

to energy weatherization projects, which target the highest energy users, and including administrative costs:

a. To be expended first from the office of hearings and appeals second-stage settlement (OHA) fund and the Warner/Imperial fund and the Diamond Shamrock fund and then the Stripper Well fund:

..... \$ 182,000

b. To be expended from the Exxon fund:

..... \$ 68,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:

..... \$ 30,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... \$ 150,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved May 2, 2001

**CHAPTER 176**

**MISCELLANEOUS APPROPRIATIONS,  
REDUCTIONS, AND OTHER PROVISIONS**

*H.F. 755*

**AN ACT** relating to public expenditure and regulatory matters, making and reducing appropriations, and including effective date and retroactive applicability provisions.

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

**DIVISION I**

**MH/MR/DD — ALLOWED GROWTH**

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, as provided in this section in lieu of the provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... \$ 14,874,702

The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2002-2003, and is allocated for distribution as provided by law.

DIVISION II  
STANDING APPROPRIATIONS — REDUCTIONS

Sec. 2. GENERAL ASSEMBLY. The budgets approved pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the following amount:

..... \$ 1,550,324

Sec. 3. PERFORMANCE OF DUTY. The appropriation made from the general fund of the state in section 7D.29, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, for performance of duty by the executive council, is reduced by the following amount:

..... \$ 1,000,000

Sec. 4. STATE APPEAL BOARD CLAIMS. Notwithstanding the standing appropriations in section 25.2, subsection 3, the amount appropriated from the general fund of the state under section 25.2, subsection 3, to the state appeal board to pay claims against the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 2,000,000

Sec. 5. CONSTITUTIONAL AMENDMENTS AND PUBLIC MEASURES. Notwithstanding the standing appropriation in section 49A.9, the amount appropriated from the general fund of the state under section 49A.9, to the office of the secretary of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 2,565

Sec. 6. AREA EDUCATION AGENCIES. Notwithstanding the provisions of chapter 257 that determine the funding for area education agencies, the state school foundation aid for these agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the department of management by \$7,500,000. The department shall calculate a reduction such that each area education agency shall receive a reduction proportionate to the amount that it would have received under section 257.35 if the reduction imposed pursuant to this section did not apply. Notwithstanding the provisions of section 257.37, an area education agency may use the funds determined to be available under section 257.35 in a manner which it believes is appropriate to best maintain the level of required area education agency special education services.

*\*Sec. 7. EARLY INTERVENTION BLOCK GRANT. Notwithstanding the standing appropriation in section 256D.5, subsection 1, the amount appropriated from the general fund of the state under section 256D.5, subsection 1, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:*

..... \$ 10,000,000\*

Sec. 8. SCHOOL IMPROVEMENT TECHNOLOGY. Notwithstanding the standing appropriation in section 256D.5, subsection 2, the amount appropriated from the general fund of the state under section 256D.5, subsection 2, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 20,000,000

In implementing the reduction in this section, the department of education shall compute under section 256D.6 the amount each school district, as defined in section 256D.6, and area education agency would have received but for the reduction in this section and shall reduce by two-thirds such amount.

Sec. 9. AT-RISK CHILDREN PROGRAMS. Notwithstanding the standing appropriation in section 279.51, subsection 1, the amount appropriated from the general fund of the state

\* Item veto; see message at end of the Act

under section 279.51, subsection 1, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:  
..... \$ 1,000,000

The amount of the reduction in this section shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs "a", "b", and "c".

*\*Sec. 10. NONPUBLIC SCHOOL TRANSPORTATION. Notwithstanding the standing appropriation in section 285.2, the amount appropriated from the general fund of the state under section 285.2 to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be the following amount:*

..... \$ 7,645,000

*If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this section, the department of education shall prorate the amount of each claim.\**

*\*Sec. 11. EDUCATIONAL EXCELLENCE. Notwithstanding section 294A.25, subsection 1, the amount appropriated from the general fund of the state under section 294A.25, subsection 1, to the department of education for phase III moneys for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:*

..... \$ 2,000,000\*

Sec. 12. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. Notwithstanding section 312.2, subsection 14, the amount appropriated from the general fund of the state under section 312.2, subsection 14, to the state department of transportation for public transit assistance under chapter 324A for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 659,820

Sec. 13. INDIAN SETTLEMENT OFFICER. Notwithstanding the standing appropriation in section 331.660, the amount appropriated from the general fund of the state under section 331.660, to the county of Tama for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 25,000

Sec. 14. COURT COSTS FOR SPECIAL STATE CASES. Notwithstanding the standing appropriation in section 815.1, the amount appropriated from the general fund of the state under section 815.1, to pay special court costs and attorney fees for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 66,370

