of new small business and industry in
3 the state.

4 c. To assist through loans, investments, and other
5 transactions, existing small business and industry in the
6 state.

7 d. To provide employment opportunities and thereby improve
8 the standard of living of Iowans.

9 e. To promote industrial, commercial, and recreational
10 development in this state.

11 3. All of the purposes stated in this section are public
12 purposes and uses for which public moneys provided by the
13 sale of revenue bonds may be used.

14 4. It is the public policy of the state through the es-
15 tablishment of the small business loan program to promote
16 the economic welfare of Iowans and to improve employment
17 opportunities for Iowans. To advance that public policy,
18 the authority may make loans to borrowers for the acquisition
19 or construction of projects and may issue obligations of this
20 state payable solely from bond proceeds, to pay the cost of
21 the projects.

22 NEW SECTION. SMALL BUSINESS LOAN PROGRAM.

23 1. The authority shall initiate a program to assist the
24 development and expansion of small business in Iowa. The
25 authority may issue bonds and notes the proceeds of which
26 shall be used to make program loans. The bonds and notes
27 are a portion of the total principal amount of bonds and notes
28 of the authority which may be outstanding at any time pursuant
29 to section 220.26, subsection 1. The principal amount of
30 bonds and notes issued pursuant to the loan program shall
31 not exceed fifty million dollars. Bonds and notes issued
32 under this section are subject to all provisions of this
33 chapter relating to the issuance of bonds.

34 2. The authority may contract with the Iowa business
35 development credit corporation or any other corporation or-

1 ganized under chapter 496B for the provision by the corpora-
2 tion of lending and other administrative services relative
3 to the loan program to the authority.

4 NEW SECTION. SMALL BUSINESS LOAN PROGRAM--SPECIFIC POWERS.

5 In assisting Iowa small businesses through the loan program,
6 the authority may do any of the following:

7 1. Make loans, secured and unsecured, for the acquisition
8 or construction of projects on terms the authority determines.
9 The authority may take any action which is reasonable and
10 lawful to protect its security and to avoid losses from its
11 loans. Before making a loan, the authority shall find that
12 the proposed project shall result in one or more of the
13 following:

- 14 a. The creation of jobs in Iowa.
- 15 b. Increased revenues for the borrower from a more modern
16 or expanded facility.
- 17 c. Providing a service facility needed in the community
18 where the project will be located.

19 2. Acquire, hold, and mortgage personal property and real
20 estate and interests in real estate to be used as a project.

21 3. Purchase, construct, improve, furnish, equip, lease,
22 option, sell, exchange, or otherwise dispose of projects under
23 the terms the authority determines. However, in the lease,
24 sale, or loan agreement relating to a project, the authority
25 shall provide for adequate maintenance of the project.

26 4. Grant a mortgage, lien, pledge, assignment, or other
27 encumbrance on a project, revenues, or reserve or other funds
28 established in connection with obligations, or with respect
29 to a lease, sale, or loan relating to a project, or a guaranty
30 or insurance agreement relating to a project, or an interest,
31 secured or unsecured, of the authority in a project or part
32 of a project.

33 5. Provide that the interest on obligations may vary in
34 accordance with a base or formula authorized by the authority.

35 6. Contract for the acquisition or construction of a

1 project or part of a project and for the leasing, subleasing,
2 sale, or other disposition of a project in a manner determined
3 by the authority.

4 7. Cooperate with the Iowa development commission and
5 use its facilities to assist and encourage organizations in
6 Iowa communities in the promotion and development of small
7 business prosperity in those communities.

8 NEW SECTION. SMALL BUSINESS LOAN CRITERIA. In determining
9 whether a small business is eligible for a loan from the small
10 business loan program, the authority shall consider the fol-
11 lowing criteria:

12 1. The applicant shall be of good character as determined
13 by rule which shall be adopted by the authority.

14 2. The applicant shall show evidence that the applicant
15 is able to operate the business successfully.

16 3. The applicant shall have enough capital in the business
17 so that with assistance from the loan program, the applicant
18 will be able to operate the business on a financially sound
19 basis.

20 4. The loan shall be so secured or of such sound value
21 as to reasonably assure repayment.

22 5. The business' past earnings record and future prospects
23 shall indicate an ability to repay the loan out of income
24 from the business.

25 6. Whether the granting of the loan will increase employ-
26 ment or have other favorable effects upon the economic life
27 of the community where the business is located.

28 NEW SECTION. LOAN AGREEMENT WITH SPONSORS.

29 1. The authority may enter into a loan agreement with
30 a project sponsor to finance in whole or in part the
31 acquisition of a project by construction or purchase. The
32 repayment obligation of the project sponsor may be unsecured,
33 secured by a mortgage or security agreement, or secured by
34 other security as the authority deems advisable, and may be
35 evidenced by one or more notes of the project sponsor. The

1 loan agreement may contain terms and conditions the authority
2 deems advisable.

