

Lamberti
Kramer
Hynn

SSB-1267
Appropriations

Succeeded By
SENATE FILE (SF) HF 532
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON LAMBERTI)

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

A BILL FOR

1 An Act relating to matters related to the tobacco settlement
2 including the tobacco settlement authority, the tobacco
3 settlement trust fund, and the tobacco settlement endowment
4 fund, and providing an effective date.

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

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1 Section 1. Section 12.65, Code 2001, is amended to read as
2 follows:

3 12.65 HEALTHY IOWANS TOBACCO SETTLEMENT-ENDOWMENT-FUND
4 TRUST.

5 1. A healthy Iowans tobacco settlement-endowment-fund
6 trust is created in the office of the treasurer of state.
7 ~~After-payment-of-litigation-costs, all moneys paid to the~~
8 ~~state pursuant to the master settlement agreement, as defined~~
9 ~~in section 453E.1, Moneys appropriated to the healthy Iowans~~
10 ~~tobacco trust from the endowment for Iowa's health account of~~
11 ~~the tobacco settlement trust fund established in section~~
12 ~~12E.12 and from any other source shall be deposited in the~~
13 ~~fund healthy Iowans tobacco trust.~~

14 ~~2.---Any moneys paid to the state by the tobacco settlement~~
15 ~~authority pursuant to chapter 12E shall be deposited in the~~
16 ~~fund.---Additionally, the state's share of the moneys which are~~
17 ~~not sold to the tobacco settlement authority pursuant to~~
18 ~~chapter 12E shall be deposited in the fund.~~

19 3. 2. Moneys deposited in the fund healthy Iowans tobacco
20 trust shall be used only in accordance with appropriations
21 from the fund healthy Iowans tobacco trust for purposes
22 related to health care, substance abuse treatment and
23 enforcement, tobacco use prevention and control, and other
24 purposes related to the needs of children, adults, and
25 families in the state.

26 ~~4.---A savings account for healthy Iowans is created within~~
27 ~~the tobacco settlement endowment fund.---Moneys, appropriated~~
28 ~~annually, shall be deposited in the account and shall be~~
29 ~~invested to provide an ongoing source of investment earnings.~~

30 5. 3. Notwithstanding section 8.33, any unexpended balance
31 in the fund healthy Iowans tobacco trust at the end of the
32 fiscal year shall be retained in the fund trust.

33 Notwithstanding section 12C.7, subsection 2, interest or
34 earnings on investments or time deposits of the moneys in the
35 healthy Iowans tobacco settlement-endowment-fund, in the

1 ~~savings-account-for-healthy-Iowans,-and-in-any-other-account~~
2 ~~established-within-the-fund trust~~ shall be credited to the
3 ~~healthy Iowans tobacco settlement-endowment-fund,-to-the~~
4 ~~savings-account-for-healthy-Iowans,-or-to-any-other-account~~
5 ~~established,-respectively trust.~~

6 ~~6.--For-the-purposes-of-this-section,-"litigation-costs"~~
7 ~~are-those-costs-itemized-by-the-attorney-general-and-submitted~~
8 ~~to-and-approved-by-the-attorney-general.~~

9 ~~7-~~ 4. Moneys in the fund healthy Iowans tobacco trust
10 shall be considered part of the general fund of the state for
11 cash flow purposes only, provided any moneys used for cash
12 flow purposes are returned to the fund trust by the close of
13 each fiscal year.

14 Sec. 2. Section 12E.2, Code 2001, is amended by adding the
15 following new subsections:

16 NEW SUBSECTION. 4A. "Healthy Iowans tobacco trust" means
17 the healthy Iowans tobacco trust created in section 12.65.

18 NEW SUBSECTION. 4B. "Interest rate agreement" means an
19 interest rate swap or exchange agreement, an agreement
20 establishing an interest rate floor or ceiling or both, or any
21 similar agreement. Any such agreement may include the option
22 to enter into or cancel the agreement or to reverse or extend
23 the agreement.

24 NEW SUBSECTION. 5A. "Net proceeds" means the amount of
25 proceeds remaining following each sale of bonds which are not
26 required by the authority to establish and fund reserve funds
27 and to pay the costs of issuance and other expenses and fees
28 directly related to the authorization and issuance of bonds.

29 Sec. 3. Section 12E.2, subsections 7, 8, and 10, Code
30 2001, are amended to read as follows:

31 7. "Program plan" means the tobacco settlement program
32 plan established-in-this-chapter dated February 14, 2001,
33 including exhibits to the program plan, submitted by the
34 authority to the legislative council and the executive
35 council, to provide the state with a secure and stable source

1 of funding for the purposes designated by this chapter and
2 section 12.65.

3 8. "Qualified investments" means investments of the
4 authority authorized by pursuant to this chapter.

5 10. "State's share" means all of the ~~state's monetary~~
6 ~~rights and interests, all rights of enforcement, and all~~
7 ~~rights necessary and convenient for enforcement of those~~
8 ~~monetary rights and interests in the master settlement~~
9 agreement following:

10 a. All payments required to be made by tobacco product
11 manufacturers to the state, and the state's rights to receive
12 such payments, under the master settlement agreement.

13 b. To the extent that such amounts have been assigned to
14 the state, all payments of attorney fees required to be made
15 by tobacco product manufacturers under the master settlement
16 agreement, and all rights to receive such attorney fees.

17 Sec. 4. Section 12E.2, Code 2001, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 10A. "Tax-exempt bonds" means bonds
20 issued by the authority that are accompanied by a written
21 opinion of legal counsel to the authority that the bonds are
22 excluded from the gross income of the recipients for federal
23 income tax purposes.

24 NEW SUBSECTION. 10B. "Taxable bonds" means bonds issued
25 by the authority that are not accompanied by a written opinion
26 of legal counsel to the authority that the bonds are excluded
27 from the gross income of the recipients for federal income tax
28 purposes.

29 Sec. 5. Section 12E.2, subsection 11, Code 2001, is
30 amended by striking the subsection.

31 Sec. 6. Section 12E.3, subsection 2, paragraphs a and d,
32 Code 2001, are amended to read as follows:

33 a. To implement and administer the program plan and to
34 establish a stable source of revenue to be used for the
35 purposes designated in this chapter and section 12.65.

1 d. To sell, pledge, or assign, as security or
2 consideration, all or a portion of the state's share sold to
3 the authority pursuant to a sales agreement, to provide for
4 and secure the issuance and repayment of its bonds.

5 Sec. 7. Section 12E.8, subsection 1, paragraphs g and h,
6 Code 2001, are amended to read as follows:

7 g. The power to invest or deposit moneys of or held by the
8 authority in any manner determined by the authority,
9 notwithstanding chapter 12B or 12C.

10 h. The power to procure insurance, other credit
11 enhancements, and other financing arrangements, and to execute
12 instruments and contracts and to enter into agreements
13 convenient or necessary to facilitate financing arrangements
14 of the authority and to fulfill its the purposes of the
15 authority under this chapter, including but not limited to
16 such arrangements, instruments, contracts, and agreements as
17 municipal bond insurance, liquidity facilities, interest rate
18 agreements, and letters of credit.

19 Sec. 8. Section 12E.8, subsection 1, Code 2001, is amended
20 by adding the following new paragraphs:

21 NEW PARAGRAPH. k. The power to acquire, own, hold,
22 administer, and dispose of property.

23 NEW PARAGRAPH. l. The power to determine, in connection
24 with the issuance of bonds, and subject to the sales
25 agreement, the terms and other details of financing, and the
26 method of implementation of the program plan.

27 NEW PARAGRAPH. m. The power to perform any act not
28 inconsistent with federal or state law necessary to carry out
29 the purposes of the authority.

30 Sec. 9. Section 12E.9, subsection 1, Code 2001, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

33 1. a. The governor or the governor's designee shall sell
34 and assign all or a portion of the state's share to the
35 authority pursuant to one or more sales agreements for the

1 purpose of securitization as described in the program plan and
2 as specified in section 12E.10. The attorney general shall
3 assist the governor in the preparation and review of all
4 necessary documentation to effect such a sale as soon as
5 reasonably practicable.

6 b. Any sales agreement shall be consistent with the
7 program plan. The terms and conditions of the sale
8 established in such sales agreement may include but are not
9 limited to any of the following:

10 (1) A requirement that the state enforce, at the sole
11 expense of the authority, the provisions of the master
12 settlement agreement that require payment of the state's share
13 that has been sold to the authority under a sales agreement.

14 (2) A requirement that the state not agree to any
15 amendment of the master settlement agreement that materially
16 and adversely affects the authority's ability to receive the
17 state's share that has been sold to the authority.

18 (3) An agreement that the anticipated use by the state of
19 bond proceeds received pursuant to the sales agreement shall
20 be for capital projects, certain debt service on outstanding
21 obligations that funded capital projects, payment of attorney
22 fees related to the master settlement agreement, and to
23 provide a secure and stable source of funding to the state for
24 purposes designated by this chapter and section 12.65.

25 (4) A statement that the net proceeds from the sale of
26 bonds shall be deposited in the tobacco settlement trust fund
27 established under section 12E.12 and that in no event shall
28 the amounts in the trust fund be available or be applied for
29 payment of bonds or any claim against the authority or any
30 debt or obligation of the authority.

31 (5) A requirement that the net proceeds received by the
32 authority from the sale of any tax-exempt bonds issued to
33 provide funds for capital projects, certain debt service, and
34 attorney fees related to the master settlement agreement be
35 paid by the authority to the state as consideration for the

1 sale of that portion of the state's share, that such net
 2 proceeds be deposited by the state upon receipt in the tax-
 3 exempt bonds proceeds restricted capital funds account of the
 4 tobacco settlement trust fund, and that such proceeds are to
 5 be held by the authority solely for the benefit of the state,
 6 subject to annual appropriation by the state in accordance
 7 with section 12E.10, subsection 1, paragraph "b".

8 (6) A requirement that the net proceeds received by the
 9 authority from the sale of taxable bonds or tax-exempt bonds
 10 issued to provide funds for the purpose specified in section
 11 12.65 be deposited in the endowment for Iowa's health account
 12 of the tobacco settlement trust fund as moneys of the
 13 authority until transferred to the state pursuant to section
 14 12E.12, subsection 1, paragraph "b", subparagraph (2). Each
 15 amount transferred shall be the consideration received by the
 16 state for that portion of the state's share.

17 (7) An agreement that the effective date of the sale is
 18 the date of receipt of the bond proceeds by the authority and
 19 the deposits of the net proceeds of the tax-exempt bonds and
 20 the taxable bonds in the respective account of the tobacco
 21 settlement trust fund.

22 Sec. 10. Section 12E.9, subsection 5, Code 2001, is
 23 amended to read as follows:

24 5. The authority, the treasurer of state, and the attorney
 25 general shall report to the legislative council and the
 26 executive council on or before the date ~~specified-in-the~~
 27 program-plan of the sale, advising them of the accomplishment
 28 of the sale, its terms, and conditions.

