

MAR 6 2006  
Place On Calendar

HOUSE FILE 2661  
BY COMMITTEE ON ECONOMIC  
GROWTH

(SUCCESSOR TO HSB 641)

Passed House, Date 3-16-06 Passed Senate, Date 3/28-06  
Vote: Ayes 94 Nays 0 Vote: Ayes 50 Nays 0  
Approved 6/2/06

**A BILL FOR**

1 An Act relating to the linked investments for tomorrow Act.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2661

**HOUSE FILE 2661**

**H-8271**

- 1 Amend House File 2661 as follows:
- 2 1. Page 8, by striking lines 2 through 4.  
By LUKAN of Dubuque

**H-8271** FILED MARCH 15, 2006

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21

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

3 12.31 SHORT TITLE.

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

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

8 12.32 DEFINITIONS.

9 As used in section 12.31, this section, and sections ~~12.33~~  
10 12.34 through ~~12.43B~~ 12.43, unless the context otherwise  
11 requires:

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

21 2. "Eligible lending institution" means a financial  
22 institution that is empowered to make commercial loans and is  
23 eligible pursuant to chapter 12C to be a depository of state  
24 funds.

25 3. "Linked investment" means a certificate of deposit  
26 ~~placed~~ issued pursuant to this section and sections ~~12.33~~  
27 12.34 through ~~12.43B~~ by 12.43 to the treasurer of state with  
28 by an eligible lending institution, at an interest rate not  
29 more than three percent below current market rate on the  
30 condition that the institution agrees to lend the value of the  
31 deposit, according to the investment agreement provided in  
32 section 12.35, to an eligible borrower at a rate not to exceed  
33 four percent above the rate paid on the certificate of  
34 deposit. The treasurer of state shall determine and make  
35 available the current market rate which shall be used each

1 month.

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

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

9 12.34 LINKED INVESTMENTS -- LIMITATIONS -- RULES --  
10 MATURITY AND RENEWAL OF CERTIFICATES.

11 1. The treasurer of state may invest up to the lesser of  
12 one hundred eight million dollars or ten twenty-five percent  
13 of the balance of the state pooled money fund in certificates  
14 of deposit in eligible lending institutions as provided in  
15 sections section 12.32 and 12.33, this section, and sections  
16 12.35 through 12.43B 12.43. ~~The moneys invested pursuant to~~  
17 ~~this section shall be used as follows:~~

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

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

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

30 ~~(2)--At least twenty million dollars shall be invested in~~  
31 ~~order to support the value added agricultural linked~~  
32 ~~investment loan program as provided in section 12.43B. One-~~  
33 half of the moneys invested pursuant to this section shall be  
34 made available under the program implemented pursuant to  
35 section 12.43 to increase the availability of lower cost

1 moneys for purposes of injecting needed capital into small  
2 businesses owned and operated by women and minorities. A  
3 "minority person" means the same as defined in section 15.102,  
4 subsection 5. The treasurer shall invest the remaining one-  
5 half of the moneys invested pursuant to this section to  
6 support any other eligible applicant as provided in section  
7 12.43.

8 2. a. The treasurer of state shall adopt rules pursuant  
9 to chapter 17A to administer sections section 12.32 and -12-33,  
10 this section, and sections 12.35 through 12-43B 12.43.

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

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

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

32 ~~b.--For a qualified linked investment, the initial~~  
33 ~~certificate of deposit for a given borrower shall have a~~  
34 ~~maturity of one year.--The certificate of deposit may be~~  
35 ~~renewed on an annual basis for a total term not to exceed~~

1 ~~three-years.~~ All participants with certificates of deposit  
2 issued prior to July 1, 2006, are subject, for renewal  
3 certificates of deposit, to the requirements and terms  
4 applicable to the certificates of deposit issued prior to July  
5 1, 2006.

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

8 1. An eligible lending institution that desires to receive  
9 a linked investment shall enter into an agreement with the  
10 treasurer of state, which shall include requirements necessary  
11 for the eligible lending institution to comply with sections  
12 12.32 through 12.34, this section, and sections 12.36 through  
13 ~~12.43B~~ 12.43.

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

16 2. Upon acceptance of the linked investment loan package  
17 or any portion of the package, the treasurer of state shall  
18 ~~place-certificates-of~~ deposit funds with the eligible lending  
19 ~~institution at-a-rate-not-more-than-three-percent-below-the~~  
20 current-market-rate and the eligible lending institution shall  
21 issue to the treasurer of state one or more certificates of  
22 deposit with interest at a rate determined pursuant to section  
23 12.32, subsection 3. The treasurer of state shall not ~~place-a~~  
24 ~~certificate-of~~ deposit funds with an eligible lending  
25 institution pursuant to sections 12.32 through, 12.34, 12.35,  
26 this section, and sections 12.37 through ~~12.43B~~ 12.43, unless  
27 the certificate of deposit earns a rate of interest of at  
28 least two one percent. Interest earned on the certificate of  
29 deposit and principal not renewed shall be remitted to the  
30 treasurer of state at the time the certificate of deposit  
31 matures. Interest from the linked investments for tomorrow  
32 program shall be considered earnings of the general fund of  
33 the state. Certificates of deposit ~~placed~~ issued pursuant to  
34 sections 12.32 through, 12.34, 12.35, this section, and  
35 sections 12.37 through ~~12.43B~~ 12.43 are not subject to a

1 penalty for early withdrawal.