3 2. The authority may issue its bonds and notes for the
4 purposes set forth in subsection 1 and may enter into a lending
5 agreement or purchase agreement with one or more bondholders
6 or noteholders containing the terms and conditions of the
7 repayment of and the security for the bonds or notes. The
8 authority and the bondholders or noteholders may enter into
9 an agreement to provide for any of the following:

10 a. That the proceeds of the bonds and notes and the
11 investments of the proceeds may be received, held, and
12 disbursed by the bondholders or noteholders, or by a trustee
13 or agent designated by the authority.

14 b. That the bondholders or noteholders or a trustee or
15 agent designated by the authority, may collect, invest, and
16 apply the amounts payable under the loan agreement or any
17 other security instrument securing the debt obligation of
18 the project sponsor.

19 c. That the bondholders or noteholders may enforce the
20 remedies provided in the loan agreement or security instru-
21 ment on their own behalf without the appointment or designa-
22 tion of a trustee and if there is a default in the principal
23 of or interest on the bonds or notes or in the performance
24 of any agreement contained in the agreement or instrument,
25 the payment or performance may be enforced in accordance with
26 the provisions contained in the agreement or instrument.

27 d. That if there is a default in the payment of the prin-
28 cipal or interest on a mortgage or security instrument or
29 a violation of an agreement contained in the mortgage or
30 security instrument, the mortgage or security instrument may
31 be foreclosed or enforced and any collateral sold under
32 proceedings or actions permitted by law and a trustee under
33 the mortgage or security agreement or the holder of any bonds
34 or notes secured thereby may become a purchaser if it is the
35 highest bidder.

1 e. Other terms and conditions.

2 3. The authority may provide in the resolution authorizing
3 the issuance of the bonds or notes that the principal and
4 interest shall be limited obligations payable solely out of
5 the revenues derived from the debt obligation, collateral,
6 or other security furnished by or on behalf of the project
7 sponsor, and that the principal and interest does not
8 constitute an indebtedness of the authority or a charge against
9 its general credit or general fund.

10 4. The powers granted the authority under this section
11 are in addition to other powers contained in this chapter.
12 All other provisions of this chapter, except section 220.28,
13 subsection 4, apply to bonds or notes issued pursuant to and
14 powers granted to the authority under this section except
15 to the extent that they are inconsistent with this section.

16 Sec. 6. Chapter 220, Code 1981, is amended by adding the
17 following new section:

18 NEW SECTION. APPLICATION OF FUNDS FROM SALES OF
19 OBLIGATIONS. All moneys received by or on behalf of the
20 authority, whether as proceeds from the sale of obligations
21 or as revenues, are trust funds to be held and applied solely
22 for the purposes specified in the appropriation, bond
23 resolution, or other document authorizing receipt of the
24 moneys by the authority. A person with which the moneys are
25 deposited shall act as trustee of the moneys and shall hold
26 and apply the moneys for the purposes specified in this chapter
27 subject to limitations specified in this chapter and in the
28 bond resolution authorizing the issuance of the obligations.

29 EXPLANATION

30 This bill establishes the Iowa small business loan program
31 under the auspices of the Iowa housing finance authority.
32 The bill provides that \$50 million of already authorized bonds
33 of the authority may be issued to provide capital loans for
34 expansion and improvement of small businesses. The definition
35 of small business adopted by the House commerce committee

1 is incorporated into the bill. The bill provides that the
2 authority may contract with the Iowa business development
3 credit corporation for administrative services for the loan
4 program. The bill takes effect July 1 following enactment.

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HOUSE FILE 2464

H-5458

- 1 Amend House File 2464 as follows:
- 2 1. By striking page 1, line 32 through page 2,
- 3 line 16 and inserting in lieu thereof the following:
- 4 "NEW SUBSECTION. "Small business" means as defined
- 5 in 13 C.F.R. sec. 121.3-11."

H-5458 FILED MARCH 17, 1982

BY HUMMEL of Benton

Laed 3/24 (p. 972)

HOUSE FILE 2464

H-5514

- 1 Amend House File 2464 as follows:
- 2 1. Page 1, line 4, by striking the word "and"
- 3 and inserting in lieu thereof the word ",",
- 4 2. Page 1, line 5, by inserting after the word
- 5 "construction," the words "or both".
- 6 3. Page 1, line 7, by striking the words "and
- 7 construction" and inserting in lieu thereof the words
- 8 ", construction, or both".
- 9 4. Page 4, line 18, by inserting after the word
- 10 "for" the word "both".
- 11 5. Page 4, line 19, by striking the word "or"
- 12 and inserting in lieu thereof the words "and the".
- 13 6. Page 5, line 7, by inserting after the word
- 14 "for" the word "both".
- 15 7. Page 5, line 8, by striking the word "or" and
- 16 inserting in lieu thereof the words "and the".
- 17 8. Page 5, line 35, by striking the words "or
- 18 construction" and inserting in lieu thereof the words
- 19 ", construction, or both".

