

will administer the account will be consistent with the requirements of this subsection, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account. In the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of the account shall be treated as the trustee of the account.

Sec. 26. Sections 261.36, 261.39, 261.40, 261.72, and 261.84, Code 1989, are amended by striking from the sections the words "student loan" and inserting in lieu thereof the word "loan payment".

Approved June 5, 1989

CHAPTER 301

RURAL COMMUNITY 2000 PROGRAM

H.F. 703

AN ACT relating to the financing for the rural community 2000 program and authorizing the issuance of bonds and notes by the Iowa finance authority for the program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.281, Code 1989, is amended to read as follows:

15.281 ~~COMMUNITY AND RURAL DEVELOPMENT LOAN~~ RURAL COMMUNITY 2000 PROGRAM.

This part shall be known as the "~~Community and Rural Development Loan~~ Rural Community 2000 Program".

Sec. 2. Section 15.282, Code 1989, is amended to read as follows:

15.282 PURPOSE.

The purpose of this part is to assist communities and rural areas of the state with their development and governmental responsibilities by providing low-interest and no-interest loans or grants for traditional infrastructure, new infrastructure, and housing.

Sec. 3. Section 15.283, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 5. The department may establish an interest or principal payment program to pay up to all the interest or an amount of principal equal to the total interest amount due on municipal bonds sold by the local community as authorized by this section. The department may use part or all of the moneys available for traditional or new infrastructure assistance for the interest or principal payment program. The program shall only be available to communities which demonstrate a substantial local effort to assist in community development. The department shall develop rules defining "substantial local effort".

NEW SUBSECTION. 6. Notwithstanding subsection 4, for the fiscal year beginning July 1, 1989, all funds allocated under this program for housing shall be applied to programs under section 220.100, subsection 2, paragraphs "b" and "c".

Sec. 4. Section 15.284, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any Iowa city or county is eligible to apply for loans or grants from this category. Along with the application, the city or county shall submit the following:

Sec. 5. Section 15.284, subsection 5, Code 1989, is amended to read as follows:

5. The interest rate ~~shall~~ for a loan, if assessed, may range from zero to five percent. The department may charge applicants an administration fee, not to exceed one percent of the

principal amount of the loan or grant, to be paid as a lump sum ~~percent~~ or a percent of the interest rate.

Sec. 6. Section 15.285, subsection 2, Code 1989, is amended to read as follows:

2. Any political subdivision, or nonprofit development corporation, is eligible to apply for loans or grants under this category.

Sec. 7. Section 15.285, subsection 5, Code 1989, is amended to read as follows:

5. The interest rate ~~shall for a loan, if assessed, may~~ range from zero to five percent. The department may charge applicants an administration fee, not to exceed one percent of the principal amount of the loan or grant, to be paid as a lump sum percent or a percent of the interest rate.

Sec. 8. Section 15.285, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The new infrastructure category shall include new infrastructure systems or networks of the state of Iowa, its agencies or instrumentalities which the governor, by executive order, finds and determines will provide local communities with the benefits of new infrastructure. Proceeds of bonds issued to fund costs of state new infrastructure shall not be considered moneys available under the program for purposes of the allocation under subsection (4) of section 15.283. Subsections (2), (3), and (5) of this section are not applicable to state new infrastructure.

Sec. 9. Section 15.286, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any Iowa city, county, housing agency, or developer shall be eligible to apply for loans or grants under this category. Along with the application the person shall submit the following:

Sec. 10. Section 15.286, subsection 2, as amended by 1989 Iowa Acts, Senate File 112, section 8, is amended to read as follows:

2. Applicants must be seeking funds to assist in meeting the area needs of ~~low lower and moderate~~ very low income persons families in pursuit of decent housing or in meeting the purposes of the housing trust fund program as described in section 220.100, subsection 2.

Sec. 11. Section 15.286, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. For purposes of this section:

a. "Lower income families" means lower income families as defined in section 220.1, subsection 3.

b. "Very low income families" means very low income families as defined in section 220.1, subsection 4.

Sec. 12. Section 15.286, subsection 4, paragraph b, subparagraph (3), as amended by 1989 Iowa Acts, Senate File 112, section 9, is amended to read as follows:

(3) ~~A program~~ Programs to assist low income persons and lower income, the disadvantaged, or the disabled.