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

4 12.38 REPORTS.

5 By February 1 of each year, the treasurer of state shall  
6 report on the linked investments for tomorrow programs for the  
7 preceding calendar year to the governor, the department of  
8 economic development, the speaker of the house of  
9 representatives, and the president of the senate. The speaker  
10 of the house shall transmit copies of this report to the house  
11 co-chair of the joint economic development appropriations  
12 subcommittee and the chairs of the standing committees in the  
13 house which customarily consider legislation regarding  
14 agriculture, and commerce, and economic growth, and the  
15 president of the senate shall transmit copies of this report  
16 to the senate co-chair of the joint economic development  
17 appropriations subcommittee and the chairs of the standing  
18 committees in the senate which customarily consider  
19 legislation regarding agriculture, and commerce, and economic  
20 growth. The report shall set forth the linked investments  
21 made by the treasurer of state under the program during the  
22 year, the total amount deposited, the number of deposits, and  
23 an estimate of foregone interest, and shall include  
24 information regarding the nature, terms, and amounts of the  
25 loans upon which the linked investments were based and the a  
26 listing of eligible borrowers to which the loans were made.

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

29 12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM  
30 CREATED -- DEFINITIONS.

31 The treasurer of state shall adopt rules to implement a  
32 ~~focused~~ small business linked investments program to increase  
33 the availability of lower cost funds to inject needed capital  
34 into small businesses owned and operated ~~by-women-or~~  
35 minorities in this state by residents of this state, which is

1 the public policy of the state. The rules shall be in  
2 accordance with the following:

3 1. As used in this section:

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

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

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

13 ~~c. -- "Major life activity" is defined as provided in section~~  
14 ~~15.102, subsection 5.~~

15 ~~d. -- "Minority person" is defined as provided in section~~  
16 ~~15.102, subsection 5.~~

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

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

32 3. During the lifetime of this loan program, the maximum  
33 amount of assistance that an eligible borrower or business may  
34 borrow or receive through this loan program shall be one two  
35 hundred thousand dollars. An eligible borrower or business

1 under this program shall be limited to one loan from one  
2 financial institution.

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

7 5. In order to qualify under this program, all owners of  
8 the business or borrowers must not have a combined net worth  
9 exceeding **five** seven hundred fifty thousand dollars as defined  
10 in rules adopted by the treasurer of state pursuant to chapter  
11 17A and the **focused** small business must meet all of the  
12 following criteria:

13 a. Be a for-profit business.

14 b. Have If an application involves an existing business or  
15 the transfer of an existing business to a new owner, the  
16 business must have annual gross sales of two million dollars  
17 or less at the time the application is submitted under section  
18 12.35.

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

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

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

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

1 by the business.

2 g. A borrower and the seller of an existing small business  
3 shall not be within the third degree of consanguinity or  
4 affinity.

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

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

14 Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and  
15 15.204, Code 2005, are repealed.

16 EXPLANATION

17 This bill relates to the linked investments for tomorrow  
18 Act.

19 The bill eliminates the rural small business transfer  
20 linked investment loan program, the horticultural and  
21 nontraditional crops linked investment loan program, the  
22 traditional livestock producer's linked investment loan  
23 program, and the value-added agricultural linked investment  
24 loan program. The bill makes conforming amendments.

25 The bill changes the amount of moneys the treasurer of  
26 state may invest under the linked investments program.  
27 Currently, the treasurer of state may invest up to the lesser  
28 of \$108 million or 10 percent of the balance of the state  
29 pooled money fund. The bill increases the allowable  
30 percentage from 10 percent to 25 percent.

31 The bill provides that one-half of the moneys invested  
32 under the program shall be made available to increase the  
33 availability of lower cost moneys for purposes of injecting  
34 needed capital into small businesses owned and operated by  
35 women and minorities. The bill provides that the remaining

1 one-half of the moneys invested under the program shall be  
2 used to support any other eligible applicant under the  
3 program.

4 The bill provides that a certificate of deposit issued by  
5 an eligible lending institution to the treasurer of state  
6 under the program may be renewed at the option of the  
7 treasurer on an annual basis for a total term not to exceed  
8 five years. The bill provides that all participants with  
9 certificates of deposit issued prior to July 1, 2006, are  
10 subject, for renewal certificates of deposit, to the  
11 requirements and terms applicable to the certificates of  
12 deposit issued prior to July 1, 2006. The bill provides that  
13 interest from the linked investments for tomorrow program  
14 shall be considered earnings of the general fund of the state.