H-5514 FILED MARCH 23, 1982 BY HARBOR of Mills

Adopted 3/24 (p. 971)

STATE OF IOWA
F I S C A L N O T ERequest No. 82-309

In compliance with a written request received March 11, 19 82, there is hereby submitted a Fiscal Note for H.F. 2464 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

HF 2464, an Act relating to the Iowa small business loan program.

Assumptions: The estimate assumes that the costs of bond issues and loans resulting from this bill would be borne by the borrowers, dependent on a significant difference between the tax-exempt and taxable loan rates.

Fiscal Impact: The costs associated with this bill are dependent on the form and method of bond issue. If the issue were a large, "public" one, sufficient revenue would be generated to cover administrative expenses. If the bond issue were several "small" issues instead, additional funds would be needed to cover the administrative costs. These additional funds could be generated by charging a loan fee of 1-2% (depending on loan rates) to borrowers or by direct appropriation.

In view of current economic conditions, the Housing Authority believes that small bond issues will be more viable than large ones, at this time.

Source: Iowa House Finance Authority

FILED MARCH 26, 1982

BY GERRY RANKIN, Fiscal Director

HOUSE FILE 2464

H-5551

1 Amend House File 2464, as follows:
2 1. Page 5, by striking line 7 and inserting
3 in lieu thereof the following:
4 "1. Make secured loans for both the acquisition".
5 2. Page 8, line 2, by striking the word "may"
6 and inserting in lieu thereof the word "shall".

H-5551 FILED MARCH 24, 1982

BY KREWSON of Polk

Lost 3/25 (p. 999)

HOUSE FILE 2464

H-5553

1 Amend House File 2464 as follows:
2 1. By striking page 1, line 32 through page 2,
3 line 16 and inserting in lieu thereof the following:
4 "NEW SUBSECTION. "Small business" means as
5 defined in 13 C.F.R. sec. 121.3-11."
6 2. Page 5, by inserting after line 3 the
7 following:
8 "3. At least twenty-five percent of the total
9 principal amount of bonds and notes authorized for
10 the program pursuant to section 3 of this Act shall
11 be reserved for loans to businesses having twenty
12 or fewer full-time equivalent positions at the time
13 of the loan."

H-5553 FILED MARCH 24, 1982

BY SCHROEDER of Pottawattamie

4/25 3/25 (p 1002)

HOUSE FILE 2464

H-5548

- 1 Amend House File 2464 as follows:
2 1. Page 8, by inserting after line 28 the
3 following:
4 "Sec. ____ Section 419.1, subsection 14, Code
5 1981, is amended by striking the subsection.
6 Sec. ____ Section 419.2, subsection 5, Code 1981,
7 is amended to read as follows:
8 5. To issue revenue bonds for the purpose of
9 defraying the cost of any project and to secure payment
10 of such the bonds as provided in this chapter.
11 ~~However, in the case of a project suitable for the~~
12 ~~use of a beginning businessperson, the bonds may not~~
13 ~~exceed the aggregate principal amount of five hundred~~
14 ~~thousand dollars."~~
15 2. Renumber as necessary.

H-5548 FILED
MARCH 24, 1982

Placed out of order 2/25 (p. 1002)

BY HALVORSON of Webster
KREWSON of Polk

HOUSE FILE 2464

H-5542

- 1 Amend House File 2464 as follows:
2 1. Page 6, by inserting, after line 27, the
3 following:
4 "7. Whether the applicant's use of the loan
5 proceeds will adversely affect competing businesses."

H-5542 FILED MARCH 24, 1982

Lost 2/25 (p. 997)

BY TYRRELL of Iowa

HOUSE FILE 2464

H-5552

- 1 Amend House File 2464 as follows:
2 1. Page 5, by inserting after line 3 the
3 following:
4 "3. At least twenty-five percent of the total
5 principal amount of bonds and notes authorized for
6 the program pursuant to section 3 of this Act shall
7 be reserved for loans to small businesses having
8 twenty or fewer full-time equivalent positions at
9 the time of the loan."