Sec. 15. Section 196.8, subsection 2, Code 2001, is amended to read as follows:

2. Notwithstanding subsection 1, eggs gathered for sale at a poultry show from fowl exhibited at the show, which show has received financial assistance from the state in prior fiscal years, shall be exempt from the storage temperature and consumer grade quality requirements contained in subsection 1. ~~If eggs are offered for sale at such an exhibit, five hundred dollars is appropriated to the department to reimburse the sponsoring agency of the exhibit for the expenses associated with the exhibit.~~

DIVISION III  
LAW ENFORCEMENT PHYSICAL EXAMS

Sec. 16. Section 400.8, subsection 1, Code 2001, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examina-

\* Item veto; see message at end of the Act

tions shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5 and shall be conducted ~~by the medical board as established in section 411.5~~ in accordance with the directives of the board of trustees. The board of trustees may change the medical protocols at any time the board so determines. The physical examination of an applicant for the position of police officer, police matron, or fire fighter shall be conducted after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 17. 2000 Iowa Acts, chapter 1077, section 111, is amended to read as follows:

SEC. 111. EFFECTIVE DATE. Section 87 of this Act amending section 411.1, subsection 10, and section 94 of this Act, amendment<sup>1</sup> section 411.5, subsection 8, take effect July 1, ~~2001~~ 2002.

Sec. 18. EFFECTIVE DATE. Section 17 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV  
DEBT SERVICE AND TOBACCO FUND APPROPRIATIONS  
PAYMENTS IN LIEU OF TUITION

Sec. 19. PAYMENTS IN LIEU OF TUITION — GENERAL FUND. In lieu of the appropriation made to the state board of regents for tuition replacement in 2001 Iowa Acts, Senate File 535,<sup>2</sup> section 8, subsection 1, paragraph “b”, if enacted, there is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions:

..... \$ 26,081,384

Sec. 20. PAYMENTS IN LIEU OF TUITION — TOBACCO SETTLEMENT FUND. In addition to the appropriation made in this division of this Act from the general fund of the state to the state board of regents for purposes of tuition replacement, there is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>3</sup> if enacted, to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to finance or pay debt service to pay debt to finance the cost of providing academic and administrative buildings and facilities at the institutions:

..... \$ 600,330

<sup>1</sup> The word “amending” probably intended

<sup>2</sup> Chapter 181 herein

<sup>3</sup> Chapter 164 herein

IOWA COMMUNICATIONS NETWORK

Sec. 21. IOWA COMMUNICATIONS NETWORK DEBT SERVICE — GENERAL FUND. In lieu of the appropriation made to the treasurer of state for Iowa communications network debt service in 2001 Iowa Acts, House File 719,<sup>4</sup> section 1, if enacted, there is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service for the Iowa communications network:

..... \$ 9,939,165

Sec. 22. IOWA COMMUNICATIONS NETWORK DEBT SERVICE — TOBACCO SETTLEMENT FUND. In addition to the appropriation made in this division of this Act from the general fund of the state to the treasurer of state for purposes of Iowa communications network debt service, there is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>5</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service for the Iowa communications network:

..... \$ 1,465,835

Sec. 23. DEBT SERVICE FUND. Funds appropriated in this division of this Act for Iowa communications network debt service shall be deposited in a separate fund established in the office of the treasurer of state to be used solely for debt service for the Iowa communications network. The Iowa telecommunications and technology commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification, the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

PRISON DEBT SERVICE

Sec. 24. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>6</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For repayment of prison infrastructure bonds under section 16.177:

..... \$ 5,182,272

TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION

Sec. 25. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>7</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 10,617,000

Sec. 26. CONTINGENT EFFECTIVE DATE. This division of this Act shall take effect only if 2001 Iowa Acts, Senate File 532<sup>8</sup> is enacted and only if the tobacco settlement

<sup>4</sup> Chapter 189 herein  
<sup>5</sup> Chapter 164 herein  
<sup>6</sup> Chapter 164 herein  
<sup>7</sup> Chapter 164 herein  
<sup>8</sup> Chapter 164 herein

authority established in chapter 12E securitizes tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532.<sup>9</sup> If the contingencies of this section are met, the effective date of this division of this Act shall be the effective date of the receipt of the bond proceeds by the tobacco settlement authority and the deposit of the proceeds of the tax-exempt bonds and the taxable bonds in the respective accounts of the tobacco settlement trust fund pursuant to chapter 12E, and specifically pursuant to section 12E.9. Payment of moneys from the appropriations in this division of this Act shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