15 The bill changes the name of the focused small business  
16 linked investments program to the small business linked  
17 investments program. The bill changes the eligibility  
18 criteria under the program. Currently, the program is  
19 available to new small businesses meeting certain criteria  
20 which is 51 percent or more owned, operated, and actively  
21 managed by one or more women, minority persons, or persons  
22 with a disability. The bill eliminates the requirement  
23 regarding ownership, operation, and active management of the  
24 business. The bill provides that a new or existing small  
25 business is eligible if all owners of the business or  
26 borrowers do not have a combined net worth exceeding \$750,000  
27 and if the business is a for-profit business, has annual gross  
28 sales of \$2 million or less if the application involves an  
29 existing business or the transfer of an existing business, is  
30 not operated out of the home of any person unless certain  
31 criteria are met, does not involve real estate investments,  
32 rental of real estate, leasing of real estate, or real estate  
33 speculation, and liquor, beer, and wine sales do not exceed 20  
34 percent of annual sales for certain liquor license holders.  
35 The bill provides that, if an application involves the

1 transfer of an existing small business, the transfer must be  
2 by purchase, lease-purchase, or contract of sale. The bill  
3 provides that a borrower and the seller of an existing small  
4 business shall not be within the third degree of consanguinity  
5 or affinity. The bill provides an additional requirement for  
6 existing small businesses that local competition does not  
7 exist in the principal area of business activity of the  
8 existing small businesses.

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**HOUSE FILE 2661**

**H-8296**

1 Amend the amendment, H-8271, to House File 2661 as  
2 follows:

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

5 "    . Page 3, by striking line 2 and inserting  
6 the following: "businesses which are fifty-one  
7 percent or more owned, operated, and actively managed  
8 by one or more women or minority persons. A."

9 2. By renumbering as necessary.

**By LUKAN** of Dubuque

**H-8296** FILED MARCH 16, 2006

WITHDRAWN

**HOUSE FILE 2661**

**H-8304**

1 Amend the amendment, H-8271, to House File 2661 as  
2 follows:

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

5 "    . Page 3, by striking line 2 and inserting  
6 the following: "businesses which are fifty-one  
7 percent or more owned, operated, and actively managed  
8 by one or more women, minority persons, or persons  
9 with disabilities. "Disability" means the same as  
10 defined in section 15.102, subsection 5. A."

11 2. By renumbering as necessary.

**By LUKAN** of Dubuque

**H-8304** FILED MARCH 16, 2006

ADOPTED

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2661 - Linked Investments for Tomorrow (LINK) (LSB 5848 HV)  
Analyst: Sam Leto (Phone: (515) 281-6764) (sam.letto@legis.state.ia.us)  
Fiscal Note Version – New  
Requested by Representatives Miller and Shultz

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**Description**

House File 2661 relates to the Linked Investments for Tomorrow (LIFT) Program. The Bill eliminates the Rural Small Business Transfer Linked Investment Loan Program, the Horticultural and Nontraditional Crops Linked Investment Program, the Traditional Livestock Producer's Linked Investment Loan Program, and the Value-Added Agricultural Linked Investment Program. The Bill changes the focus of the current Program and the criteria for small businesses to become eligible borrowers for available funding. The Bill also changes the minimum interest rates, the net worth that businesses may have to borrow these funds, and increases the amount the State Treasurer may invest under the Program to the lesser of \$108.0 million or 25.0% of the balance of the State pooled money funds. The Bill is intended to provide an increase in funds to new and existing small businesses with 50.0% of the funding available for women and minorities.

**Background**

The Program began in 1986 to provide investment in small business in horticulture and alternative crops. The State Treasurer may invest the lesser of \$108.0 million or 10.0% of the balance of the State pooled money funds in certificates of deposit (CD) in eligible financial institutions. The eligible financial institutions lend the invested funds to eligible borrowers. There are currently five loan programs that are eligible under this Program and there are currently 277 loans with a loan balance of approximately \$9.3 million. The current loan balance is distributed among the five programs as follows:

**Loan Balances**  
(\$ in Millions)

<u>Programs</u>	<u>03/01/2006</u>
Focused Small Business	\$ 2.4
Horticulture & Alternative Crops	3.3
Rural Small Business Transfer	0.5
Traditional Livestock Producer's	0.0
Value-Added Agriculture	3.1
<b>Total</b>	<b><u>\$ 9.3</u></b>

**Assumptions**

8. The State Treasurer's Office estimates that it will take most of FY 2007 to implement the changes to the LIFT Program.
9. The current loans and the current borrowers will be allowed to continue in the LIFT Program should the Bill become effective July 1, 2006.
10. The minimum level on interest rate is 1.0%.

11. The amount of investment is the lesser of \$108.0 million or 25.0% of the balance of the State pooled money funds.

12. The discount to financial institutions is 3.0%.

**Fiscal Impact**

The estimated fiscal impact of House File 2661 can not be determined. The chart below provides a range of LIFT loans and the amount of "Foregone Interest", or interest that the State General Fund would not receive, assuming a deposit by the State Treasurer in a financial institution at a 3.0% discount.