29 Sec. 11. Section 12E.10, Code 2001, is amended by striking
 30 the section and inserting in lieu thereof the following:

31 12E.10 TOBACCO SETTLEMENT PROGRAM PLAN.

32 1. a. The authority shall implement the program plan and
 33 shall proceed with a securitization to maximize the
 34 transference of risks associated with the master settlement
 35 agreement. The authority shall issue tax-exempt bonds in an

1 amount that is sufficient to provide net proceeds in an amount
2 of not more than five hundred forty million dollars for
3 deposit in the tax-exempt bonds proceeds restricted capital
4 funds account of the tobacco settlement trust fund, to be used
5 for capital projects, certain debt service on outstanding
6 obligations which funded capital projects, and attorney fees
7 related to the master settlement agreement. The authority may
8 also issue taxable bonds or tax-exempt bonds to provide
9 additional proceeds to be used for the purposes specified in
10 section 12.65.

11 b. It is the expectation of the state that not less than
12 eighty-five percent of the proceeds deposited in the tax-
13 exempt bonds proceeds restricted capital funds account of the
14 tobacco settlement trust fund will be expended within five
15 years from the effective date of the sale, consistent with the
16 requirements of federal law, and that the specific capital
17 projects, debt service, and attorney fees payments shall be
18 determined, annually, through appropriations authorized by a
19 constitutional majority of each house of the general assembly
20 and approved by the governor.

21 2. The authority shall periodically report to the
22 legislative council and the governor regarding implementation
23 of the program plan and shall, prior to any public offering of
24 bonds, submit a report to the legislative council and the
25 governor describing the terms of the proposed bond issue.

26 3. Any amendment to the program plan shall be authorized
27 by a constitutional majority of each house of the general
28 assembly and approved by the governor.

29 4. To the extent that any provision of the program plan is
30 inconsistent with this chapter, the provisions of this chapter
31 shall govern.

32 Sec. 12. Section 12E.11, subsections 1, 4, and 5, Code
33 2001, are amended to read as follows:

34 1. The authority may issue bonds and use, if bonds are
35 issued shall make the proceeds from the bonds ~~for-the-purpose~~

1 of-providing available to the state pursuant to the sales
 2 agreement to fund capital projects, certain debt service on
 3 outstanding obligations that funded capital projects, and
 4 attorney fees related to the master settlement agreement, and
 5 to provide a secure and stable source of funding to the state,
 6 consistent with the purposes of this chapter and section
 7 12.65. In connection with the issuance of bonds and subject
 8 to the terms of the sales agreement, the authority shall
 9 determine the terms and other details of the financing and the
 10 method of implementation of the program plan. Bonds issued
 11 pursuant to this section may be secured by a pledge of all or
 12 a portion of the state's share and any moneys derived from the
 13 state's share, and any other sources available to the
 14 authority with the exception of moneys in the tobacco
 15 settlement trust fund. The authority may also issue refunding
 16 bonds, including advance refunding bonds, for the purpose of
 17 refunding previously issued bonds, and may issue other types
 18 of bonds, debt obligations, and financing arrangements
 19 necessary to fulfill its purposes or the purposes of this
 20 chapter.

21 4. Bonds shall state on their face that they are payable
 22 both as to principal and interest solely out of the assets of
 23 the authority pledged for their purpose and do not constitute
 24 an indebtedness of the state or any political subdivision of
 25 the state; are secured solely by and payable solely from
 26 ~~receipts-under-the-master-settlement-agreement~~ assets of the
 27 authority pledged for such purpose; constitute neither a
 28 general, legal, or moral obligation of the state or any of its
 29 political subdivisions; and that the state has no obligation
 30 or intention to satisfy any deficiency or default of any
 31 payment of the bonds.

32 5. Any amount pledged by the authority to be received
 33 under the master settlement agreement shall be valid and
 34 binding at the time the pledge is made. ~~Receipts~~ Amounts so
 35 pledged and then or thereafter received by the authority shall

1 immediately be subject to the lien of such pledge without any
2 physical delivery thereof or further act. The lien of any
3 such pledge shall be valid and binding as against all parties
4 having claims of any kind against the authority, whether such
5 parties have notice of the lien. Notwithstanding any other
6 provision to the contrary, the resolution of the authority or
7 any other instrument by which a pledge is created need not be
8 recorded or filed to perfect such pledge.

9 Sec. 13. Section 12E.11, subsection 7, paragraph c, Code
10 2001, is amended to read as follows:

11 c. The bonds shall be subject to the terms, conditions,
12 and covenants providing for the payment of the principal,
13 redemption premiums, if any, interest which may be fixed or
14 variable during any period the bonds are outstanding, and
15 other terms, conditions, covenants, and protective provisions
16 safeguarding payment, not inconsistent with this chapter and
17 as determined by resolution of the board authorizing their
18 issuance.

19 Sec. 14. Section 12E.11, Code 2001, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 11. The state reserves the right at any
22 time to alter, amend, repeal, or otherwise change the
23 structure, organization, programs, or activities of the
24 authority, including the power to terminate the authority,
25 except that a law shall not be enacted that impairs any
26 obligation made pursuant to a sales agreement or any contract
27 entered into by the authority with or on behalf of the holders
28 of the bonds to the extent that any such law would contravene
29 Article I, section 21, of the Constitution of the State of
30 Iowa or Article I, section 10, of the Constitution of the
31 United States.

32 Sec. 15. Section 12E.12, subsection 1, Code 2001, is
33 amended to read as follows:

34 1. a. A tobacco settlement trust fund is established,
35 separate and apart from all other public moneys or funds of

1 the state, under the control of the authority. The fund shall
 2 consist of moneys paid to the authority and not pledged to the
 3 payment of bonds or otherwise obligated. Such moneys shall
 4 include but are not limited to payments received from the
 5 master settlement agreement which are not pledged to the
 6 payment of bonds or which are subsequently released from a
 7 pledge to the payment of any bonds; payments which, in
 8 accordance with any sales agreement with the state, are to be
 9 paid to the state and not pledged to the bonds, including that
 10 portion of the proceeds of any bonds designated for purchase
 11 of all or a portion of the state's share, which are designated
 12 for deposit in the fund, together with all interest,
 13 dividends, and rents on the bonds; and all securities or
 14 investment income and other assets acquired by and through the
 15 use of the moneys belonging to the fund and any other moneys
 16 deposited in the fund. Moneys in the fund are to be used
 17 solely and only for the payment of all amounts due and to
 18 become due to the state, and shall not be used for any other
 19 purpose. Such moneys shall not be available for the payment
 20 of any claim against the authority or any debt or obligation
 21 of the authority.

22 b. The fund shall consist of the following accounts:

23 (1) The tax-exempt bonds proceeds restricted capital funds
 24 account. The net proceeds of tax-exempt bonds issued to
 25 provide funds for capital projects, certain debt service, and
 26 attorney fees related to the master settlement agreement which
 27 the state treasurer is authorized and directed to deposit on
 28 behalf of the state, shall be deposited in the account and
 29 shall be used to fund capital projects, certain debt service,
 30 and the payment of attorney fees related to the master
 31 settlement agreement.

32 (2) The endowment for Iowa's health account. The net
 33 proceeds of the taxable bonds or tax-exempt bonds issued to
 34 provide funds for the purposes specified in section 12.65
 35 which the authority is directed to deposit in the account, any

1 portion of the state's share which is not sold to the
2 authority, and any other moneys appropriated by the state for
3 deposit in the account shall be deposited in the account and
4 shall be used for the purposes specified in section 12.65.

5 (a) There is transferred from the endowment for Iowa's
6 health account of the tobacco settlement trust fund to the
7 healthy Iowans tobacco trust for the fiscal year beginning
8 July 1, 2001, and ending June 30, 2002, the amount of fifty-
9 five million dollars, to be used for the purposes specified in
10 section 12.65.

11 (b) For each fiscal year beginning July 1, 2002, and
12 annually thereafter, there is transferred from the endowment
13 for Iowa's health account of the tobacco settlement trust fund
14 to the healthy Iowans tobacco trust fifty-five million dollars
15 plus an inflationary factor of one and one-half percent of the
16 amount transferred in the previous fiscal year. Any transfer
17 in an amount not in accordance with this subparagraph shall
18 not be made unless authorized by a three-fifths majority of
19 each house and approved by the governor.

20 Sec. 16. Section 12E.12, subsection 3, Code 2001, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. e. If consistent with the investment
23 policy established by the board, the authority may invest
24 moneys of or held by the authority in structured notes and
25 investment agreements, the repayment of the principal amount
26 of which is protected or guaranteed.

27 Sec. 17. Section 12E.17, Code 2001, is amended to read as
28 follows:

29 12E.17 DISSOLUTION OF THE AUTHORITY.

30 The authority shall dissolve no later than two years from
31 the date of final payment of all outstanding bonds and the
32 satisfaction of all outstanding obligations of the authority,
33 except to the extent necessary to remain in existence to
34 fulfill any outstanding covenants or provisions with
35 bondholders or third parties made in accordance with this

1 chapter. Upon dissolution of the authority, all assets of the
 2 authority shall be returned to the state and shall be
 3 deposited in the healthy Iowans tobacco settlement-endowment
 4 fund trust, unless otherwise directed by the general assembly,
 5 and the authority shall execute any necessary assignments or
 6 instruments, including any assignment of any right, title, or
 7 ownership to the state for receipt of payments under the
 8 master settlement agreement.

9 Sec. 18. 2000 Iowa Acts, chapter 1208, section 24, as
 10 amended by 2001 Iowa Acts, Senate File 258, section 1, is
 11 repealed.

12 Sec. 19. EFFECTIVE DATE -- DEPOSIT OF FUNDS. Until the
 13 effective date of the sale as provided in section 12E.9, the
 14 state's share shall be deposited in the healthy Iowans tobacco
 15 trust created in section 12.65. Upon the effective date of
 16 the sale, the state's share shall be transferred or deposited
 17 in accordance with any sales agreement and chapter 12E.

18 Sec. 20. EFFECTIVE DATE. This Act, being deemed of
 19 immediate importance, takes effect upon enactment.

20 EXPLANATION

21 This bill amends Code chapter 12E, relating to the tobacco
 22 settlement authority, to provide for implementation of the
 23 program plan submitted by the tobacco settlement authority to
 24 the legislative council and the executive council to provide a
 25 secure and stable source of funding for the purposes
 26 designated in Code section 12.65 (the tobacco settlement
 27 endowment fund) amended in the bill to be renamed the healthy
 28 Iowans tobacco trust. The program plan to be implemented
 29 provides for securitization of the portion of the state's
 30 share of the tobacco master settlement agreement sold to the
 31 tobacco settlement authority. The bill directs the authority
 32 to sell tax-exempt bonds in specified amounts to be used for
 33 capital projects, certain debt service, and payment of
 34 attorney fees related to the master settlement agreement. The
 35 bill also authorizes the authority to issue taxable bonds or

1 tax-exempt bonds to provide additional proceeds to be used for
2 the purposes specified in Code section 12.65.