Sec. 13. Section 15.286, subsection 4, paragraph b, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) A project involving a community development corporation or financial institution participating in a federal or state community reinvestment program.

Sec. 14. Section 15.286, subsection 5, Code 1989, is amended to read as follows:

5. Interest charged to applicants ~~shall for a loan, may~~ range from zero to five percent. The Iowa finance authority may charge applicants an administration fee, not to exceed one percent of the principal amount of the loan or grant, to be paid as a lump sum percent, ~~or a percent of the interest rate~~.

Sec. 15. Section 15.286, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A housing project which receives funds under the rural community 2000 program, for the portion of the project receiving funding under the rural community 2000 program shall provide, as nearly as practical, that twenty-five percent of the housing units, as nearly as practical, be available for very low income families and seventy-five percent of the housing units be available for lower income families.

Sec. 16. Section 15.287, Code 1989, is amended to read as follows:

15.287 REVOLVING FUND.

The Iowa finance authority shall establish a revolving fund for the program and shall transfer to the department moneys to be administered by the department. The moneys in the revolving fund are appropriated for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert to any other fund but shall remain in the revolving fund. The fund shall consist of all appropriations, grants, or gifts received by the authority or the department specifically for use under this part; revenues designated in section 98.35 to be deposited in the fund; and all repayments of loans or grants made under this part.

Sec. 17. Section 15.288, Code 1989, is amended to read as follows:

15.288 LOCAL BONDS NOT REQUIRED — INDEBTEDNESS LIMITATIONS.

A city, county, political subdivision, or other municipal corporation shall not be required to issue its bonds to secure loans or grants under the ~~community and rural development loan rural community~~ 2000 program. It is the intent of the general assembly that loans or grants received by a city, county, political subdivision, or other municipal corporation under the loan program shall not constitute an indebtedness of that entity within the meaning of any state constitutional provision or statutory limitation. A city, county, political subdivision, or other municipal corporation, may repay a loan received through a state funded program by a tax levied for a debt service fund under sections 331.430, subsection 2, and 384.4, subsection 2.

*Sec. 18. Section 98.35, Code 1989, is amended to read as follows:

98.35 TAX AND FEES PAID TO GENERAL FUND.

*The proceeds derived from the sale of stamps and the payment of taxes, fees, and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state, except as otherwise provided in this section. All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of the city. Permit fees so collected by counties shall be paid to the county treasurer. Three cents of the first five cents received from the sale of each stamp and the payment of the tax on each pack of cigarettes or little cigars, not to exceed four million dollars in a fiscal year, shall be deposited into the revolving fund established by the Iowa finance authority under section 15.287. Deposits under this section to the revolving fund in section 15.287 shall not be made during a fiscal year for which an appropriation from other sources to the revolving fund has been made. However, if the amount of such appropriations does not equal four million dollars or has to be reduced below that amount for any reason, deposits under this section shall be made to the extent that the amount appropriated, less any reduction, is less than four million dollars.**

Sec. 19. NEW SECTION. 220.134 RURAL COMMUNITY 2000 FINANCING PROGRAM — DEFINITIONS FUNDING — BONDS AND NOTES.

1. The authority shall cooperate with the department of economic development in the creation, administration, and financing of the rural community 2000 financing program established in sections 15.281 through 15.287.

2. Terms used in this part have the meanings given them in sections 15.281 through 15.287 unless the context requires otherwise.

*Item veto; see message at end of the Act

3. The authority may issue its bonds and notes for the purpose of funding the revolving fund created under section 15.287 and for the purpose of refunding any of its bond or notes issued for purposes under this section.

4. The authority may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

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

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

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

Sec. 20. NEW SECTION. 220.135 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority shall provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 220.134 that the principal of, premium, and interest on the bonds or notes are payable solely out of the pledged receipts as designated in the resolution, trust agreement, or other instrument authorizing the issuance of the bonds. Except for those tax revenues deposited in the revolving loan fund created under section 15.287, the state shall not appropriate tax revenues, directly or indirectly, to the authority for the payment of its bonds, notes, or obligations issued under section 220.134.