<b>LIFT Loans</b>	<b>Foregone Interest</b>
\$10,000,000	\$300,000
\$20,000,000	\$600,000
\$30,000,000	\$900,000
\$40,000,000	\$1,200,000
\$50,000,000	\$1,500,000
\$60,000,000	\$1,800,000
\$70,000,000	\$2,100,000
\$80,000,000	\$2,400,000
\$90,000,000	\$2,700,000
\$100,000,000	\$3,000,000
\$108,000,000	\$3,240,000

**Source**

State Treasurer

\_\_\_\_\_  
/s/ Holly M. Lyons

March 14, 2006

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

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**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2661 - Linked Investments for Tomorrow (LINK) (LSB 5848 HV)  
Analyst: Sam Leto (Phone: (515) 281-6764) (sam.letto@legis.state.ia.us)  
Fiscal Note Version – New  
Requested by Representatives Miller and Shultz

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**Description**

House File 2661 relates to the Linked Investments for Tomorrow (LIFT) Program. The Bill eliminates the Rural Small Business Transfer Linked Investment Loan Program, the Horticultural and Nontraditional Crops Linked Investment Program, the Traditional Livestock Producer's Linked Investment Loan Program, and the Value-Added Agricultural Linked Investment Program. The Bill changes the focus of the current Program and the criteria for small businesses to become eligible borrowers for available funding. The Bill also changes the minimum interest rates, the net worth that businesses may have to borrow these funds, and increases the amount the State Treasurer may invest under the Program to the lesser of \$108.0 million or 25.0% of the balance of the State pooled money funds. The Bill is intended to provide an increase in funds to new and existing small businesses with 50.0% of the funding available for women and minorities.

**Background**

The Program began in 1986 to provide investment in small business in horticulture and alternative crops. The State Treasurer may invest the lesser of \$108.0 million or 10.0% of the balance of the State pooled money funds in certificates of deposit (CD) in eligible financial institutions. The eligible financial institutions lend the invested funds to eligible borrowers. There are currently five loan programs that are eligible under this Program and there are currently 277 loans with a loan balance of approximately \$9.3 million. The current loan balance is distributed among the five programs as follows:

<b>Loan Balances</b>	
(\$ in Millions)	
<u>Programs</u>	<u>03/01/2006</u>
Focused Small Business	\$ 2.4
Horticulture & Alternative Crops	3.3
Rural Small Business Transfer	0.5
Traditional Livestock Producer's	0.0
Value-Added Agriculture	3.1
<b>Total</b>	<b>\$ 9.3</b>

**Assumptions**

1. The State Treasurer's Office estimates that it will take most of FY 2007 to implement the changes to the LIFT Program.
2. The current loans and the current borrowers will be allowed to continue in the LIFT Program should the Bill become effective July 1, 2006.
3. The minimum level on interest rate is 1.0%.

4. The amount of investment is the lesser of \$108.0 million or 25.0% of the balance of the State pooled money funds.
5. The discount to financial institutions is 3.0%.

**Fiscal Impact**

The estimated fiscal impact of House File 2661 can not be determined. The chart below provides a range of LIFT loans and the amount of "Foregone Interest", or interest that the State General Fund would not receive, assuming a deposit by the State Treasurer in a financial institution at a 3.0% discount.

<b>LIFT Loans</b>	<b>Foregone Interest</b>
\$10,000,000	\$300,000
\$20,000,000	\$600,000
\$30,000,000	\$900,000
\$40,000,000	\$1,200,000
\$50,000,000	\$1,500,000
\$60,000,000	\$1,800,000
\$70,000,000	\$2,100,000
\$80,000,000	\$2,400,000
\$90,000,000	\$2,700,000
\$100,000,000	\$3,000,000
\$108,000,000	\$3,240,000

**Source**

State Treasurer

/s/ Holly M. Lyons

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March 14, 2006

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

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HOUSE FILE 2661  
BY COMMITTEE ON ECONOMIC  
GROWTH

(SUCCESSOR TO HSB 641)

(As Amended and Passed by the House March 16, 2006)

Passed House, Date \_\_\_\_\_ Passed Senate, Date 3-28-06  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 50 Nays 0  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the linked investments for tomorrow Act.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Deleted Language \*  
House Amendments \_\_\_\_\_

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

3 12.31 SHORT TITLE.

4 This section and sections 12.32 through ~~12-43B~~ 12.43 shall  
5 be known as the "Linked Investments for Tomorrow Act".

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

8 12.32 DEFINITIONS.