3 The bill provides that the state reserves the right to
4 alter, amend, repeal, or otherwise change the structure,
5 organization, programs, or activities of the authority, except
6 that no law is to be enacted that impairs any obligation made
7 under a sales agreement or contract which would contravene
8 constitutional provisions.

9 The bill amends the section of Code chapter 12E relating to
10 the tobacco settlement trust fund to provide for two separate
11 accounts within the fund. The net proceeds of the tax-exempt
12 bonds are to be deposited in the tax-exempt bonds proceeds
13 restricted capital funds account to be used to fund capital
14 projects, certain debt service, and payment of attorney fees
15 related to the master settlement agreement. The net proceeds
16 of the taxable bonds, any portion of the state's share which
17 is not sold to the authority, and any other moneys
18 appropriated by the state for deposit in the account are to be
19 deposited in the endowment for Iowa's health account.

20 The bill provides for a transfer of \$55 million from the
21 endowment for Iowa's health account to the healthy Iowans
22 tobacco trust created in Code section 12.65, for the fiscal
23 year beginning July 1, 2001, and ending June 30, 2002. For
24 the fiscal year beginning July 1, 2002, and annually
25 thereafter, a transfer of \$55 million plus an inflationary
26 factor of 1 1/2 percent of the amount transferred in the
27 previous year is required to be transferred from the endowment
28 for Iowa's health account to the healthy Iowans tobacco trust
29 created in Code section 12.65.

30 The bill also amends Code section 12.65 to rename the
31 "tobacco settlement endowment fund" the "healthy Iowans
32 tobacco trust". Moneys appropriated from the endowment for
33 Iowa's health account and from any other source are to be
34 deposited in the trust to be used in accordance with
35 appropriations made from the trust for purposes related to

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1 health care, substance abuse treatment and enforcement,
2 tobacco use prevention and control, and other purposes related
3 to the needs of children, adults, and families in the state.
4 The bill eliminates the savings account for healthy Iowans
5 within the trust.

6 The bill provides that until the sale of the portion of the
7 state's share is effective, the state's share is to be
8 deposited in the healthy Iowans tobacco trust created in Code
9 section 12.65. Upon the effective date of the sale, the
10 state's share is to be transferred or deposited in accordance
11 with the sales agreement and Code chapter 12E.

12 The bill takes effect upon enactment.

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REPRINTED

FILED APR 19 2001

SENATE FILE 532
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SSB 1267)

Passed Senate, Date ^(P. 1233) 4-20-01 Passed House, Date ^(P. 1610) 4/27/01
Vote: Ayes 41 Nays 1 Vote: Ayes 94 Nays 0
Approved 5/29/01
Re Passed 4-30-01
Vote 47-3

A BILL FOR

1 An Act relating to matters related to the tobacco settlement
2 including the tobacco settlement authority, the tobacco
3 settlement trust fund, and the tobacco settlement endowment
4 fund, and providing an effective date.

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

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SF 532

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4 TRUST.

5 1. A healthy Iowans tobacco settlement-endowment-fund
6 trust is created in the office of the treasurer of state.
7 ~~After-payment-of-litigation-costs, all moneys paid to the~~
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9 ~~in section 453E.1, Moneys transferred to the healthy Iowans~~
10 ~~tobacco trust from the endowment for Iowa's health account of~~
11 ~~the tobacco settlement trust fund established in section~~
12 ~~12E.12 and appropriated or transferred from any other source~~
13 shall be deposited in the fund healthy Iowans tobacco trust.

14 ~~2. Any moneys paid to the state by the tobacco settlement~~
15 ~~authority pursuant to chapter 12E shall be deposited in the~~
16 ~~fund. Additionally, the state's share of the moneys which are~~
17 ~~not sold to the tobacco settlement authority pursuant to~~
18 ~~chapter 12E shall be deposited in the fund.~~

19 3. 2. Moneys deposited in the fund healthy Iowans tobacco
20 trust shall be used only in accordance with appropriations
21 from the fund healthy Iowans tobacco trust for purposes
22 related to health care, substance abuse treatment and
23 enforcement, tobacco use prevention and control, and other
24 purposes related to the needs of children, adults, and
25 families in the state.

26 ~~4. A savings account for healthy Iowans is created within~~
27 ~~the tobacco settlement endowment fund. Moneys, appropriated~~
28 ~~annually, shall be deposited in the account and shall be~~
29 ~~invested to provide an ongoing source of investment earnings.~~

30 5. 3. Notwithstanding section 8.33, any unexpended balance
31 in the fund healthy Iowans tobacco trust at the end of the
32 fiscal year shall be retained in the fund trust.

33 Notwithstanding section 12C.7, subsection 2, interest or
34 earnings on investments or time deposits of the moneys in the
35 healthy Iowans tobacco settlement-endowment-fund, in the

~~1 savings-account-for-healthy-Iowans, and-in-any-other-account
2 established-within-the-fund trust shall be credited to the
3 healthy Iowans tobacco settlement-endowment-fund, to-the
4 savings-account-for-healthy-Iowans, or-to-any-other-account
5 established, respectively trust.~~

~~6 6.---For-the-purposes-of-this-section, "litigation-costs"
7 are-those-costs-itemized-by-the-attorney-general-and-submitted
8 to-and-approved-by-the-attorney-general.~~

9 7: 4. Moneys in the fund healthy Iowans tobacco trust
10 shall be considered part of the general fund of the state for
11 cash flow purposes only, provided any moneys used for cash
12 flow purposes are returned to the fund trust by the close of
13 each fiscal year.

14 Sec. 2. Section 12E.2, Code 2001, is amended by adding the
15 following new subsections:

16 NEW SUBSECTION. 4A. "Healthy Iowans tobacco trust" means
17 the healthy Iowans tobacco trust created in section 12.65.

18 NEW SUBSECTION. 4B. "Interest rate agreement" means an
19 interest rate swap or exchange agreement, an agreement
20 establishing an interest rate floor or ceiling or both, or any
21 similar agreement. Any such agreement may include the option
22 to enter into or cancel the agreement or to reverse or extend
23 the agreement.

24 NEW SUBSECTION. 5A. "Net proceeds" means the amount of
25 proceeds remaining following each sale of bonds which are not
26 required by the authority to establish and fund reserve funds
27 and to pay the costs of issuance and other expenses and fees
28 directly related to the authorization and issuance of bonds.

29 Sec. 3. Section 12E.2, subsections 7, 8, and 10, Code
30 2001, are amended to read as follows:

31 7. "Program plan" means the tobacco settlement program
32 plan established-in-this-chapter dated February 14, 2001,
33 including exhibits to the program plan, submitted by the
34 authority to the legislative council and the executive
35 council, to provide the state with a secure and stable source

1 of funding for the purposes designated by this chapter and
2 section 12.65.

3 8. "Qualified investments" means investments of the
4 authority authorized by pursuant to this chapter.

5 10. "State's share" means all of the ~~state's monetary~~
6 ~~rights and interests, all rights of enforcement, and all~~
7 ~~rights necessary and convenient for enforcement of those~~
8 ~~monetary rights and interests in the master settlement~~
9 agreement following:

10 a. All payments required to be made by tobacco product
11 manufacturers to the state, and the state's rights to receive
12 such payments, under the master settlement agreement.

13 b. To the extent that such amounts have been assigned to
14 the state, all payments of attorney fees required to be made
15 by tobacco product manufacturers under the master settlement
16 agreement, and all rights to receive such attorney fees.

17 Sec. 4. Section 12E.2, Code 2001, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 10A. "Tax-exempt bonds" means bonds
20 issued by the authority that are accompanied by a written
21 opinion of legal counsel to the authority that the bonds are
22 excluded from the gross income of the recipients for federal
23 income tax purposes.

24 NEW SUBSECTION. 10B. "Taxable bonds" means bonds issued
25 by the authority that are not accompanied by a written opinion
26 of legal counsel to the authority that the bonds are excluded
27 from the gross income of the recipients for federal income tax
28 purposes.

29 Sec. 5. Section 12E.2, subsection 11, Code 2001, is
30 amended by striking the subsection.

31 Sec. 6. Section 12E.3, subsection 2, paragraphs a and d,
32 Code 2001, are amended to read as follows:

33 a. To implement and administer the program plan and to
34 establish a stable source of revenue to be used for the
35 purposes designated in this chapter and section 12.65.

1 d. To sell, pledge, or assign, as security or
2 consideration, all or a portion of the state's share sold to
3 the authority pursuant to a sales agreement, to provide for
4 and secure the issuance and repayment of its bonds.

5 Sec. 7. Section 12E.8, subsection 1, paragraphs g and h,
6 Code 2001, are amended to read as follows:

7 g. The power to invest or deposit moneys of or held by the
8 authority in any manner determined by the authority,
9 notwithstanding chapter 12B or 12C.

10 h. The power to procure insurance, other credit
11 enhancements, and other financing arrangements, and to execute
12 instruments and contracts and to enter into agreements
13 convenient or necessary to facilitate financing arrangements
14 of the authority and to fulfill its the purposes of the
15 authority under this chapter, including but not limited to
16 such arrangements, instruments, contracts, and agreements as
17 municipal bond insurance, liquidity facilities, interest rate
18 agreements, and letters of credit.

19 Sec. 8. Section 12E.8, subsection 1, Code 2001, is amended
20 by adding the following new paragraphs:

21 NEW PARAGRAPH. k. The power to acquire, own, hold,
22 administer, and dispose of property.

23 NEW PARAGRAPH. l. The power to determine, in connection
24 with the issuance of bonds, and subject to the sales
25 agreement, the terms and other details of financing, and the
26 method of implementation of the program plan.

27 NEW PARAGRAPH. m. The power to perform any act not
28 inconsistent with federal or state law necessary to carry out
29 the purposes of the authority.

30 Sec. 9. Section 12E.9, subsection 1, Code 2001, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

33 1. a. The governor or the governor's designee shall sell
34 and assign all or a portion of the state's share to the
35 authority pursuant to one or more sales agreements for the

1 purpose of securitization as described in the program plan and
2 as specified in section 12E.10. The attorney general shall
3 assist the governor in the preparation and review of all
4 necessary documentation to effect such a sale as soon as
5 reasonably practicable.

6 b. Any sales agreement shall be consistent with the
7 program plan and this chapter. The terms and conditions of
8 the sale established in such sales agreement may include but
9 are not limited to any of the following:

10 (1) A requirement that the state enforce, at the sole
11 expense of the authority, the provisions of the master
12 settlement agreement that require payment of the state's share
13 that has been sold to the authority under a sales agreement.

14 (2) A requirement that the state not agree to any
15 amendment of the master settlement agreement that materially
16 and adversely affects the authority's ability to receive the
17 state's share that has been sold to the authority.

18 (3) An agreement that the anticipated use by the state of
19 bond proceeds received pursuant to the sales agreement shall
20 be for capital projects, certain debt service on outstanding
21 obligations that funded capital projects, payment of attorney
22 fees related to the master settlement agreement, and to
23 provide a secure and stable source of funding to the state for
24 purposes designated by this chapter and section 12.65.