DIVISION V  
MISCELLANEOUS

Sec. 27. DEPARTMENT OF EDUCATION. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. AMERICORPS AFTER-SCHOOL INITIATIVE

For purposes of the americorps after-school initiative:  
..... \$ 150,000

2. JOBS FOR AMERICA'S GRADUATES

For school districts to provide direct services to the most at-risk senior high school students enrolled in school districts through direct intervention for a "jobs for America's graduates" specialist:

..... \$ 150,000

Sec. 28. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriation made in 2001 Iowa Acts, House File 732,<sup>10</sup> if enacted, for general administration, including salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 2,000,000

Sec. 29. Notwithstanding section 8.55, subsection 4, and section 8.56, subsection 1, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the interest and earnings on moneys deposited in the Iowa economic emergency fund and the cash reserve fund shall be credited to the general fund of the state.

Sec. 30. Notwithstanding any contrary provision in section 455E.11, subsection 1, Code 2001, any unencumbered or unobligated balance in the groundwater protection fund and in any of the accounts within the groundwater protection fund on June 30, 2001, shall be transferred to the general fund of the state.<sup>11</sup>

Sec. 31. Section 135.24, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. Identification of the medical services to be provided under the program. The medical services provided ~~shall may include, but shall not be limited to,~~ obstetrical and gynecological medical services, and psychiatric services provided by a physician licensed under chapter 148, 150, or 150A.

Sec. 32. Section 257.6, subsection 3, unnumbered paragraph 1, as amended by 2001 Iowa Acts, House File 643,<sup>12</sup> section 6, if enacted, is amended to read as follows:

A school district shall determine its additional enrollment because of special education, as defined in this section, ~~on~~ by November 1 of each year and shall certify its additional

<sup>9</sup> Chapter 164 herein

<sup>10</sup> Chapter 191 herein

<sup>11</sup> See chapter 185, §47 herein

<sup>12</sup> Chapter 159 herein

enrollment because of special education to the department of education by November 15 of each year, and the department shall promptly forward the information to the department of management.

Sec. 33. Section 257.6, subsection 5, unnumbered paragraph 1, as amended by 2001 Iowa Acts, House File 643,<sup>13</sup> section 7, if enacted, is amended to read as follows:

Weighted enrollment is the budget enrollment plus the district's additional enrollment because of special education calculated on ~~en~~ by November 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

\*Sec. 34. *MENTAL ILLNESS SPECIAL SERVICES.* For the fiscal year beginning July 1, 2001, and ending June 30, 2002, it is the intent of the general assembly that the Iowa finance authority shall provide \$121,220 from funding available to the authority to be used for mental illness special services.

1. The Iowa finance authority shall use the funding to continue the financing for existing community-based facilities and the financing for the development of affordable community-based housing facilities as funded pursuant to 2000 Iowa Acts, chapter 1228, section 22. The department of human services shall assure that clients are referred to the housing as it is developed.

2. The purpose of the financing is to provide funds for construction and start-up costs to develop community living arrangements to provide for persons with mental illness who are homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.\*

Sec. 35. Section 260G.4B, subsection 1, Code 2001, is amended to read as follows:

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed the sum of three million dollars in the fiscal year beginning July 1, 2000, ~~six~~ three million dollars in the fiscal year beginning July 1, 2001, and six million dollars in the fiscal year beginning July 1, 2002, and every fiscal year thereafter. Any increase in program job credits above the six-million-dollar limitation per fiscal year shall be developed, based on recommendations in a study which shall be conducted by the department of economic development of the needs and performance of approved programs in the fiscal years beginning July 1, 2000, and July 1, 2001. The study's findings and recommendations shall be submitted to the general assembly by the department by December 31, 2002. The study shall include but not be limited to an examination of the quality of the programs, the number of program participant placements, the wages and benefits in program jobs, the level of employer contributions, the size of participating employers, and employer locations. A community college shall file a copy of each agreement with the department of economic development. The department shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the department shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the department shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

Sec. 36. Section 273.22, subsection 5, as amended<sup>14</sup> by 2001 Iowa Acts, House File 674,<sup>15</sup> section 4, if enacted, is amended to read as follows:

5. The board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of a ~~contiguous~~ contiguous ~~their current~~ area

<sup>13</sup> Chapter 159 herein

\* Item veto; see message at end of the Act

<sup>14</sup> The word "enacted" probably intended

<sup>15</sup> Chapter 114 herein

education agency and the newly reorganized area education agency to join ~~that the newly reorganized area education agency~~. ~~If the contiguous both area education agency board approves boards approve~~ the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 37. Section 273.22, as amended<sup>16</sup> by 2001 Iowa Acts, House File 674,<sup>17</sup> section 4, if enacted, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The board of directors of a school district that is within a newly reorganized area education agency and whose school district was contiguous to another area education agency prior to the reorganization, may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If both area education agency boards approve the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 38. Section 299A.8, as amended by 2001 Iowa Acts, House File 643,<sup>18</sup> section 16, if enacted, is amended to read as follows:

**299A.8 DUAL ENROLLMENT.**

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter or a child over compulsory age who is receiving private instruction submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities shall be counted under section 257.6, subsection 1, paragraph "f". A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6, subsection 1, paragraph "c".