9 As used in section 12.31, this section, and sections ~~12-33~~  
10 12.34 through ~~12-43B~~ 12.43, unless the context otherwise  
11 requires:

12 1. "Eligible borrower" means any person who is ~~in-the~~  
13 ~~business-or-is-entering-the-business-of-producing,-processing,-~~  
14 ~~or-marketing-horticultural-crops-or-nontraditional-crops-in~~  
15 ~~this-state-or-any-person-in-this-state-who-is~~ qualified to  
16 participate in one of the programs in this section and  
17 sections ~~12-33~~ 12.34 through ~~12-43B~~ 12.43. "Eligible  
18 borrower" does not include a person who has been determined to  
19 be delinquent in making child support payments or any other  
20 payments due the state.

21 2. "Eligible lending institution" means a financial  
22 institution that is empowered to make commercial loans and is  
23 eligible pursuant to chapter 12C to be a depository of state  
24 funds.

25 3. "Linked investment" means a certificate of deposit  
26 ~~placed~~ issued pursuant to this section and sections ~~12-33~~  
27 12.34 through ~~12-43B~~ by 12.43 to the treasurer of state ~~with~~  
28 by an eligible lending institution, at an interest rate not  
29 more than three percent below current market rate on the  
30 condition that the institution agrees to lend the value of the  
31 deposit, according to the investment agreement provided in  
32 section 12.35, to an eligible borrower at a rate not to exceed  
33 four percent above the rate paid on the certificate of  
34 deposit. The treasurer of state shall determine and make  
35 available the current market rate which shall be used each

1 month.

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

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

9 12.34 LINKED INVESTMENTS -- LIMITATIONS -- RULES --  
10 MATURITY AND RENEWAL OF CERTIFICATES.

11 1. The treasurer of state may invest up to the lesser of  
12 one hundred eight million dollars or ten twenty-five percent  
13 of the balance of the state pooled money fund in certificates  
14 of deposit in eligible lending institutions as provided in  
15 sections section 12.32 and 12.33, this section, and sections  
16 12.35 through 12.43B 12.43. The moneys invested pursuant to  
17 this section shall be used as follows:

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

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

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

30 (2)--At least twenty million dollars shall be invested in  
31 order to support the value added agricultural linked  
32 investment loan program as provided in section 12.43B. One-  
33 half of the moneys invested pursuant to this section shall be  
34 made available under the program implemented pursuant to  
35 section 12.43 to increase the availability of lower cost

1 moneys for purposes of injecting needed capital into small  
2 businesses which are fifty-one percent or more owned,  
3 operated, and actively managed by one or more women, minority  
4 persons, or persons with disabilities. "Disability" means the  
5 same as defined in section 15.102, subsection 5. A "minority  
6 person" means the same as defined in section 15.102,  
7 subsection 5. The treasurer shall invest the remaining one-  
8 half of the moneys invested pursuant to this section to  
9 support any other eligible applicant as provided in section  
10 12.43.

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

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

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

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

35 ~~b.---For a qualified linked investment, the initial~~

1 ~~certificate-of-deposit-for-a-given-borrower-shall-have-a~~  
2 ~~maturity-of-one-year.---The-certificate-of-deposit-may-be~~  
3 ~~renewed-on-an-annual-basis-for-a-total-term-not-to-exceed~~  
4 ~~three-years.~~ All participants with certificates of deposit  
5 issued prior to July 1, 2006, are subject, for renewal  
6 certificates of deposit, to the requirements and terms  
7 applicable to the certificates of deposit issued prior to July  
8 1, 2006.

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

11 1. An eligible lending institution that desires to receive  
12 a linked investment shall enter into an agreement with the  
13 treasurer of state, which shall include requirements necessary  
14 for the eligible lending institution to comply with sections  
15 12.32 through 12.34, this section, and sections 12.36 through  
16 ~~12.43B~~ 12.43.

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

19 2. Upon acceptance of the linked investment loan package  
20 or any portion of the package, the treasurer of state shall  
21 ~~place-certificates-of~~ deposit funds with the eligible lending  
22 ~~institution at-a-rate-not-more-than-three-percent-below-the~~  
23 ~~current-market-rate~~ and the eligible lending institution shall  
24 issue to the treasurer of state one or more certificates of  
25 deposit with interest at a rate determined pursuant to section  
26 12.32, subsection 3. The treasurer of state shall not ~~place-a~~  
27 ~~certificate-of~~ deposit funds with an eligible lending  
28 institution pursuant to sections 12.32 ~~through,~~ 12.34, 12.35,  
29 this section, and sections 12.37 through ~~12.43B~~ 12.43, unless  
30 the certificate of deposit earns a rate of interest of at  
31 least ~~two~~ one percent. Interest earned on the certificate of  
32 deposit and principal not renewed shall be remitted to the  
33 treasurer of state at the time the certificate of deposit  
34 matures. Interest from the linked investments for tomorrow  
35 program shall be considered earnings of the general fund of

1 the state. Certificates of deposit ~~placed~~ issued pursuant to  
2 sections 12.32 through, 12.34, 12.35, this section, and  
3 sections 12.37 through ~~12.43B~~ 12.43 are not subject to a  
4 penalty for early withdrawal.

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

7 12.38 REPORTS.