H-5552 FILED MARCH 24, 1982

3/25 (p. 1002)

BY SCHROEDER of Pottawattamie

HOUSE FILE 2464

H-5560

1 Amend House File 2464 as follows:

2 1. Page 8, by inserting after line 28 the
3 following:

4 "Sec. ____ . Section 419.1, subsection 2, Code 1981,
5 is amended to read as follows:

6 2. "Project" means all or any part of, or any
7 interest in, (a) ~~any~~ land, buildings, or improvements,
8 whether or not in existence at the time of issuance
9 of the bonds issued under authority of this chapter,
10 which shall be suitable for the use of ~~any a~~ voluntary
11 nonprofit hospital, clinic or health care facility
12 as defined in section 135C.1, subsection 4, or of
13 ~~any a~~ private college or university, or ~~any a~~ state
14 institution governed under chapter 262 whether for
15 the establishment or maintenance of ~~such~~ that college
16 or university, or of ~~any an~~ industry or industries
17 for the manufacturing, processing or assembling of
18 ~~any~~ agricultural or manufactured products, even though
19 ~~such the~~ processed products may require further
20 treatment before delivery to the ultimate consumer,
21 or of ~~any a~~ commercial enterprise engaged in storing,
22 warehousing or distributing products of agriculture,
23 mining or industry including but not limited to barge
24 facilities and riverfront improvements useful and
25 convenient for the handling and storage of goods and
26 products, or of a national, regional or divisional
27 headquarters facility of a company that does multistate
28 business, ~~or-of-a-beginning-businessperson-for-any~~
29 ~~purpose~~ or (b) pollution control facilities which
30 shall be suitable for use by ~~any an~~ industry,
31 commercial enterprise, or utility. "Pollution control
32 facilities" means ~~any~~ land, buildings, structures,
33 equipment, pipes, pumps, dams, reservoirs,
34 improvements, or other facilities useful for the
35 purpose of reducing, preventing, or eliminating
36 pollution of the water or air by reason of the
37 operations of ~~any an~~ industry, commercial enterprise,
38 or utility. "Improve", "improving" and "improvements"
39 shall embrace ~~any~~ real property, personal property
40 or mixed property of ~~any-and~~ every kind that can be
41 used or that will be useful in connection with a
42 project, including, without limiting the generality
43 of the foregoing, rights of way, roads, streets,
44 sidings, trackage, foundations, tanks, structures,
45 pipes, pipe lines, reservoirs, utilities, materials,
46 equipment, fixtures, machinery, furniture, furnishings,
47 improvements, instrumentalities and other real,
48 personal or mixed property of every kind, whether
49 above or below ground level.

50 Sec. ____ . Section 419.1, subsection 14, Code 1981,

H-5560
Page Two

- 1 is amended by striking the subsection.
2 Sec. ____ . Section 419.2, subsection 5, Code 1981,
3 is amended to read as follows:
4 5. To issue revenue bonds for the purpose of
5 defraying the cost of any project and to secure payment
6 of such the bonds as provided in this chapter.
7 ~~However, in the case of a project suitable for the~~
8 ~~use of a beginning businessperson, the bonds may not~~
9 ~~exceed the aggregate principal amount of five hundred~~
10 ~~thousand dollars."~~
11 2. Renumber as necessary.

H-5560 FILED MARCH 25, 1982
RULES SUSPENDED AND SUBSTITUTED
FOR AMENDMENT H-5548

BY HALVORSON of Webster
KREWSON of Polk

Last 3/25 (p. 1002)

See Commerce 3/29 Do Pass 3/21 (p. 970)

HOUSE FILE 2464

Commerce
Baughner, Chair
Comito
Husak

HOUSE FILE 2464

BY COMMITTEE ON COMMERCE

(As Amended and Passed by the House)

Passed House, Date 3-25-82 (p. 1002) Passed Senate, Date 4-15-82 (p. 1222)

Vote: Ayes 91 Nays 6 Vote: Ayes 45 Nays 0

Approved 5-19-82

A BILL FOR

1 An Act relating to the Iowa small business loan program.

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

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House Amendments _____

1 Section 1. Section 220.1, Code 1981, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. "Cost" as applied to Iowa small business
4 loan program projects means the cost of acquisition,
5 construction, or both including the cost of acquisition of
6 all land, rights-of-way, property rights, easements, franchise
7 rights, and interests required for acquisition, construction,
8 or both. It also means the cost of demolishing or removing
9 structures on acquired land, the cost of access roads to
10 private property, including the cost of land or easements,
11 and the cost of all machinery, furnishings, and equipment,
12 financing charges, and interest prior to and during
13 construction and for no more than eighteen months after
14 completion of construction. Cost also means the cost of
15 engineering, legal expenses, plans, specifications, surveys,
16 estimates of cost and revenues, as well as other expenses
17 incidental to determining the feasibility or practicability
18 of acquiring or constructing a project. It also means other
19 expenses incidental to the acquisition or construction of
20 the project, the financing of the acquisition or construction,
21 including the amount authorized in the resolution of the
22 authority providing for the issuance of bonds, to be paid
23 into any special funds from the proceeds of the bonds, and
24 the financing of the placing of a project in operation.