\*Sec. 39. Section 301.1, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

*Text books adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools. The department of education shall ascertain a maximum annual amount a school district shall be required to use for the purchase of textbooks for accredited nonpublic schools. The amount shall be in the proportion that the basic enrollment of an accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. An accredited nonpublic school shall certify its actual enrollment to the department of education by October 1, annually. By October 15, annually, the department of education shall notify the board of directors of each school district of the maximum amount of its allocation that shall be made available for purchasing nonsectarian, nonreligious textbooks for each of the accredited nonpublic schools located within the school district in accordance with this paragraph. For purposes of this paragraph, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa. The costs of providing textbooks to accredited nonpublic schools as provided in this paragraph shall not be included in the computation of district cost under chapter 257, but shall be*

<sup>16</sup> The word "enacted" probably intended

<sup>17</sup> Chapter 114 herein

<sup>18</sup> Chapter 159 herein

\* Item veto; see message at end of the Act



*shown in the budget as an expense from miscellaneous income. Textbook expenditures made in accordance with this paragraph shall be kept on file in the school district. As used in this paragraph, "textbooks" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media.\**

Sec. 40. Section 403.19, subsection 2, Code 2001, is amended to read as follows:

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2 and taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. However, all or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the municipality auditor certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on ~~indebtedness incurred~~ bonds issued by the municipality to finance an urban renewal project, which ~~indebtedness was incurred~~ bonds were issued before July 1, ~~2000~~ 2001. Indebtedness incurred to refund bonds issued prior to July 1, 2001, shall not be included in the certification. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Sec. 41. Section 403.19, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. For any fiscal year, a municipality may certify to the county auditor for physical plant and equipment revenue necessary for payment of principal and interest on bonds issued prior to July 1, 2001, only if the municipality certified for such revenue for the fiscal year beginning July 1, 2000. A municipality shall not certify to the county auditor for a school district more than the amount the municipality certified for the fiscal year beginning July 1, 2000. If for any fiscal year a municipality fails to certify to the county auditor for a school district by July 1 the amount of physical plant and equipment revenue necessary for payment of principal and interest on such bonds, as provided in subsection 2, the school district is not required to pay over the revenue to the municipality. If a school district and a municipality are unable to agree on the amount of physical plant and equipment revenue certified by the municipality for the fiscal year beginning July 1, 2001, either party may request that the state appeal board review and finally pass upon the amount that may be certified. Such appeals must be presented in writing to the state appeal board no later than July 31 following certification. The burden shall be on the municipality to prove that the physical plant and equipment levy revenue is necessary to pay principal and inter-

\* Item veto; see message at end of the Act

est on bonds issued prior to July 1, 2001. A final decision must be issued by the state appeal board no later than the following October 1.

*\*Sec. 42. Section 427.1, subsection 19, Code 2001, as amended by 2001 Iowa Acts, Senate File 514, is amended by adding the following new unnumbered paragraph:*

**NEW UNNUMBERED PARAGRAPH.** *For purposes of establishing the valuation limitation under this subsection, if more than one person has an ownership interest in the property, the multiple owners shall be considered one owner so that the two hundred thousand dollar limitation cannot be exceeded as a result of multiple ownership. For purposes of applying the valuation limitation to multiple properties owned by the same person, the two hundred thousand dollar limitation shall apply per owner on a statewide basis.\**

Sec. 43. Section 483A.27, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 11. A hunter safety and ethics instructor certified by the department shall be allowed to conduct an approved hunter safety and ethics education course on public school property with the approval of a majority of the board of directors of the school district. The conduct of an approved hunter safety and ethics education course is not a violation of any public policy, rule, regulation, resolution, or ordinance which prohibits the possession, display, or use of a firearm, bow and arrow, or other hunting weapon on public school property or other public property in this state.

*\*Sec. 44. Section 301.30, Code 2001, is repealed.\**

Sec. 45. 2001 Iowa Acts, House File 259,<sup>19</sup> shall not take effect July 1, 2001, but shall take effect January 1, 2002.