8 By February 1 of each year, the treasurer of state shall  
9 report on the linked investments for tomorrow programs for the  
10 preceding calendar year to the governor, the department of  
11 economic development, the speaker of the house of  
12 representatives, and the president of the senate. The speaker  
13 of the house shall transmit copies of this report to the house  
14 co-chair of the joint economic development appropriations  
15 subcommittee and the chairs of the standing committees in the  
16 house which customarily consider legislation regarding  
17 agriculture, and commerce, and economic growth, and the  
18 president of the senate shall transmit copies of this report  
19 to the senate co-chair of the joint economic development  
20 appropriations subcommittee and the chairs of the standing  
21 committees in the senate which customarily consider  
22 legislation regarding agriculture, and commerce, and economic  
23 growth. The report shall set forth the linked investments  
24 made by the treasurer of state under the program during the  
25 year, the total amount deposited, the number of deposits, and  
26 an estimate of foregone interest, and shall include  
27 information regarding the nature, terms, and amounts of the  
28 loans upon which the linked investments were based and the a  
29 listing of eligible borrowers to which the loans were made.

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

32 12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM  
33 CREATED -- DEFINITIONS.

34 The treasurer of state shall adopt rules to implement a  
35 focused small business linked investments program to increase

1 the availability of lower cost funds to inject needed capital  
2 into small businesses owned and operated by women or  
3 minorities in this state by residents of this state, which is  
4 the public policy of the state. The rules shall be in  
5 accordance with the following:

6 1. As used in this section:

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

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

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

16 c. ~~---"Major life activity" is defined as provided in section~~  
17 ~~15.102, subsection 5.~~

18 d. ~~---"Minority person" is defined as provided in section~~  
19 ~~15.102, subsection 5.~~

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

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

35 3. During the lifetime of this loan program, the maximum

1 amount of assistance that an eligible borrower or business may  
2 borrow or receive through this loan program shall be one two  
3 hundred thousand dollars. An eligible borrower or business  
4 under this program shall be limited to one loan from one  
5 financial institution.

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

10 5. In order to qualify under this program, all owners of  
11 the business or borrowers must not have a combined net worth  
12 exceeding five seven hundred fifty thousand dollars as defined  
13 in rules adopted by the treasurer of state pursuant to chapter  
14 17A and the focused small business must meet all of the  
15 following criteria:

16 a. Be a for-profit business.

17 b. Have If an application involves an existing business or  
18 the transfer of an existing business to a new owner, the  
19 business must have annual gross sales of two million dollars  
20 or less at the time the application is submitted under section  
21 12.35.

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

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

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

30 f. If an application involves the transfer of an existing  
31 small business, the transfer must be by purchase, lease-  
32 purchase, or contract of sale. The purchase must be for all  
33 or a portion of the business which is essential to its  
34 continued viability, including land where the business is  
35 located, fixtures attached to the land, machinery, inventory,

1 supplies, equipment, information technology, or licenses,  
2 patents, trademarks, copyrights, or other intellectual  
3 property relied upon by the business, and inventory for sale  
4 by the business.

\* 5 6. Loan proceeds shall not be used to refinance existing  
6 debt, including credit card debt. However, proceeds may be  
7 used to refinance a short-term bridge loan made in  
8 anticipation of the treasurer of state's approval of the  
9 linked investment loan package.

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

14 Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and  
15 15.204, Code 2005, are repealed.

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Lukan, Chr.  
Lalk  
H. Miller

HSB 641  
ECONOMIC GROWTH

ICC    EC  
HOUSE FILE SF 2661  
BY (PROPOSED COMMITTEE ON  
ECONOMIC GROWTH BILL BY  
CHAIRPERSON HOFFMAN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the linked investments for tomorrow Act.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 12.31 SHORT TITLE.

4 This section and sections 12.32 through ~~12-43B~~ 12.43 shall  
5 be known as the "Linked Investments for Tomorrow Act".

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

8 12.32 DEFINITIONS.

9 As used in section 12.31, this section, and sections ~~12-33~~  
10 12.34 through ~~12-43B~~ 12.43, unless the context otherwise  
11 requires:

12 1. "Eligible borrower" means any person who is ~~in-the~~  
13 ~~business-or-is-entering-the-business-of-producing,-processing,~~  
14 ~~or-marketing-horticultural-crops-or-nontraditional-crops-in~~  
15 ~~this-state-or-any-person-in-this-state-who-is~~ qualified to  
16 participate in one of the programs in this section and  
17 sections ~~12-33~~ 12.34 through ~~12-43B~~ 12.43. "Eligible  
18 borrower" does not include a person who has been determined to  
19 be delinquent in making child support payments or any other  
20 payments due the state.

21 2. "Eligible lending institution" means a financial  
22 institution that is empowered to make commercial loans and is  
23 eligible pursuant to chapter 12C to be a depository of state  
24 funds.