25 (4) A statement that the net proceeds from the sale of
26 bonds shall be deposited in the tobacco settlement trust fund
27 established under section 12E.12 and that in no event shall
28 the amounts in the trust fund be available or be applied for
29 payment of bonds or any claim against the authority or any
30 debt or obligation of the authority.

31 (5) A requirement that the net proceeds received by the
32 authority from the sale of any tax-exempt bonds issued to
33 provide funds for capital projects, certain debt service, and
34 attorney fees related to the master settlement agreement be
35 paid by the authority to the state as consideration for the

1 sale of that portion of the state's share, that such net
2 proceeds be deposited by the state upon receipt in the tax-
3 exempt bond proceeds restricted capital funds account of the
4 tobacco settlement trust fund, and that such proceeds are to
5 be held by the authority solely for the benefit of the state,
6 subject to annual appropriation by the state in accordance
7 with section 12E.10, subsection 1, paragraph "b".

8 (6) A requirement that the net proceeds received by the
9 authority from the sale of taxable bonds or tax-exempt bonds
10 issued to provide funds for the purposes specified in section
11 12.65 be deposited in the endowment for Iowa's health account
12 of the tobacco settlement trust fund as moneys of the
13 authority until transferred to the state pursuant to section
14 12E.12, subsection 1, paragraph "b", subparagraph (2). Each
15 amount transferred shall be the consideration received by the
16 state for that portion of the state's share.

17 (7) An agreement that the effective date of the sale is
18 the date of receipt of the bond proceeds by the authority and
19 the deposits of the net proceeds of the tax-exempt bonds and
20 any taxable bonds in the respective accounts of the tobacco
21 settlement trust fund.

22 Sec. 10. Section 12E.9, subsection 5, Code 2001, is
23 amended to read as follows:

24 5. The authority, the treasurer of state, and the attorney
25 general shall report to the legislative council and the
26 executive council on or before the date ~~specified in the~~
27 program-plan of the sale, advising them of the ~~accomplishment~~
28 status of the sale, its terms, and conditions.

29 Sec. 11. Section 12E.10, Code 2001, is amended by striking
30 the section and inserting in lieu thereof the following:

31 12E.10 TOBACCO SETTLEMENT PROGRAM PLAN.

32 1. a. The authority shall implement the program plan and
33 shall proceed with a securitization to maximize the
34 transference of risks associated with the master settlement
35 agreement. The authority shall issue tax-exempt bonds in an

1 amount that is sufficient to provide net proceeds in an amount
2 of not more than five hundred forty million dollars for
3 deposit in the tax-exempt bond proceeds restricted capital
4 funds account of the tobacco settlement trust fund, to be used
5 for capital projects, certain debt service on outstanding
6 obligations which funded capital projects, and attorney fees
7 related to the master settlement agreement. The authority may
8 also issue taxable bonds or tax-exempt bonds to provide
9 additional amounts to be used for the purposes specified in
10 section 12.65.

11 b. It is the expectation of the state that not less than
12 eighty-five percent of the proceeds deposited in the tax-
13 exempt bond proceeds restricted capital funds account of the
14 tobacco settlement trust fund will be expended within five
15 years from the effective date of the sale, consistent with the
16 requirements of federal law, and that the specific capital
17 projects, debt service, and attorney fees payments shall be
18 determined, annually, through appropriations authorized by a
19 constitutional majority of each house of the general assembly
20 and approved by the governor.

21 2. The authority shall periodically report to the
22 legislative council and the governor regarding implementation
23 of the program plan and shall, prior to any public offering of
24 bonds, submit a report to the legislative council and the
25 governor describing the terms of the proposed bond issue.

26 3. Any amendment to the program plan shall be authorized
27 by a constitutional majority of each house of the general
28 assembly and approved by the governor.

29 4. To the extent that any provision of the program plan is
30 inconsistent with this chapter, the provisions of this chapter
31 shall govern.

32 Sec. 12. Section 12E.11, subsections 1, 4, and 5, Code
33 2001, are amended to read as follows:

34 1. The authority may issue bonds and use, if bonds are
35 issued, shall make the proceeds from the bonds ~~for-the-purpose~~

1 of-providing available to the state pursuant to the sales
2 agreement to fund capital projects, certain debt service on
3 outstanding obligations that funded capital projects, and
4 attorney fees related to the master settlement agreement, and
5 to provide a secure and stable source of funding to the state,
6 consistent with the purposes of this chapter and section
7 12.65. In connection with the issuance of bonds and subject
8 to the terms of the sales agreement, the authority shall
9 determine the terms and other details of the financing and the
10 method of implementation of the program plan. Bonds issued
11 pursuant to this section may be secured by a pledge of all or
12 a portion of the state's share and any moneys derived from the
13 state's share, and any other sources available to the
14 authority with the exception of moneys in the tobacco
15 settlement trust fund. The authority may also issue refunding
16 bonds, including advance refunding bonds, for the purpose of
17 refunding previously issued bonds, and may issue other types
18 of bonds, debt obligations, and financing arrangements
19 necessary to fulfill its purposes or the purposes of this
20 chapter.

21 4. Bonds shall state on their face that they are payable
22 both as to principal and interest solely out of the assets of
23 the authority pledged for their purpose and do not constitute
24 an indebtedness of the state or any political subdivision of
25 the state; are secured solely by and payable solely from
26 ~~receipts-under-the-master-settlement-agreement~~ assets of the
27 authority pledged for such purpose; constitute neither a
28 general, legal, or moral obligation of the state or any of its
29 political subdivisions; and that the state has no obligation
30 or intention to satisfy any deficiency or default of any
31 payment of the bonds.

32 5. Any amount pledged by the authority to be received
33 under the master settlement agreement shall be valid and
34 binding at the time the pledge is made. ~~Receipts~~ Amounts so
35 pledged and then or thereafter received by the authority shall

1 immediately be subject to the lien of such pledge without any
2 physical delivery thereof or further act. The lien of any
3 such pledge shall be valid and binding as against all parties
4 having claims of any kind against the authority, whether such
5 parties have notice of the lien. Notwithstanding any other
6 provision to the contrary, the resolution of the authority or
7 any other instrument by which a pledge is created need not be
8 recorded or filed to perfect such pledge.

9 Sec. 13. Section 12E.11, subsection 7, paragraph c, Code
10 2001, is amended to read as follows:

11 c. The bonds shall be subject to the terms, conditions,
12 and covenants providing for the payment of the principal,
13 redemption premiums, if any, interest which may be fixed or
14 variable during any period the bonds are outstanding, and
15 other terms, conditions, covenants, and protective provisions
16 safeguarding payment, not inconsistent with this chapter and
17 as determined by resolution of the board authorizing their
18 issuance.

19 Sec. 14. Section 12E.11, Code 2001, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 11. The state reserves the right at any
22 time to alter, amend, repeal, or otherwise change the
23 structure, organization, programs, or activities of the
24 authority, including the power to terminate the authority,
25 except that a law shall not be enacted that impairs any
26 obligation made pursuant to a sales agreement or any contract
27 entered into by the authority with or on behalf of the holders
28 of the bonds to the extent that any such law would contravene
29 Article I, section 21, of the Constitution of the State of
30 Iowa or Article I, section 10, of the Constitution of the
31 United States.

32 Sec. 15. Section 12E.12, subsection 1, Code 2001, is
33 amended to read as follows:

34 1. a. A tobacco settlement trust fund is established,
35 separate and apart from all other public moneys or funds of

1 the state, under the control of the authority. The fund shall
2 consist of moneys paid to the authority and not pledged to the
3 payment of bonds or otherwise obligated. Such moneys shall
4 include but are not limited to payments received from the
5 master settlement agreement which are not pledged to the
6 payment of bonds or which are subsequently released from a
7 pledge to the payment of any bonds; payments which, in
8 accordance with any sales agreement with the state, are to be
9 paid to the state and not pledged to the bonds, including that
10 portion of the proceeds of any bonds designated for purchase
11 of all or a portion of the state's share, which are designated
12 for deposit in the fund, together with all interest,
13 dividends, and rents on the bonds; and all securities or
14 investment income and other assets acquired by and through the
15 use of the moneys belonging to the fund and any other moneys
16 deposited in the fund. Moneys in the fund are to be used
17 solely and only for the payment of all amounts due and to
18 become due to the state, and shall not be used for any other
19 purpose. Such moneys shall not be available for the payment
20 of any claim against the authority or any debt or obligation
21 of the authority.

22 b. The fund shall consist of the following accounts:

23 (1) The tax-exempt bond proceeds restricted capital funds
24 account. The net proceeds of tax-exempt bonds issued to
25 provide funds for capital projects, certain debt service, and
26 attorney fees related to the master settlement agreement which
27 the state treasurer is authorized and directed to deposit on
28 behalf of the state, shall be deposited in the account and
29 shall be used to fund capital projects, certain debt service,
30 and the payment of attorney fees related to the master
31 settlement agreement.

32 (2) The endowment for Iowa's health account. The net
33 proceeds of any taxable bonds or tax-exempt bonds issued to
34 provide funds for the purposes specified in section 12.65
35 which the authority is directed to deposit in the account, any

1 portion of the state's share which is not sold to the
2 authority, and any other moneys appropriated by the state for
3 deposit in the account shall be deposited in the account and
4 shall be used for the purposes specified in section 12.65.

5 (a) There is transferred from the endowment for Iowa's
6 health account of the tobacco settlement trust fund to the
7 healthy Iowans tobacco trust for the fiscal year beginning
8 July 1, 2001, and ending June 30, 2002, the amount of fifty-
9 five million dollars, to be used for the purposes specified in
10 section 12.65.

11 (b) For each fiscal year beginning July 1, 2002, and
12 annually thereafter, there is transferred from the endowment
13 for Iowa's health account of the tobacco settlement trust fund
14 to the healthy Iowans tobacco trust fifty-five million dollars
15 plus an inflationary factor of one and one-half percent of the
16 amount transferred in the previous fiscal year. Any transfer
17 in an amount not in accordance with this subparagraph shall
18 not be made unless authorized by a three-fifths majority of
19 each house and approved by the governor.

20 Sec. 16. Section 12E.12, subsection 3, Code 2001, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. e. If consistent with the investment
23 policy established by the board, the authority may invest
24 moneys of or held by the authority in structured notes and
25 investment agreements, the repayment of the principal amount
26 of which is protected or guaranteed.

27 Sec. 17. Section 12E.13, subsection 5, Code 2001, is
28 amended to read as follows:

29 5. All moneys of the authority or moneys held by the
30 authority shall be invested and held in the name of the
31 authority, whether they are held for the benefit, security, or
32 future payment to holders of bonds or to the state. All such
33 moneys and investments shall be considered moneys and
34 investments of the authority with the exception of moneys in
35 the tax-exempt bond proceeds restricted capital funds account

1 of the tobacco settlement trust fund which are moneys of the
2 state.

3 Sec. 18. Section 12E.17, Code 2001, is amended to read as
4 follows:

5 12E.17 DISSOLUTION OF THE AUTHORITY.