25 NEW SUBSECTION. "Project" means real or personal property
26 connected with a facility to be acquired, constructed,
27 improved, or equipped, with the aid of the Iowa small business
28 loan program as provided in this Act.

29 NEW SUBSECTION. "Iowa small business loan program" or
30 "loan program" means the program for lending moneys to small
31 business established under this Act.

32 NEW SUBSECTION. "Small business" means a business entity
33 organized for profit, including but not limited to an
34 individual, partnership, corporation, joint venture,
35 association or cooperative, to which the following apply:

1 a. It is not an affiliate or subsidiary of a business
2 dominant in its field of operation.

3 b. It has either twenty or fewer full-time equivalent
4 positions or not more than the equivalent of one million
5 dollars in annual gross revenues in the preceding fiscal year.

6 c. It does not involve the operation of a farm and does
7 not involve the practice of a profession.

8 For purposes of this definition "dominant in its field
9 of operation" means having more than twenty full-time
10 equivalent positions and more than one million dollars in
11 annual gross revenues, and "affiliate or subsidiary of a
12 business dominant in its field of operation" means a business
13 which is at least twenty percent owned by a business dominant
14 in its field of operation, or by partners, officers, directors,
15 majority stockholders, or their equivalent, of a business
16 dominant in that field of operation.

17 Sec. 2. Section 220.1, subsection 14, Code 1981, is amended
18 to read as follows:

19 14. "Mortgage lender" means any bank, trust company,
20 mortgage company, national banking association, savings and
21 loan association, life insurance company, any governmental
22 agency, or any other financial institution authorized to make
23 mortgage loans in this state and includes a financial
24 institution as defined in section 496B.2, subsection 2, which
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31 of its corporate purposes, the payment of interest on its
32 bonds and notes, the establishment of reserves to secure its
33 bonds and notes, and all other expenditures of the authority
34 incident to and necessary or convenient to carry out its
35 purposes and powers. However, the authority may not have

1 a total principal amount of bonds and notes outstanding at
2 any time in excess of five hundred million dollars plus fifty
3 million dollars for property improvement loans to finance
4 solar and other renewable energy systems in housing as
5 authorized by section 220.37. Fifty million dollars of the
6 total principal amount of bonds and notes may be issued
7 pursuant to the small business loan program established under
8 section 5 of this Act. The bonds and notes shall be deemed
9 to be investment securities and negotiable instruments within
10 the meaning of and for all purposes of the uniform commercial
11 code.

12 Sec. 4. Section 5 of this Act is enacted as a new divi-
13 sion of chapter 220.

14 Sec. 5. Chapter 220, Code 1981, is amended by adding the
15 following new sections:

16 NEW SECTION. LEGISLATIVE FINDINGS--PURPOSES--PUBLIC POLICY.

17 1. The general assembly finds and declares as follows:

18 a. A viable small business community is essential to the
19 continuing welfare of Iowans who depend on small business
20 for employment.

21 b. Iowa small business must continue to expand and develop
22 if they are to remain competitive in state and local markets.

23 c. Small business expansion and development is dependent
24 upon the availability of financing for expansion and develop-
25 ment at interest rates which small businesses may reasonably
26 pay.

27 d. Private financing for small businesses at low interest
28 rates is unavailable to assist small business expansion and
29 development. The Iowa small business loan program is neces-
30 sary to encourage the investment of private capital in small
31 business expansion and development through the use of public
32 financing as provided in this Act.

33 2. The purposes of the small business loan program are:

34 a. To promote the business prosperity and economic welfare
35 of Iowa and Iowans.

1 b. To assist, through loans, investments, and other trans-
2 actions, the location of new small business and industry in
3 the state.

4 c. To assist through loans, investments, and other
5 transactions, existing small business and industry in the
6 state.

7 d. To provide employment opportunities and thereby improve
8 the standard of living of Iowans.

9 e. To promote industrial, commercial, and recreational
10 development in this state.

11 3. All of the purposes stated in this section are public
12 purposes and uses for which public moneys provided by the
13 sale of revenue bonds may be used.

14 4. It is the public policy of the state through the es-
15 tablishment of the small business loan program to promote
16 the economic welfare of Iowans and to improve employment
17 opportunities for Iowans. To advance that public policy,
18 the authority may make loans to borrowers for both the
19 acquisition and the construction of projects and may issue
20 obligations of this state payable solely from bond proceeds,
21 to pay the cost of the projects.