25 3. "Linked investment" means a certificate of deposit  
26 ~~placed~~ issued pursuant to this section and sections ~~12-33~~  
27 12.34 through ~~12-43B~~-by 12.43 to the treasurer of state with  
28 by an eligible lending institution, at an interest rate not  
29 ~~more-than-three-percent-below-current-market-rate-on-the~~  
30 ~~condition-that-the-institution-agrees-to-lend-the-value-of-the~~  
31 ~~deposit,-according-to-the-investment-agreement-provided-in~~  
32 ~~section-12-35,-to-an-eligible-borrower-at-a-rate-not-to-exceed~~  
33 ~~four-percent-above-the-rate-paid-on-the-certificate-of~~  
34 ~~deposit.--The-treasurer-of-state-shall-determine-and-make~~  
35 ~~available-the-current-market-rate-which-shall-be-used-each~~

1 month, determined by one of the following:

2 a. When the current market rate, as determined and made  
3 available by the treasurer of state each month, is five  
4 percent per annum or more, the interest rate per annum shall  
5 be up to three percentage points below the current market  
6 rate.

7 b. When the current market rate, as determined and made  
8 available by the treasurer of state each month, is less than  
9 five percent per annum, the interest rate per annum shall be  
10 up to sixty percent below the current market rate.

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

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

18 12.34 LINKED INVESTMENTS -- LIMITATIONS -- RULES --  
19 MATURITY AND RENEWAL OF CERTIFICATES.

20 1. The treasurer of state may invest up to the lesser of  
21 one hundred eight million dollars or ten twenty-five percent  
22 of the balance of the state pooled money fund in certificates  
23 of deposit in eligible lending institutions as provided in  
24 sections section 12.32 and ~~12.33~~, this section, and sections  
25 12.35 through ~~12.43B~~ 12.43. ~~The moneys invested pursuant to~~  
26 ~~this section shall be used as follows:~~

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

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

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

4 ~~{2}--At least twenty million dollars shall be invested in~~  
5 ~~order to support the value added agricultural linked~~  
6 ~~investment loan program as provided in section 12.43B.~~

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

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

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

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

31 b. ~~For a qualified linked investment, the initial~~  
32 ~~certificate of deposit for a given borrower shall have a~~  
33 ~~maturity of one year.--The certificate of deposit may be~~  
34 ~~renewed on an annual basis for a total term not to exceed~~  
35 ~~three years.~~

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

3 1. An eligible lending institution that desires to receive  
4 a linked investment shall enter into an agreement with the  
5 treasurer of state, which shall include requirements necessary  
6 for the eligible lending institution to comply with sections  
7 12.32 through 12.34, this section, and sections 12.36 through  
8 ~~12.43B~~ 12.43.

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

11 2. Upon acceptance of the linked investment loan package  
12 or any portion of the package, the treasurer of state shall  
13 ~~place-certificates-of~~ deposit funds with the eligible lending  
14 institution ~~at-a-rate-not-more-than-three-percent-below-the~~  
15 ~~current-market-rate~~ and the eligible lending institution shall  
16 issue to the treasurer of state one or more certificates of  
17 deposit with interest at a rate determined pursuant to section  
18 12.32, subsection 3. The treasurer of state shall not ~~place-a~~  
19 ~~certificate-of~~ deposit funds with an eligible lending  
20 institution pursuant to sections 12.32 through, 12.34, 12.35,  
21 this section, and sections 12.37 through ~~12.43B~~ 12.43, unless  
22 the certificate of deposit earns a rate of interest of at  
23 least ~~two~~ one percent. Interest earned on the certificate of  
24 deposit and principal not renewed shall be remitted to the  
25 treasurer of state at the time the certificate of deposit  
26 matures. Certificates of deposit ~~placed~~ issued pursuant to  
27 sections 12.32 through, 23.34, 12.35, this section, and  
28 sections 12.37 through ~~12.43B~~ 12.43 are not subject to a  
29 penalty for early withdrawal.

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

32 12.38 REPORTS.

33 By February 1 of each year, the treasurer of state shall  
34 report on the linked investments for tomorrow programs for the  
35 preceding calendar year to the governor, the department of

1 economic development, the speaker of the house of  
2 representatives, and the president of the senate. The speaker  
3 of the house shall transmit copies of this report to the house  
4 co-chair of the joint economic development appropriations  
5 subcommittee and the chairs of the standing committees in the  
6 house which customarily consider legislation regarding  
7 agriculture, and commerce, and economic growth, and the  
8 president of the senate shall transmit copies of this report  
9 to the senate co-chair of the joint economic development  
10 appropriations subcommittee and the chairs of the standing  
11 committees in the senate which customarily consider  
12 legislation regarding agriculture, and commerce, and economic  
13 growth. The report shall set forth the linked investments  
14 made by the treasurer of state under the program during the  
15 year, the total amount deposited, the number of deposits, and  
16 an estimate of foregone interest, and shall include  
17 information regarding the nature, terms, and amounts of the  
18 loans upon which the linked investments were based and the a  
19 listing of eligible borrowers to which the loans were made.