6 The authority shall dissolve no later than two years from
7 the date of final payment of all outstanding bonds and the
8 satisfaction of all outstanding obligations of the authority,
9 except to the extent necessary to remain in existence to
10 fulfill any outstanding covenants or provisions with
11 bondholders or third parties made in accordance with this
12 chapter. Upon dissolution of the authority, all assets of the
13 authority shall be returned to the state and shall be
14 deposited in the healthy Iowans tobacco settlement-endowment
15 fund trust, unless otherwise directed by the general assembly,
16 and the authority shall execute any necessary assignments or
17 instruments, including any assignment of any right, title, or
18 ownership to the state for receipt of payments under the
19 master settlement agreement.

20 Sec. 19. 2000 Iowa Acts, chapter 1208, section 24, as
21 amended by 2001 Iowa Acts, Senate File 258, section 1, is
22 repealed.

23 Sec. 20. EFFECTIVE DATE -- DEPOSIT OF FUNDS. Until the
24 effective date of the sale as provided in section 12E.9, the
25 state's share shall be deposited in the healthy Iowans tobacco
26 trust created in section 12.65. Upon the effective date of
27 the sale, the state's share shall be transferred or deposited
28 in accordance with any sales agreement and chapter 12E.

29 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

31 EXPLANATION

32 This bill amends Code chapter 12E, relating to the tobacco
33 settlement authority, to provide for implementation of the
34 program plan submitted by the tobacco settlement authority to
35 the legislative council and the executive council to provide a

1 secure and stable source of funding for the purposes
2 designated in Code section 12.65 (the tobacco settlement
3 endowment fund) amended in the bill to be renamed the healthy
4 Iowans tobacco trust. The program plan to be implemented
5 provides for securitization of the portion of the state's
6 share of the tobacco master settlement agreement sold to the
7 tobacco settlement authority. The bill directs the authority
8 to sell tax-exempt bonds in specified amounts to be used for
9 capital projects, certain debt service, and payment of
10 attorney fees related to the master settlement agreement. The
11 bill also authorizes the authority to issue taxable bonds or
12 tax-exempt bonds to provide additional proceeds to be used for
13 the purposes specified in Code section 12.65.

14 The bill provides that the state reserves the right to
15 alter, amend, repeal, or otherwise change the structure,
16 organization, programs, or activities of the authority, except
17 that no law is to be enacted that impairs any obligation made
18 under a sales agreement or contract which would contravene
19 constitutional provisions.

20 The bill amends the section of Code chapter 12E relating to
21 the tobacco settlement trust fund to provide for two separate
22 accounts within the fund. The net proceeds of the tax-exempt
23 bonds are to be deposited in the tax-exempt bond proceeds
24 restricted capital funds account to be used to fund capital
25 projects, certain debt service, and payment of attorney fees
26 related to the master settlement agreement. The net proceeds
27 of any taxable bonds or tax exempt bonds issued to provide
28 funds for the purposes specified in section 12.65, any portion
29 of the state's share which is not sold to the authority, and
30 any other moneys appropriated by the state for deposit in the
31 account are to be deposited in the endowment for Iowa's health
32 account.

33 The bill provides for a transfer of \$55 million from the
34 endowment for Iowa's health account to the healthy Iowans
35 tobacco trust created in Code section 12.65, for the fiscal

1 year beginning July 1, 2001, and ending June 30, 2002. For
2 the fiscal year beginning July 1, 2002, and annually
3 thereafter, a transfer of \$55 million plus an inflationary
4 factor of 1 1/2 percent of the amount transferred in the
5 previous year is required to be transferred from the endowment
6 for Iowa's health account to the healthy Iowans tobacco trust
7 created in Code section 12.65.

8 The bill also amends Code section 12.65 to rename the
9 "tobacco settlement endowment fund" the "healthy Iowans
10 tobacco trust". Moneys transferred from the endowment for
11 Iowa's health account and appropriated or transferred from any
12 other source are to be deposited in the trust to be used in
13 accordance with appropriations made from the trust for
14 purposes related to health care, substance abuse treatment and
15 enforcement, tobacco use prevention and control, and other
16 purposes related to the needs of children, adults, and
17 families in the state. The bill eliminates the savings
18 account for healthy Iowans within the trust.

19 The bill provides that until the sale of the portion of the
20 state's share is effective, the state's share is to be
21 deposited in the healthy Iowans tobacco trust created in Code
22 section 12.65. Upon the effective date of the sale, the
23 state's share is to be transferred or deposited in accordance
24 with the sales agreement and Code chapter 12E.

25 The bill takes effect upon enactment.

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S-3419

1 Amend Senate File 532 as follows:

2 1. Page 6, line 32, by inserting after the letter
3 "a." the following: "(1)".

4 2. Page 6, by striking line 35, and inserting the
5 following: "agreement."

6 3. Page 7, by inserting before line 1, the
7 following:

8 "(2) The authority shall issue tax-exempt bonds in
9 an".

10 4. Page 7, by striking line 7, and inserting the
11 following: "related to the master settlement
12 agreement."

13 5. Page 7, line 8, by inserting before the word
14 "also" the following:

15 "(3) The authority may".

16 6. Page 7, by inserting after line 10, the
17 following:

18 "(4) Notwithstanding subparagraphs (1) and (2),
19 the authority is not required to issue tax-exempt
20 bonds if the authority determines that the issuance
21 would not be in the best interest of the state due to
22 market conditions."

By JEFF LAMBERTI

S-3419 FILED APRIL 20, 2001

ADOPTED

(p.1233)

1 Section 1. Section 12.65, Code 2001, is amended to read as
2 follows:

3 12.65 HEALTHY IOWANS TOBACCO SETTLEMENT-ENDOWMENT-FUND
4 TRUST.

5 1. A healthy Iowans tobacco settlement-endowment-fund
6 trust is created in the office of the treasurer of state.
7 ~~After-payment-of-litigation-costs, all moneys paid to the~~
8 ~~state pursuant to the master settlement agreement, as defined~~
9 ~~in section 453E.17, Moneys transferred to the healthy Iowans~~
10 ~~tobacco trust from the endowment for Iowa's health account of~~
11 ~~the tobacco settlement trust fund established in section~~
12 ~~12E.12 and appropriated or transferred from any other source~~
13 shall be deposited in the fund healthy Iowans tobacco trust.

14 ~~2. Any moneys paid to the state by the tobacco settlement~~
15 ~~authority pursuant to chapter 12E shall be deposited in the~~
16 ~~fund. Additionally, the state's share of the moneys which are~~
17 ~~not sold to the tobacco settlement authority pursuant to~~
18 ~~chapter 12E shall be deposited in the fund.~~

19 3. 2. Moneys deposited in the fund healthy Iowans tobacco
20 trust shall be used only in accordance with appropriations
21 from the fund healthy Iowans tobacco trust for purposes
22 related to health care, substance abuse treatment and
23 enforcement, tobacco use prevention and control, and other
24 purposes related to the needs of children, adults, and
25 families in the state.

26 ~~4. A savings account for healthy Iowans is created within~~
27 ~~the tobacco settlement endowment fund. Moneys, appropriated~~
28 ~~annually, shall be deposited in the account and shall be~~
29 ~~invested to provide an ongoing source of investment earnings.~~

30 5. 3. Notwithstanding section 8.33, any unexpended balance
31 in the fund healthy Iowans tobacco trust at the end of the
32 fiscal year shall be retained in the fund trust.

33 Notwithstanding section 12C.7, subsection 2, interest or
34 earnings on investments or time deposits of the moneys in the
35 healthy Iowans tobacco settlement-endowment-fund, in the

1 ~~savings-account-for-healthy-Iowans, and in any other account~~
2 ~~established within the fund trust~~ shall be credited to the
3 ~~healthy Iowans tobacco settlement endowment fund, to the~~
4 ~~savings-account-for-healthy-Iowans, or to any other account~~
5 ~~established, respectively trust.~~

6 ~~6. For the purposes of this section, "litigation costs"~~
7 ~~are those costs itemized by the attorney general and submitted~~
8 ~~to and approved by the attorney general.~~

9 7. 4. Moneys in the fund healthy Iowans tobacco trust
10 shall be considered part of the general fund of the state for
11 cash flow purposes only, provided any moneys used for cash
12 flow purposes are returned to the fund trust by the close of
13 each fiscal year.

14 Sec. 2. Section 12E.2, Code 2001, is amended by adding the
15 following new subsections:

16 NEW SUBSECTION. 4A. "Healthy Iowans tobacco trust" means
17 the healthy Iowans tobacco trust created in section 12.65.

18 NEW SUBSECTION. 4B. "Interest rate agreement" means an
19 interest rate swap or exchange agreement, an agreement
20 establishing an interest rate floor or ceiling or both, or any
21 similar agreement. Any such agreement may include the option
22 to enter into or cancel the agreement or to reverse or extend
23 the agreement.

24 NEW SUBSECTION. 5A. "Net proceeds" means the amount of
25 proceeds remaining following each sale of bonds which are not
26 required by the authority to establish and fund reserve funds
27 and to pay the costs of issuance and other expenses and fees
28 directly related to the authorization and issuance of bonds.

29 Sec. 3. Section 12E.2, subsections 7, 8, and 10, Code
30 2001, are amended to read as follows:

31 7. "Program plan" means the tobacco settlement program
32 plan established in this chapter dated February 14, 2001,
33 including exhibits to the program plan, submitted by the
34 authority to the legislative council and the executive
35 council, to provide the state with a secure and stable source

1 of funding for the purposes designated by this chapter and
2 section 12.65.

3 8. "Qualified investments" means investments of the
4 authority authorized by pursuant to this chapter.

5 10. "State's share" means all of the ~~state's monetary~~
6 ~~rights and interests, all rights of enforcement, and all~~
7 ~~rights necessary and convenient for enforcement of those~~
8 ~~monetary rights and interests in the master settlement~~
9 agreement following:

10 a. All payments required to be made by tobacco product
11 manufacturers to the state, and the state's rights to receive
12 such payments, under the master settlement agreement.

13 b. To the extent that such amounts have been assigned to
14 the state, all payments of attorney fees required to be made
15 by tobacco product manufacturers under the master settlement
16 agreement, and all rights to receive such attorney fees.

17 Sec. 4. Section 12E.2, Code 2001, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 10A. "Tax-exempt bonds" means bonds
20 issued by the authority that are accompanied by a written
21 opinion of legal counsel to the authority that the bonds are
22 excluded from the gross income of the recipients for federal
23 income tax purposes.

24 NEW SUBSECTION. 10B. "Taxable bonds" means bonds issued
25 by the authority that are not accompanied by a written opinion
26 of legal counsel to the authority that the bonds are excluded
27 from the gross income of the recipients for federal income tax
28 purposes.

29 Sec. 5. Section 12E.2, subsection 11, Code 2001, is
30 amended by striking the subsection.

31 Sec. 6. Section 12E.3, subsection 2, paragraphs a and d,
32 Code 2001, are amended to read as follows:

33 a. To implement and administer the program plan and to
34 establish a stable source of revenue to be used for the
35 purposes designated in this chapter and section 12.65.