For purposes of this section, unless the context otherwise requires: "pledged receipt" means the revenues and receipts received or to be received by the authority from grants, gifts, or payments on guarantees made to the authority by any person, from accrued interest received from the sale of obligations, from income from the investment of special funds of the authority, including the revolving fund established under section 15.287, from the revenues and receipts deposited in the revolving fund established under section 15.287, and from any other moneys which are available for the payment of principal, premium, if any, or interest on the bonds, notes, or other obligation issued under section 220.134.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether or not the parties have notice of the lien. The resolution, trust agreement, or any other instrument by which a pledge is created does not need to be

recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective against the parties.

4. Neither the members of the authority nor persons executing the bonds or notes are liable personally on the bonds or notes or are subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations but are special obligations of the authority, and are payable solely out of pledged receipts to the extent that the pledged receipts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply moneys from, or to levy or pledge any form of taxation whatever, to the payment of the bonds or notes.

6. The state pledges to and agrees with the holders of bonds or notes issued under the rural community 2000 financing program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on the bonds or notes, including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

7. The authority is authorized to use up to two and one-half percent of the moneys appropriated under section 98.35 to advance the costs of issuance of such bonds and notes and for administration of the rural community 2000 financing program.

8. The authority shall not issue more than thirty million dollars in bonds or notes in any one fiscal year and not more than a total dollar amount of one hundred fifty million shall be outstanding at any time. Bonds issued to fund new infrastructure of the state shall not exceed one-third of the maximum and shall not be limited as to the amount which may be issued in any one fiscal year.

Sec. 21. NEW SECTION. 220.136 ADOPTION OF RULES.

The authority shall adopt rules pursuant to chapter 17A to implement sections 220.134 and 220.135. The rules shall provide for additional objective criteria for the ranking of applications for grants. Not less than fifty percent weight shall be given to financial need, giving appropriate allowance to such factors as legal and economic capacity to incur debt, local tax levels, local effort, costs of vital services including sewer and water, unmet needs for basic services, per capita income, and the extent to which a project is calculated to improve the conditions which result in greater financial need. No grant shall be for less than ten percent or more than thirty percent of the reasonable cost of a project. The rules shall not impose restrictions on local costs in addition to chapter 384, division VI.

Sec. 22. Section 98.35 and section 220.134 shall only be implemented upon executive order of the governor.

Approved June 5, 1989, except the items which I hereby disapprove and which are designated as section 18 in its entirety; and section 20, subsection 7 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the secretary of state this same date a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit House File 703, an Act relating to the financing for the rural community 2000 program and authorizing the issuance of bonds and notes by the Iowa Finance Authority for the program.

House File 703 establishes a Rural Community 2000 program. This is the so-called CORDLAP program that was put in place last year. It is designed to provide financial assistance to local governments for infrastructure improvements. The bill also establishes the possibility of raising revenues through debt financing to augment the program. These bonds would be issued by the Iowa Finance Authority and would be secured by repayments of loans made under the program. However, the bill also earmarks up to three cents of the cigarette tax revenues received by the state to be used to back these bonds, if needed.

This bill appropriately expands the CORDLAP program by authorizing the use of grants as well as lower or no interest loans when providing assistance to local communities' infrastructure needs. Specifically, many communities in Iowa need grants from the state in order to develop new water systems or develop regional water systems because of the lingering drought.

House File 703 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 18, in its entirety and Section 20, subsection 7, in its entirety.

These provisions in House File 703 set a very dangerous financial precedent for this state. They would authorize the use of what are normally general fund revenues — cigarette taxes — to pay off debt obligated by the Iowa Finance Authority. Earmarking state revenues in such a fashion substantially reduces the flexibility of the state in dealing with changing financial needs. Moreover, tying up general fund revenues to pay off debt is fiscally unwise and flies in the face of our efforts to restore the state's fiscal house to good order. Earmarking of cigarette taxes could just be the first move to finance debt through use of earmarked general fund tax revenues. Extended to its logical conclusion, such earmarking would hamstring the state's ability to respond to changing needs and force our children and grandchildren to pay off debts that we incur.

With this action, I am not eliminating the ability of the Rural Community 2000 program to obtain additional financing through revenue bonds. However, those revenue bonds would have to be backed solely by loan proceeds that are pledged by the recipient of the loans. In addition, we have separately authorized the Iowa Finance Authority to use bond bank authority to pool local bond issues to provide greater opportunities for financing essential local infrastructure projects.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 703 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*