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

22 12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM  
23 ~~CREATED~~ -- DEFINITIONS.

24 The treasurer of state shall adopt rules to implement a  
25 ~~focused~~ small business linked investments program to increase  
26 the availability of lower cost funds to inject needed capital  
27 into small businesses owned and operated ~~by-women-or~~  
28 ~~minorities~~ in this state by residents of this state, which is  
29 the public policy of the state. The rules shall be in  
30 accordance with the following:

31 1. As used in this section, 1

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

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

35 ~~a. A new small business which is fifty-one percent or more~~

1 owned, operated, and actively managed by one or more women,  
2 minority persons, or persons with a disability, provided the  
3 business that meets all the requirements of subsection 5.

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

6 d. -- "Minority person" is defined as provided in section  
7 15.102, subsection 5.

8 b. An existing small business that meets all of the  
9 requirements of subsection 5 where local competition does not  
10 exist in the principal area of business activity of the  
11 existing small business, and the loss of the existing small  
12 business would result in a hardship on the community.

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

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

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

32 5. In order to qualify under this program, all owners of  
33 the business or borrowers must not have a combined net worth  
34 exceeding five seven hundred fifty thousand dollars as defined  
35 in rules adopted by the treasurer of state pursuant to chapter

1 17A and the focused small business must meet all of the  
2 following criteria:

3 a. Be a for-profit business.

4 b. Have annual gross sales of two million dollars or less  
5 at the time the application is submitted under section 12.35.

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

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

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

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

24 g. A borrower and the seller of an existing small business  
25 shall not be within the third degree of consanguinity or  
26 affinity.

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

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

1 Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and  
2 15.204, Code 2005, are repealed.

3 EXPLANATION

4 This bill relates to the linked investments for tomorrow  
5 Act.

6 The bill eliminates the rural small business transfer  
7 linked investment loan program, the horticultural and  
8 nontraditional crops linked investment loan program, the  
9 traditional livestock producer's linked investment loan  
10 program, and the value-added agricultural linked investment  
11 loan program. The bill makes conforming amendments.

12 The bill changes the method for determining the interest of  
13 a certificate of deposit issued under the small business  
14 linked investments program to the treasurer of state by an  
15 eligible lending institution. The bill provides two  
16 possibilities. One possibility is when the current market  
17 rate, as determined and made available by the treasurer of  
18 state each month, is 5 percent per annum or more, the interest  
19 rate per annum shall be up to 3 percentage points below the  
20 current market rate. The second possibility is when the  
21 current market rate, as determined and made available by the  
22 treasurer of state each month, is less than 5 percent per  
23 annum, the interest rate per annum shall be up to 60 percent  
24 below the current market rate. The bill makes conforming  
25 amendments.

26 The bill changes the amount of moneys the treasurer of  
27 state may invest under the linked investments program.  
28 Currently, the treasurer of state may invest up to the lesser  
29 of \$108 million or 10 percent of the balance of the state  
30 pooled money fund. The bill increases the allowable  
31 percentage from 10 percent to 25 percent.

32 The bill provides that a certificate of deposit issued by  
33 an eligible lending institution to the treasurer of state  
34 under the program may be renewed at the option of the  
35 treasurer on an annual basis for a total term not to exceed

1 five years.

2 The bill changes the name of the focused small business  
3 linked investments program to the small business linked  
4 investments program. The bill changes the eligibility  
5 criteria under the program. Currently, the program is  
6 available to new small businesses meeting certain criteria  
7 which is 51 percent or more owned, operated, and actively  
8 managed by one or more women, minority persons, or persons  
9 with a disability. The bill eliminates the requirement  
10 regarding ownership, operation, and active management of the  
11 business. The bill provides that a new or existing small  
12 business is eligible if all owners of the business or  
13 borrowers do not have a combined net worth exceeding \$750,000  
14 and if the business is a for-profit business, has annual gross  
15 sales of \$2 million or less, is not operated out of the home  
16 of any person unless certain criteria are met, does not  
17 involve real estate investments, rental of real estate,  
18 leasing of real estate, or real estate speculation, and  
19 liquor, beer, and wine sales do not exceed 20 percent of  
20 annual sales for certain liquor license holders. The bill  
21 provides that, if an application involves the transfer of an  
22 existing small business, the transfer must be by purchase,  
23 lease-purchase, or contract of sale. The bill provides that a  
24 borrower and the seller of an existing small business shall  
25 not be within the third degree of consanguinity or affinity.  
26 The bill provides an additional requirement for existing small  
27 businesses that local competition does not exist in the  
28 principal area of business activity of the existing small  
29 businesses.

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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~~ 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~~ 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 ~~place a certificate of deposit funds~~ with an eligible lending institution pursuant to sections 12.32 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  
15:1027-subsection-5-

d--"Minority-person"-is-defined-as-provided-in-section  
15:1027-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.

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CHRISTOPHER C. RANTS  
Speaker of the House

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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.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2006

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THOMAS J. VILSACK  
Governor