22 NEW SECTION. SMALL BUSINESS LOAN PROGRAM.

23 1. The authority shall initiate a program to assist the
24 development and expansion of small business in Iowa. The
25 authority may issue bonds and notes the proceeds of which
26 shall be used to make program loans. The bonds and notes
27 are a portion of the total principal amount of bonds and notes
28 of the authority which may be outstanding at any time pursuant
29 to section 220.26, subsection 1. The principal amount of
30 bonds and notes issued pursuant to the loan program shall
31 not exceed fifty million dollars. Bonds and notes issued
32 under this section are subject to all provisions of this
33 chapter relating to the issuance of bonds.

34 2. The authority may contract with the Iowa business
35 development credit corporation or any other corporation or-

1 ganized under chapter 496B for the provision by the corpora-
2 tion of lending and other administrative services relative
3 to the loan program to the authority.

4 NEW SECTION. SMALL BUSINESS LOAN PROGRAM--SPECIFIC POWERS.

5 In assisting Iowa small businesses through the loan program,
6 the authority may do any of the following:

7 1. Make loans, secured and unsecured, for both the
8 acquisition and the construction of projects on terms the
9 authority determines. The authority may take any action which
10 is reasonable and lawful to protect its security and to avoid
11 losses from its loans. Before making a loan, the authority
12 shall find that the proposed project shall result in one or
13 more of the following:

14 a. The creation of jobs in Iowa.

15 b. Increased revenues for the borrower from a more modern
16 or expanded facility.

17 c. Providing a service facility needed in the community
18 where the project will be located.

19 2. Acquire, hold, and mortgage personal property and real
20 estate and interests in real estate to be used as a project.

21 3. Purchase, construct, improve, furnish, equip, lease,
22 option, sell, exchange, or otherwise dispose of projects under
23 the terms the authority determines. However, in the lease,
24 sale, or loan agreement relating to a project, the authority
25 shall provide for adequate maintenance of the project.

26 4. Grant a mortgage, lien, pledge, assignment, or other
27 encumbrance on a project, revenues, or reserve or other funds
28 established in connection with obligations, or with respect
29 to a lease, sale, or loan relating to a project, or a guaranty
30 or insurance agreement relating to a project, or an interest,
31 secured or unsecured, of the authority in a project or part
32 of a project.

33 5. Provide that the interest on obligations may vary in
34 accordance with a base or formula authorized by the authority.

35 6. Contract for the acquisition, construction, or both

1 of a project or part of a project and for the leasing,
2 subleasing, sale, or other disposition of a project in a
3 manner determined by the authority.

4 7. Cooperate with the Iowa development commission and
5 use its facilities to assist and encourage organizations in
6 Iowa communities in the promotion and development of small
7 business prosperity in those communities.

8 NEW SECTION. SMALL BUSINESS LOAN CRITERIA. In determining
9 whether a small business is eligible for a loan from the small
10 business loan program, the authority shall consider the fol-
11 lowing criteria:

12 1. The applicant shall be of good character as determined
13 by rule which shall be adopted by the authority.

14 2. The applicant shall show evidence that the applicant
15 is able to operate the business successfully.

16 3. The applicant shall have enough capital in the business
17 so that with assistance from the loan program, the applicant
18 will be able to operate the business on a financially sound
19 basis.

20 4. The loan shall be so secured or of such sound value
21 as to reasonably assure repayment.

22 5. The business' past earnings record and future prospects
23 shall indicate an ability to repay the loan out of income
24 from the business.

25 6. Whether the granting of the loan will increase employ-
26 ment or have other favorable effects upon the economic life
27 of the community where the business is located.

28 NEW SECTION. LOAN AGREEMENT WITH SPONSORS.

29 1. The authority may enter into a loan agreement with
30 a project sponsor to finance in whole or in part the
31 acquisition of a project by construction or purchase. The
32 repayment obligation of the project sponsor may be unsecured,
33 secured by a mortgage or security agreement, or secured by
34 other security as the authority deems advisable, and may be
35 evidenced by one or more notes of the project sponsor. The

1 loan agreement may contain terms and conditions the authority
2 deems advisable.

3 2. The authority may issue its bonds and notes for the
4 purposes set forth in subsection 1 and may enter into a lending
5 agreement or purchase agreement with one or more bondholders
6 or noteholders containing the terms and conditions of the
7 repayment of and the security for the bonds or notes. The
8 authority and the bondholders or noteholders may enter into
9 an agreement to provide for any of the following:

10 a. That the proceeds of the bonds and notes and the
11 investments of the proceeds may be received, held, and
12 disbursed by the bondholders or noteholders, or by a trustee
13 or agent designated by the authority.