1 d. To sell, pledge, or assign, as security or
2 consideration, all or a portion of the state's share sold to
3 the authority pursuant to a sales agreement, to provide for
4 and secure the issuance and repayment of its bonds.

5 Sec. 7. Section 12E.8, subsection 1, paragraphs g and h,
6 Code 2001, are amended to read as follows:

7 g. The power to invest or deposit moneys of or held by the
8 authority in any manner determined by the authority,
9 notwithstanding chapter 12B or 12C.

10 h. The power to procure insurance, other credit
11 enhancements, and other financing arrangements, and to execute
12 instruments and contracts and to enter into agreements
13 convenient or necessary to facilitate financing arrangements
14 of the authority and to fulfill its the purposes of the
15 authority under this chapter, including but not limited to
16 such arrangements, instruments, contracts, and agreements as
17 municipal bond insurance, liquidity facilities, interest rate
18 agreements, and letters of credit.

19 Sec. 8. Section 12E.8, subsection 1, Code 2001, is amended
20 by adding the following new paragraphs:

21 NEW PARAGRAPH. k. The power to acquire, own, hold,
22 administer, and dispose of property.

23 NEW PARAGRAPH. l. The power to determine, in connection
24 with the issuance of bonds, and subject to the sales
25 agreement, the terms and other details of financing, and the
26 method of implementation of the program plan.

27 NEW PARAGRAPH. m. The power to perform any act not
28 inconsistent with federal or state law necessary to carry out
29 the purposes of the authority.

30 Sec. 9. Section 12E.9, subsection 1, Code 2001, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

33 1. a. The governor or the governor's designee shall sell
34 and assign all or a portion of the state's share to the
35 authority pursuant to one or more sales agreements for the

1 purpose of securitization as described in the program plan and
2 as specified in section 12E.10. The attorney general shall
3 assist the governor in the preparation and review of all
4 necessary documentation to effect such a sale as soon as
5 reasonably practicable.

6 b. Any sales agreement shall be consistent with the
7 program plan and this chapter. The terms and conditions of
8 the sale established in such sales agreement may include but
9 are not limited to any of the following:

10 (1) A requirement that the state enforce, at the sole
11 expense of the authority, the provisions of the master
12 settlement agreement that require payment of the state's share
13 that has been sold to the authority under a sales agreement.

14 (2) A requirement that the state not agree to any
15 amendment of the master settlement agreement that materially
16 and adversely affects the authority's ability to receive the
17 state's share that has been sold to the authority.

18 (3) An agreement that the anticipated use by the state of
19 bond proceeds received pursuant to the sales agreement shall
20 be for capital projects, certain debt service on outstanding
21 obligations that funded capital projects, payment of attorney
22 fees related to the master settlement agreement, and to
23 provide a secure and stable source of funding to the state for
24 purposes designated by this chapter and section 12.65.

25 (4) A statement that the net proceeds from the sale of
26 bonds shall be deposited in the tobacco settlement trust fund
27 established under section 12E.12 and that in no event shall
28 the amounts in the trust fund be available or be applied for
29 payment of bonds or any claim against the authority or any
30 debt or obligation of the authority.

31 (5) A requirement that the net proceeds received by the
32 authority from the sale of any tax-exempt bonds issued to
33 provide funds for capital projects, certain debt service, and
34 attorney fees related to the master settlement agreement be
35 paid by the authority to the state as consideration for the

1 sale of that portion of the state's share, that such net
2 proceeds be deposited by the state upon receipt in the tax-
3 exempt bond proceeds restricted capital funds account of the
4 tobacco settlement trust fund, and that such proceeds are to
5 be held by the authority solely for the benefit of the state,
6 subject to annual appropriation by the state in accordance
7 with section 12E.10, subsection 1, paragraph "b".

8 (6) A requirement that the net proceeds received by the
9 authority from the sale of taxable bonds or tax-exempt bonds
10 issued to provide funds for the purposes specified in section
11 12.65 be deposited in the endowment for Iowa's health account
12 of the tobacco settlement trust fund as moneys of the
13 authority until transferred to the state pursuant to section
14 12E.12, subsection 1, paragraph "b", subparagraph (2). Each
15 amount transferred shall be the consideration received by the
16 state for that portion of the state's share.

17 (7) An agreement that the effective date of the sale is
18 the date of receipt of the bond proceeds by the authority and
19 the deposits of the net proceeds of the tax-exempt bonds and
20 any taxable bonds in the respective accounts of the tobacco
21 settlement trust fund.

22 Sec. 10. Section 12E.9, subsection 5, Code 2001, is
23 amended to read as follows:

24 5. The authority, the treasurer of state, and the attorney
25 general shall report to the legislative council and the
26 executive council on or before the date ~~specified in the~~
27 program-plan of the sale, advising them of the ~~accomplishment~~
28 status of the sale, its terms, and conditions.

29 Sec. 11. Section 12E.10, Code 2001, is amended by striking
30 the section and inserting in lieu thereof the following:

31 12E.10 TOBACCO SETTLEMENT PROGRAM PLAN.

32 1. a. (1) The authority shall implement the program plan
33 and shall proceed with a securitization to maximize the
34 transference of risks associated with the master settlement
35 agreement.

1 (2) The authority shall issue tax-exempt bonds in an
2 amount that is sufficient to provide net proceeds in an amount
3 of not more than five hundred forty million dollars for
4 deposit in the tax-exempt bond proceeds restricted capital
5 funds account of the tobacco settlement trust fund, to be used
6 for capital projects, certain debt service on outstanding
7 obligations which funded capital projects, and attorney fees
8 related to the master settlement agreement.

9 (3) The authority may also issue taxable bonds or tax-
10 exempt bonds to provide additional amounts to be used for the
11 purposes specified in section 12.65.

12 (4) Notwithstanding subparagraphs (1) and (2), the
13 authority is not required to issue tax-exempt bonds if the
14 authority determines that the issuance would not be in the
15 best interest of the state due to market conditions.

16 b. It is the expectation of the state that not less than
17 eighty-five percent of the proceeds deposited in the tax-
18 exempt bond proceeds restricted capital funds account of the
19 tobacco settlement trust fund will be expended within five
20 years from the effective date of the sale, consistent with the
21 requirements of federal law, and that the specific capital
22 projects, debt service, and attorney fees payments shall be
23 determined, annually, through appropriations authorized by a
24 constitutional majority of each house of the general assembly
25 and approved by the governor.

26 2. The authority shall periodically report to the
27 legislative council and the governor regarding implementation
28 of the program plan and shall, prior to any public offering of
29 bonds, submit a report to the legislative council and the
30 governor describing the terms of the proposed bond issue.

31 3. Any amendment to the program plan shall be authorized
32 by a constitutional majority of each house of the general
33 assembly and approved by the governor.

34 4. To the extent that any provision of the program plan is
35 inconsistent with this chapter, the provisions of this chapter

1 shall govern.

2 Sec. 12. Section 12E.11, subsections 1, 4, and 5, Code
3 2001, are amended to read as follows:

4 1. The authority may issue bonds and ~~use~~, if bonds are
5 issued, shall make the proceeds from the bonds for-the-purpose
6 of-providing available to the state pursuant to the sales
7 agreement to fund capital projects, certain debt service on
8 outstanding obligations that funded capital projects, and
9 attorney fees related to the master settlement agreement, and
10 to provide a secure and stable source of funding to the state,
11 consistent with the purposes of this chapter and section
12 12.65. In connection with the issuance of bonds and subject
13 to the terms of the sales agreement, the authority shall
14 determine the terms and other details of the financing and the
15 method of implementation of the program plan. Bonds issued
16 pursuant to this section may be secured by a pledge of all or
17 a portion of the state's share and any moneys derived from the
18 state's share, and any other sources available to the
19 authority with the exception of moneys in the tobacco
20 settlement trust fund. The authority may also issue refunding
21 bonds, including advance refunding bonds, for the purpose of
22 refunding previously issued bonds, and may issue other types
23 of bonds, debt obligations, and financing arrangements
24 necessary to fulfill its purposes or the purposes of this
25 chapter.

26 4. Bonds shall state on their face that they are payable
27 both as to principal and interest solely out of the assets of
28 the authority pledged for their purpose and do not constitute
29 an indebtedness of the state or any political subdivision of
30 the state; are secured solely by and payable solely from
31 ~~receipts-under-the-master-settlement-agreement~~ assets of the
32 authority pledged for such purpose; constitute neither a
33 general, legal, or moral obligation of the state or any of its
34 political subdivisions; and that the state has no obligation
35 or intention to satisfy any deficiency or default of any

1 payment of the bonds.

2 5. Any amount pledged by the authority to be received
3 under the master settlement agreement shall be valid and
4 binding at the time the pledge is made. Receipts Amounts so
5 pledged and then or thereafter received by the authority shall
6 immediately be subject to the lien of such pledge without any
7 physical delivery thereof or further act. The lien of any
8 such pledge shall be valid and binding as against all parties
9 having claims of any kind against the authority, whether such
10 parties have notice of the lien. Notwithstanding any other
11 provision to the contrary, the resolution of the authority or
12 any other instrument by which a pledge is created need not be
13 recorded or filed to perfect such pledge.

14 Sec. 13. Section 12E.11, subsection 7, paragraph c, Code
15 2001, is amended to read as follows:

16 c. The bonds shall be subject to the terms, conditions,
17 and covenants providing for the payment of the principal,
18 redemption premiums, if any, interest which may be fixed or
19 variable during any period the bonds are outstanding, and
20 other terms, conditions, covenants, and protective provisions
21 safeguarding payment, not inconsistent with this chapter and
22 as determined by resolution of the board authorizing their
23 issuance.

24 Sec. 14. Section 12E.11, Code 2001, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 11. The state reserves the right at any
27 time to alter, amend, repeal, or otherwise change the
28 structure, organization, programs, or activities of the
29 authority, including the power to terminate the authority,
30 except that a law shall not be enacted that impairs any
31 obligation made pursuant to a sales agreement or any contract
32 entered into by the authority with or on behalf of the holders
33 of the bonds to the extent that any such law would contravene
34 Article I, section 21, of the Constitution of the State of
35 Iowa or Article I, section 10, of the Constitution of the

1 United States.

2 Sec. 15. Section 12E.12, subsection 1, Code 2001, is
3 amended to read as follows:

4 1. a. A tobacco settlement trust fund is established,
5 separate and apart from all other public moneys or funds of
6 the state, under the control of the authority. The fund shall
7 consist of moneys paid to the authority and not pledged to the
8 payment of bonds or otherwise obligated. Such moneys shall
9 include but are not limited to payments received from the
10 master settlement agreement which are not pledged to the
11 payment of bonds or which are subsequently released from a
12 pledge to the payment of any bonds; payments which, in
13 accordance with any sales agreement with the state, are to be
14 paid to the state and not pledged to the bonds, including that
15 portion of the proceeds of any bonds designated for purchase
16 of all or a portion of the state's share, which are designated
17 for deposit in the fund, together with all interest,
18 dividends, and rents on the bonds; and all securities or
19 investment income and other assets acquired by and through the
20 use of the moneys belonging to the fund and any other moneys
21 deposited in the fund. Moneys in the fund are to be used
22 solely and only for the payment of all amounts due and to
23 become due to the state, and shall not be used for any other
24 purpose. Such moneys shall not be available for the payment
25 of any claim against the authority or any debt or obligation
26 of the authority.