14 b. That the bondholders or noteholders or a trustee or
15 agent designated by the authority, may collect, invest, and
16 apply the amounts payable under the loan agreement or any
17 other security instrument securing the debt obligation of
18 the project sponsor.

19 c. That the bondholders or noteholders may enforce the
20 remedies provided in the loan agreement or security instru-
21 ment on their own behalf without the appointment or designa-
22 tion of a trustee and if there is a default in the principal
23 of or interest on the bonds or notes or in the performance
24 of any agreement contained in the agreement or instrument,
25 the payment or performance may be enforced in accordance with
26 the provisions contained in the agreement or instrument.

27 d. That if there is a default in the payment of the prin-
28 cipal or interest on a mortgage or security instrument or
29 a violation of an agreement contained in the mortgage or
30 security instrument, the mortgage or security instrument may
31 be foreclosed or enforced and any collateral sold under
32 proceedings or actions permitted by law and a trustee under
33 the mortgage or security agreement or the holder of any bonds
34 or notes secured thereby may become a purchaser if it is the
35 highest bidder.

1 e. Other terms and conditions.

2 3. The authority may provide in the resolution authorizing
3 the issuance of the bonds or notes that the principal and
4 interest shall be limited obligations payable solely out of
5 the revenues derived from the debt obligation, collateral,
6 or other security furnished by or on behalf of the project
7 sponsor, and that the principal and interest does not
8 constitute an indebtedness of the authority or a charge against
9 its general credit or general fund.

10 4. The powers granted the authority under this section
11 are in addition to other powers contained in this chapter.
12 All other provisions of this chapter, except section 220.28,
13 subsection 4, apply to bonds or notes issued pursuant to and
14 powers granted to the authority under this section except
15 to the extent that they are inconsistent with this section.

16 Sec. 6. Chapter 220, Code 1981, is amended by adding the
17 following new section:

18 NEW SECTION. APPLICATION OF FUNDS FROM SALES OF
19 OBLIGATIONS. All moneys received by or on behalf of the
20 authority, whether as proceeds from the sale of obligations
21 or as revenues, are trust funds to be held and applied solely
22 for the purposes specified in the appropriation, bond
23 resolution, or other document authorizing receipt of the
24 moneys by the authority. A person with which the moneys are
25 deposited shall act as trustee of the moneys and shall hold
26 and apply the moneys for the purposes specified in this chapter
27 subject to limitations specified in this chapter and in the
28 bond resolution authorizing the issuance of the obligations.

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HOUSE FILE 2464

AN ACT
RELATING TO THE IOWA SMALL BUSINESS LOAN PROGRAM.

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

Section 1. Section 220.1, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Cost" as applied to Iowa small business loan program projects means the cost of acquisition, construction, or both including the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition, construction, or both. It also means the cost of demolishing or removing structures on acquired land, the cost of access roads to private property, including the cost of land or easements, and the cost of all machinery, furnishings, and equipment, financing charges, and interest prior to and during construction and for no more than eighteen months after completion of construction. Cost also means the cost of engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, as well as other expenses incidental to determining the feasibility or practicability of acquiring or constructing a project. It also means other expenses incidental to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of bonds, to be paid into any special funds from the proceeds of the bonds, and the financing of the placing of a project in operation.

NEW SUBSECTION. "Project" means real or personal property connected with a facility to be acquired, constructed, improved, or equipped, with the aid of the Iowa small business loan program as provided in this Act.

NEW SUBSECTION. "Iowa small business loan program" or "loan program" means the program for lending moneys to small business established under this Act.

NEW SUBSECTION. "Small business" means a business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

- a. It is not an affiliate or subsidiary of a business dominant in its field of operation.
- b. It has either twenty or fewer full-time equivalent positions or not more than the equivalent of one million dollars in annual gross revenues in the preceding fiscal year.
- c. It does not involve the operation of a farm and does not involve the practice of a profession.

For purposes of this definition "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalents, of a business dominant in that field of operation.

Sec. 2. Section 220.1, subsection 14, Code 1981, is amended to read as follows:

14. "Mortgage lender" means any bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any governmental agency, or any other financial institution authorized to make mortgage loans in this state and includes a financial institution as defined in section 496B.2, subsection 2, which lends moneys for industrial or business purposes.

Sec. 3. Section 220.26, subsection 1, Code 1981, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of five hundred million dollars plus fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37. Fifty million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program established under section 5 of this Act. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 4. Section 5 of this Act is enacted as a new division of chapter 220.

Sec. 5. Chapter 220, Code 1981, is amended by adding the following new sections:

NEW SECTION. LEGISLATIVE FINDINGS--PURPOSES--PUBLIC POLICY.

1. The general assembly finds and declares as follows:
 - a. A viable small business community is essential to the continuing welfare of Iowans who depend on small business for employment.
 - b. Iowa small business must continue to expand and develop if they are to remain competitive in state and local markets.
 - c. Small business expansion and development is dependent upon the availability of financing for expansion and development at interest rates which small businesses may reasonably pay.

d. Private financing for small businesses at low interest rates is unavailable to assist small business expansion and development. The Iowa small business loan program is necessary to encourage the investment of private capital in small business expansion and development through the use of public financing as provided in this Act.

2. The purposes of the small business loan program are:

- a. To promote the business prosperity and economic welfare of Iowa and Iowans.
- b. To assist, through loans, investments, and other transactions, the location of new small business and industry in the state.
- c. To assist through loans, investments, and other transactions, existing small business and industry in the state.
- d. To provide employment opportunities and thereby improve the standard of living of Iowans.
- e. To promote industrial, commercial, and recreational development in this state.

3. All of the purposes stated in this section are public purposes and uses for which public moneys provided by the sale of revenue bonds may be used.

4. It is the public policy of the state through the establishment of the small business loan program to promote the economic welfare of Iowans and to improve employment opportunities for Iowans. To advance that public policy, the authority may make loans to borrowers for both the acquisition and the construction of projects and may issue obligations of this state payable solely from bond proceeds, to pay the cost of the projects.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM.

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which

shall be used to make program loans. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. The principal amount of bonds and notes issued pursuant to the loan program shall not exceed fifty million dollars. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

2. The authority may contract with the Iowa business development credit corporation or any other corporation organized under chapter 496B for the provision by the corporation of lending and other administrative services relative to the loan program to the authority.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM--SPECIFIC POWERS. In assisting Iowa small businesses through the loan program, the authority may do any of the following:

1. Make loans, secured and unsecured, for both the acquisition and the construction of projects on terms the authority determines. The authority may take any action which is reasonable and lawful to protect its security and to avoid losses from its loans. Before making a loan, the authority shall find that the proposed project shall result in one or more of the following:

- a. The creation of jobs in Iowa.
- b. Increased revenues for the borrower from a more modern or expanded facility.
- c. Providing a service facility needed in the community where the project will be located.

2. Acquire, hold, and mortgage personal property and real estate and interests in real estate to be used as a project.

3. Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of projects under the terms the authority determines. However, in the lease, sale, or loan agreement relating to a project, the authority shall provide for adequate maintenance of the project.

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on a project, revenues, or reserve or other funds established in connection with obligations, or with respect to a lease, sale, or loan relating to a project, or a guaranty or insurance agreement relating to a project, or an interest, secured or unsecured, of the authority in a project or part of a project.

5. Provide that the interest on obligations may vary in accordance with a base or formula authorized by the authority.

6. Contract for the acquisition, construction, or both of a project or part of a project and for the leasing, subleasing, sale, or other disposition of a project in a manner determined by the authority.

7. Cooperate with the Iowa development commission and use its facilities to assist and encourage organizations in Iowa communities in the promotion and development of small business prosperity in those communities.

NEW SECTION. SMALL BUSINESS LOAN CRITERIA. In determining whether a small business is eligible for a loan from the small business loan program, the authority shall consider the following criteria:

1. The applicant shall be of good character as determined by rule which shall be adopted by the authority.

2. The applicant shall show evidence that the applicant is able to operate the business successfully.

3. The applicant shall have enough capital in the business so that with assistance from the loan program, the applicant will be able to operate the business on a financially sound basis.

4. The loan shall be so secured or of such sound value as to reasonably assure repayment.

5. The business' past earnings record and future prospects shall indicate an ability to repay the loan out of income from the business.

6. Whether the granting of the loan will increase employment or have other favorable effects upon the economic life of the community where the business is located.

NEW SECTION. LOAN AGREEMENT WITH SPONSORS.

1. The authority may enter into a loan agreement with a project sponsor to finance in whole or in part the acquisition of a project by construction or purchase. The repayment obligation of the project sponsor may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems advisable, and may be evidenced by one or more notes of the project sponsor. The loan agreement may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the project sponsor.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance

of any agreement contained in the agreement or instrument, the payment or performance may be enforced in accordance with the provisions contained in the agreement or instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the project sponsor, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 6. Chapter 220, Code 1981, is amended by adding the following new section:

NEW SECTION. APPLICATION OF FUNDS FROM SALES OF OBLIGATIONS. All moneys received by or on behalf of the authority, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied solely for the purposes specified in the appropriation, bond

resolution, or other document authorizing receipt of the moneys by the authority. A person with which the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes specified in this chapter subject to limitations specified in this chapter and in the bond resolution authorizing the issuance of the obligations.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2464, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved 5/19, 1982

ROBERT D. RAY
Governor