27 b. The fund shall consist of the following accounts:

28 (1) The tax-exempt bond proceeds restricted capital funds
29 account. The net proceeds of tax-exempt bonds issued to
30 provide funds for capital projects, certain debt service, and
31 attorney fees related to the master settlement agreement which
32 the state treasurer is authorized and directed to deposit on
33 behalf of the state, shall be deposited in the account and
34 shall be used to fund capital projects, certain debt service,
35 and the payment of attorney fees related to the master

1 settlement agreement.

2 (2) The endowment for Iowa's health account. The net
3 proceeds of any taxable bonds or tax-exempt bonds issued to
4 provide funds for the purposes specified in section 12.65
5 which the authority is directed to deposit in the account, any
6 portion of the state's share which is not sold to the
7 authority, and any other moneys appropriated by the state for
8 deposit in the account shall be deposited in the account and
9 shall be used for the purposes specified in section 12.65.

10 (a) There is transferred from the endowment for Iowa's
11 health account of the tobacco settlement trust fund to the
12 healthy Iowans tobacco trust for the fiscal year beginning
13 July 1, 2001, and ending June 30, 2002, the amount of fifty-
14 five million dollars, to be used for the purposes specified in
15 section 12.65.

16 (b) For each fiscal year beginning July 1, 2002, and
17 annually thereafter, there is transferred from the endowment
18 for Iowa's health account of the tobacco settlement trust fund
19 to the healthy Iowans tobacco trust fifty-five million dollars
20 plus an inflationary factor of one and one-half percent of the
21 amount transferred in the previous fiscal year. Any transfer
22 in an amount not in accordance with this subparagraph shall
23 not be made unless authorized by a three-fifths majority of
24 each house and approved by the governor.

25 Sec. 16. Section 12E.12, subsection 3, Code 2001, is
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. e. If consistent with the investment
28 policy established by the board, the authority may invest
29 moneys of or held by the authority in structured notes and
30 investment agreements, the repayment of the principal amount
31 of which is protected or guaranteed.

32 Sec. 17. Section 12E.13, subsection 5, Code 2001, is
33 amended to read as follows:

34 5. All moneys of the authority or moneys held by the
35 authority shall be invested and held in the name of the

1 authority, whether they are held for the benefit, security, or
2 future payment to holders of bonds or to the state. All such
3 moneys and investments shall be considered moneys and
4 investments of the authority with the exception of moneys in
5 the tax-exempt bond proceeds restricted capital funds account
6 of the tobacco settlement trust fund which are moneys of the
7 state.

8 Sec. 18. Section 12E.17, Code 2001, is amended to read as
9 follows:

10 12E.17 DISSOLUTION OF THE AUTHORITY.

11 The authority shall dissolve no later than two years from
12 the date of final payment of all outstanding bonds and the
13 satisfaction of all outstanding obligations of the authority,
14 except to the extent necessary to remain in existence to
15 fulfill any outstanding covenants or provisions with
16 bondholders or third parties made in accordance with this
17 chapter. Upon dissolution of the authority, all assets of the
18 authority shall be returned to the state and shall be
19 deposited in the healthy Iowans tobacco settlement-endowment
20 fund trust, unless otherwise directed by the general assembly,
21 and the authority shall execute any necessary assignments or
22 instruments, including any assignment of any right, title, or
23 ownership to the state for receipt of payments under the
24 master settlement agreement.

25 Sec. 19. 2000 Iowa Acts, chapter 1208, section 24, as
26 amended by 2001 Iowa Acts, Senate File 258, section 1, is
27 repealed.

28 Sec. 20. EFFECTIVE DATE -- DEPOSIT OF FUNDS. Until the
29 effective date of the sale as provided in section 12E.9, the
30 state's share shall be deposited in the healthy Iowans tobacco
31 trust created in section 12.65. Upon the effective date of
32 the sale, the state's share shall be transferred or deposited
33 in accordance with any sales agreement and chapter 12E.

34 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
35 immediate importance, takes effect upon enactment.

HOUSE AMENDMENT TO
SENATE FILE 532

S-3568

- 1 Amend Senate File 532, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 11, line 1, by inserting after the word
4 "agreement." the following: "With respect to capital
5 projects, it is the intent of the general assembly to
6 fund capital projects that qualify as vertical
7 infrastructure projects as defined in section 8.57,
8 subsection 5, paragraph "c", to the extent practicable
9 in any fiscal year and without limiting other
10 qualifying capital expenditures considered and
11 approved by a constitutional majority of each house of
12 the general assembly and the governor."
13 2. Page 12, by inserting after line 27, the
14 following:
15 "Sec. ____ . RULES COMPLIANCE WITH THREE-FIFTHS.
16 The senate and the house of representatives shall
17 comply with any provision of law that requires a vote
18 of at least three-fifths of the members of both
19 chambers of the general assembly and approval by the
20 governor, which requirement shall also be a
21 requirement of the joint rules for the Seventy-ninth
22 General Assembly."
23 3. By renumbering as necessary.

Senate Concurred 4/27/01 RECEIVED FROM THE HOUSE
S-3568 FILED APRIL 27, 2001 (P. 1409)

SENATE FILE 532

S-3573

- 1 Amend the House amendment, S-3568, to Senate File
2 532, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, by striking lines 13 through 22.
By JEFF LAMBERTI

S-3573 FILED APRIL 30, 2001
ADOPTED (P. 1409)

SENATE FILE 532

H-1744

1 Amend Senate File 532, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 11, line 1, by inserting after the word
 4 "agreement." the following: "With respect to capital
 5 projects, it is the intent of the general assembly to
 6 fund capital projects that qualify as vertical
 7 infrastructure projects as defined in section 8.57,
 8 subsection 5, paragraph "c", to the extent practicable
 9 in any fiscal year and without limiting other
 10 qualifying capital expenditures considered and
 11 approved by a constitutional majority of each house of
 12 the general assembly and the governor."
 13 2. Page 12, by inserting after line 27, the
 14 following:
 15 "Sec. ____ . RULES COMPLIANCE WITH THREE-FIFTHS.
 16 The senate and the house of representatives shall
 17 comply with any provision of law that requires a vote
 18 of at least three-fifths of the members of both
 19 chambers of the general assembly and approval by the
 20 governor, which requirement shall also be a
 21 requirement of the joint rules for the Seventy-ninth
 22 General Assembly."
 23 3. By renumbering as necessary.

By BRUNKHORST of Bremer

H-1744 FILED APRIL 27, 2001

a dopted
4/27/01
(P. 1609)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 532

H-1800

1 Amend the House amendment, S-3568, to Senate File
 2 532, as amended, passed, and reprinted by the Senate,
 3 as follows:
 4 1. Page 1, by striking lines 13 through 22.

RECEIVED FROM THE SENATE

H-1800 FILED MAY 1, 2001

House Concurred
5/1/01 (P 1698)

SENATE FILE 532

AN ACT

RELATING TO MATTERS RELATED TO THE TOBACCO SETTLEMENT INCLUDING THE TOBACCO SETTLEMENT AUTHORITY, THE TOBACCO SETTLEMENT TRUST FUND, AND THE TOBACCO SETTLEMENT ENDOWMENT FUND, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 12.65, Code 2001, is amended to read as follows:

12.65 HEALTHY IOWANS TOBACCO SETTLEMENT-ENDOWMENT-FUND TRUST.

1. A healthy Iowans tobacco settlement-endowment-fund trust is created in the office of the treasurer of state. After payment of litigation costs, all moneys paid to the state pursuant to the master settlement agreement, as defined in section 453E, Moneys transferred to the healthy Iowans tobacco trust from the endowment for Iowa's health account of the tobacco settlement trust fund established in section 12E.12 and appropriated or transferred from any other source shall be deposited in the fund healthy Iowans tobacco trust.

~~2. Any moneys paid to the state by the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund. Additionally, the state's share of the moneys which are not sold to the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund.~~

3. 2. Moneys deposited in the fund healthy Iowans tobacco trust shall be used only in accordance with appropriations from the fund healthy Iowans tobacco trust for purposes related to health care, substance abuse treatment and enforcement, tobacco use prevention and control, and other purposes related to the needs of children, adults, and families in the state.

~~4. A savings account for healthy Iowans is created within the tobacco settlement endowment fund. Moneys appropriated annually shall be deposited in the account and shall be invested to provide an ongoing source of investment earnings.~~

5. 3. Notwithstanding section 8.33, any unexpended balance in the fund healthy Iowans tobacco trust at the end of the fiscal year shall be retained in the fund trust.

Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the healthy Iowans tobacco settlement-endowment-fund, in the savings account for healthy Iowans, and in any other account established within the fund trust shall be credited to the healthy Iowans tobacco settlement-endowment-fund, to the savings account for healthy Iowans, or to any other account established, respectively trust.

~~6. For the purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the attorney general.~~

7. 4. Moneys in the fund healthy Iowans tobacco trust shall be considered part of the general fund of the state for cash flow purposes only, provided any moneys used for cash flow purposes are returned to the fund trust by the close of each fiscal year.

Sec. 2. Section 12E.2, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Healthy Iowans tobacco trust" means the healthy Iowans tobacco trust created in section 12.65.

NEW SUBSECTION. 4B. "Interest rate agreement" means an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both, or any similar agreement. Any such agreement may include the option to enter into or cancel the agreement or to reverse or extend the agreement.

NEW SUBSECTION. 5A. "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve funds

and to pay the costs of issuance and other expenses and fees directly related to the authorization and issuance of bonds.

Sec. 3. Section 12E.2, subsections 7, 8, and 10, Code 2001, are amended to read as follows:

7. "Program plan" means the tobacco settlement program plan ~~established in this chapter~~ dated February 14, 2001, including exhibits to the program plan, submitted by the authority to the legislative council and the executive council, to provide the state with a secure and stable source of funding for the purposes designated by this chapter and section 12.65.

8. "Qualified investments" means investments of the authority authorized by pursuant to this chapter.

10. "State's share" means ~~all of the state's monetary rights and interests, all rights of enforcement, and all rights necessary and convenient for enforcement of those monetary rights and interests in the master settlement agreement~~ following:

a. All payments required to be made by tobacco product manufacturers to the state, and the state's rights to receive such payments, under the master settlement agreement.

b. To the extent that such amounts have been assigned to the state, all payments of attorney fees required to be made by tobacco product manufacturers under the master settlement agreement, and all rights to receive such attorney fees.

Sec. 4. Section 12E.2, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 10A. "Tax-exempt bonds" means bonds issued by the authority that are accompanied by a written opinion of legal counsel to the authority that the bonds are excluded from the gross income of the recipients for federal income tax purposes.

NEW SUBSECTION. 10B. "Taxable bonds" means bonds issued by the authority that are not accompanied by a written opinion of legal counsel to the authority that the bonds are excluded from the gross income of the recipients for federal income tax purposes.

Sec. 5. Section 12E.2, subsection 11, Code 2001, is amended by striking the subsection.

Sec. 6. Section 12E.3, subsection 2, paragraphs a and d, Code 2001, are amended to read as follows:

a. To implement and administer the program plan and to establish a stable source of revenue to be used for the purposes designated in this chapter and section 12.65.

d. To sell, pledge, or assign, as security or consideration, all or a portion of the state's share sold to the authority pursuant to a sales agreement, to provide for and secure the issuance and repayment of its bonds.

Sec. 7. Section 12E.8, subsection 1, paragraphs g and h, Code 2001, are amended to read as follows:

g. The power to invest or deposit moneys of or held by the authority in any manner determined by the authority, notwithstanding chapter 12B or 12C.

h. The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill its the purposes of the authority under this chapter, including but not limited to such arrangements, instruments, contracts, and agreements as municipal bond insurance, liquidity facilities, interest rate agreements, and letters of credit.

Sec. 8. Section 12E.8, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. k. The power to acquire, own, hold, administer, and dispose of property.

NEW PARAGRAPH. l. The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of financing, and the method of implementation of the program plan.

NEW PARAGRAPH. m. The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

Sec. 9. Section 12E.9, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. The governor or the governor's designee shall sell and assign all or a portion of the state's share to the authority pursuant to one or more sales agreements for the purpose of securitization as described in the program plan and as specified in section 12E.10. The attorney general shall assist the governor in the preparation and review of all necessary documentation to effect such a sale as soon as reasonably practicable.

b. Any sales agreement shall be consistent with the program plan and this chapter. The terms and conditions of the sale established in such sales agreement may include but are not limited to any of the following:

(1) A requirement that the state enforce, at the sole expense of the authority, the provisions of the master settlement agreement that require payment of the state's share that has been sold to the authority under a sales agreement.

(2) A requirement that the state not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the state's share that has been sold to the authority.

(3) An agreement that the anticipated use by the state of bond proceeds received pursuant to the sales agreement shall be for capital projects, certain debt service on outstanding obligations that funded capital projects, payment of attorney fees related to the master settlement agreement, and to provide a secure and stable source of funding to the state for purposes designated by this chapter and section 12.65.

(4) A statement that the net proceeds from the sale of bonds shall be deposited in the tobacco settlement trust fund established under section 12E.12 and that in no event shall the amounts in the trust fund be available or be applied for payment of bonds or any claim against the authority or any debt or obligation of the authority.

(5) A requirement that the net proceeds received by the authority from the sale of any tax-exempt bonds issued to provide funds for capital projects, certain debt service, and attorney fees related to the master settlement agreement be paid by the authority to the state as consideration for the sale of that portion of the state's share, that such net proceeds be deposited by the state upon receipt in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, and that such proceeds are to be held by the authority solely for the benefit of the state, subject to annual appropriation by the state in accordance with section 12E.10, subsection 1, paragraph "b".

(6) A requirement that the net proceeds received by the authority from the sale of taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section 12.65 be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund as moneys of the authority until transferred to the state pursuant to section 12E.12, subsection 1, paragraph "b", subparagraph (2). Each amount transferred shall be the consideration received by the state for that portion of the state's share.

(7) An agreement that the effective date of the sale is the date of receipt of the bond proceeds by the authority and the deposits of the net proceeds of the tax-exempt bonds and any taxable bonds in the respective accounts of the tobacco settlement trust fund.

Sec. 10. Section 12E.9, subsection 5, Code 2001, is amended to read as follows:

5. The authority, the treasurer of state, and the attorney general shall report to the legislative council and the executive council on or before the date specified in the program plan of the sale, advising them of the accomplishment status of the sale, its terms, and conditions.

Sec. 11. Section 12E.10, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

12E.10 TOBACCO SETTLEMENT PROGRAM PLAN.

1. a. (1) The authority shall implement the program plan and shall proceed with a securitization to maximize the transference of risks associated with the master settlement agreement.

(2) The authority shall issue tax-exempt bonds in an amount that is sufficient to provide net proceeds in an amount of not more than five hundred forty million dollars for deposit in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, to be used for capital projects, certain debt service on outstanding obligations which funded capital projects, and attorney fees related to the master settlement agreement.

(3) The authority may also issue taxable bonds or tax-exempt bonds to provide additional amounts to be used for the purposes specified in section 12.65.

(4) Notwithstanding subparagraphs (1) and (2), the authority is not required to issue tax-exempt bonds if the authority determines that the issuance would not be in the best interest of the state due to market conditions.

b. It is the expectation of the state that not less than eighty-five percent of the proceeds deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund will be expended within five years from the effective date of the sale, consistent with the requirements of federal law, and that the specific capital projects, debt service, and attorney fees payments shall be determined, annually, through appropriations authorized by a constitutional majority of each house of the general assembly and approved by the governor.

2. The authority shall periodically report to the legislative council and the governor regarding implementation of the program plan and shall, prior to any public offering of bonds, submit a report to the legislative council and the governor describing the terms of the proposed bond issue.

3. Any amendment to the program plan shall be authorized by a constitutional majority of each house of the general assembly and approved by the governor.

4. To the extent that any provision of the program plan is inconsistent with this chapter, the provisions of this chapter shall govern.

Sec. 12. Section 12E.11, subsections 1, 4, and 5, Code 2001, are amended to read as follows:

1. The authority may issue bonds and use, if bonds are issued, shall make the proceeds from the bonds for-the-purpose of-providing available to the state pursuant to the sales agreement to fund capital projects, certain debt service on outstanding obligations that funded capital projects, and attorney fees related to the master settlement agreement, and to provide a secure and stable source of funding to the state, consistent with the purposes of this chapter and section 12.65. In connection with the issuance of bonds and subject to the terms of the sales agreement, the authority shall determine the terms and other details of the financing and the method of implementation of the program plan. Bonds issued pursuant to this section may be secured by a pledge of all or a portion of the state's share and any moneys derived from the state's share, and any other sources available to the authority with the exception of moneys in the tobacco settlement trust fund. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter.

4. Bonds shall state on their face that they are payable both as to principal and interest solely out of the assets of the authority pledged for their purpose and do not constitute an indebtedness of the state or any political subdivision of the state; are secured solely by and payable solely from receipts-under-the-master-settlement-agreement assets of the authority pledged for such purpose; constitute neither a general, legal, or moral obligation of the state or any of its political subdivisions; and that the state has no obligation

or intention to satisfy any deficiency or default of any payment of the bonds.

5. Any amount pledged by the authority to be received under the master settlement agreement shall be valid and binding at the time the pledge is made. Receipts Amounts so pledged and then or thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution of the authority or any other instrument by which a pledge is created need not be recorded or filed to perfect such pledge.

Sec. 13. Section 12E.11, subsection 7, paragraph c, Code 2001, is amended to read as follows:

c. The bonds shall be subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest which may be fixed or variable during any period the bonds are outstanding, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by resolution of the board authorizing their issuance.

Sec. 14. Section 12E.11, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 11. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs, or activities of the authority, including the power to terminate the authority, except that a law shall not be enacted that impairs any obligation made pursuant to a sales agreement or any contract entered into by the authority with or on behalf of the holders of the bonds to the extent that any such law would contravene Article I, section 21, of the Constitution of the State of Iowa or Article I, section 10, of the Constitution of the United States.

Sec. 15. Section 12E.12, subsection 1, Code 2001, is amended to read as follows:

1. a. A tobacco settlement trust fund is established, separate and apart from all other public moneys or funds of the state, under the control of the authority. The fund shall consist of moneys paid to the authority and not pledged to the payment of bonds or otherwise obligated. Such moneys shall include but are not limited to payments received from the master settlement agreement which are not pledged to the payment of bonds or which are subsequently released from a pledge to the payment of any bonds; payments which, in accordance with any sales agreement with the state, are to be paid to the state and not pledged to the bonds, including that portion of the proceeds of any bonds designated for purchase of all or a portion of the state's share, which are designated for deposit in the fund, together with all interest, dividends, and rents on the bonds; and all securities or investment income and other assets acquired by and through the use of the moneys belonging to the fund and any other moneys deposited in the fund. Moneys in the fund are to be used solely and only for the payment of all amounts due and to become due to the state, and shall not be used for any other purpose. Such moneys shall not be available for the payment of any claim against the authority or any debt or obligation of the authority.

b. The fund shall consist of the following accounts:

(1) The tax-exempt bond proceeds restricted capital funds account. The net proceeds of tax-exempt bonds issued to provide funds for capital projects, certain debt service, and attorney fees related to the master settlement agreement which the state treasurer is authorized and directed to deposit on behalf of the state, shall be deposited in the account and shall be used to fund capital projects, certain debt service, and the payment of attorney fees related to the master settlement agreement. With respect to capital projects, it is the intent of the general assembly to fund capital projects

that qualify as vertical infrastructure projects as defined in section 8.57, subsection 5, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

(2) The endowment for Iowa's health account. The net proceeds of any taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section 12.65 which the authority is directed to deposit in the account, any portion of the state's share which is not sold to the authority, and any other moneys appropriated by the state for deposit in the account shall be deposited in the account and shall be used for the purposes specified in section 12.65.

(a) There is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund to the healthy Iowans tobacco trust for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of fifty-five million dollars, to be used for the purposes specified in section 12.65.

(b) For each fiscal year beginning July 1, 2002, and annually thereafter, there is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund to the healthy Iowans tobacco trust fifty-five million dollars plus an inflationary factor of one and one-half percent of the amount transferred in the previous fiscal year. Any transfer in an amount not in accordance with this subparagraph shall not be made unless authorized by a three-fifths majority of each house and approved by the governor.

Sec. 16. Section 12E.12, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. If consistent with the investment policy established by the board, the authority may invest moneys of or held by the authority in structured notes and investment agreements, the repayment of the principal amount of which is protected or guaranteed.

Sec. 17. Section 12E.13, subsection 5, Code 2001, is amended to read as follows:

5. All moneys of the authority or moneys held by the authority shall be invested and held in the name of the authority, whether they are held for the benefit, security, or future payment to holders of bonds or to the state. All such moneys and investments shall be considered moneys and investments of the authority with the exception of moneys in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund which are moneys of the state.

Sec. 18. Section 12E.17, Code 2001, is amended to read as follows:

12E.17 DISSOLUTION OF THE AUTHORITY.

The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the healthy Iowans tobacco settlement-endowment fund trust, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

Sec. 19. 2000 Iowa Acts, chapter 1208, section 24, as amended by 2001 Iowa Acts, Senate File 258, section 1, is repealed.

Sec. 20. **EFFECTIVE DATE -- DEPOSIT OF FUNDS.** Until the effective date of the sale as provided in section 12E.9, the state's share shall be deposited in the healthy Iowans tobacco trust created in section 12.65. Upon the effective date of the sale, the state's share shall be transferred or deposited in accordance with any sales agreement and chapter 12E.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 532, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 5/29, 2001

THOMAS J. VILSACK
Governor