Sec. 46. EFFECTIVE DATE. Section 45 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 47. EFFECTIVE AND APPLICABILITY DATES. Sections 40 and 41 of this division of this Act, being deemed of immediate importance, take effect upon enactment and apply to property taxes due and payable in fiscal years beginning on or after July 1, 2002.

*\*Sec. 48. CONTINGENT EFFECTIVE DATE. Section 42 of this Act shall take effect only if 2001 Iowa Acts, Senate File 514 is enacted without adoption of amendment H-1883 or, in the alternative, Senate File 514 is enacted without adoption of H-1914 to amendment H-1897 to Senate File 514.\**

#### DIVISION VI SCHEDULED VIOLATIONS

Sec. 49. Section 321.17, Code 2001, is amended to read as follows:

#### 321.17 MISDEMEANOR TO VIOLATE REGISTRATION PROVISIONS.

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b", for any person to drive or move or for an owner knowingly to permit to be driven or moved upon the highway a vehicle of a type required to be registered under this chapter which is not registered, or for which the appropriate fee has not been paid, except as provided in section 321.109, subsection 3.

Sec. 50. Section 321.98, Code 2001, is amended to read as follows:

#### 321.98 OPERATION WITHOUT REGISTRATION.

~~No~~ A person shall not operate, ~~nor shall~~ and an owner shall not knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration card and registration plate or plates issued therefor for the

\* Item veto; see message at end of the Act

<sup>19</sup> Chapter 38 herein

current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in this chapter. Any violation of this section is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b".

Sec. 51. Section 321.193, unnumbered paragraph 4, Code 2001, is amended to read as follows:

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 4, paragraph "a", for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to that person under this section.

Sec. 52. Section 321.216, unnumbered paragraph 1, Code 2001, is amended to read as follows:

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 4, paragraph "b", for any person:

Sec. 53. Section 321.216B, Code 2001, is amended to read as follows:

321.216B USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47, commits a simple misdemeanor punishable by a fine of one hundred dollars as a scheduled violation under section 805.8A, subsection 4, paragraph "c". The court shall forward a copy of the conviction to the department.

Sec. 54. Section 321.216C, Code 2001, is amended to read as follows:

321.216C USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN CIGARETTES OR TOBACCO PRODUCTS.

A person who is under the age of eighteen, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license or card to violate or attempt to violate section 453A.2, subsection 2, commits a simple misdemeanor punishable by a fine of one hundred dollars as a scheduled violation under section 805.8A, subsection 4, paragraph "c". The court shall forward a copy of the conviction to the department.

Sec. 55. Section 321L.3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A person who fails to return the persons with disabilities parking permit and subsequently misuses the permit by illegally parking in a persons with disabilities parking space is guilty of a simple misdemeanor and subject to a fine of up to one hundred dollars punishable as a scheduled violation under section 805.8A, subsection 1, paragraph "c".

Sec. 56. Section 321L.7, Code 2001, is amended to read as follows:

321L.7 PENALTY FOR FAILING TO PROVIDE PERSONS WITH DISABILITIES PARKING SPACES AND SIGNS.

Failure to provide proper persons with disabilities parking spaces as provided in section 321L.5 or to properly display persons with disabilities parking signs as provided in section 321L.6 is a simple misdemeanor for which a fine of one hundred dollars shall be imposed for each violation punishable as a scheduled violation under section 805.8A, subsection 1, paragraph "c".

Sec. 57. Section 452A.52, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Any person who is unable to display either of the permits or the license provided in section 452A.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the

~~preceding paragraph is guilty of subsection 1<sup>20</sup> commits a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 13, paragraph "c".~~

*\*Sec. 58. CONFLICTING LEGISLATION. If both 2001 Iowa Acts, Senate File 499 and 2001 Iowa Acts, House File 561 are enacted by the Seventy-ninth General Assembly and if House File 561 maintains the scheduled fine for a violation of section 321.234A at one hundred dollars, the scheduled fine of fifty dollars, as enacted in Senate File 499, shall prevail and the scheduled fine of one hundred dollars, as enacted in House File 561, shall be void.\**

Sec. 59. CONTINGENT EFFECTIVENESS. This division of this Act takes effect only if 2001 Iowa Acts, Senate File 499<sup>21</sup> is enacted.

#### DIVISION VII CORRECTIVE AMENDMENTS

Sec. 60. Section 103A.3, subsections 10, 11, 20, and 25, Code 2001, are amended to read as follows:

10. "Ground anchoring system" means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.

11. "Ground support system" means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.

20. "Permanent site" means any lot or parcel of land on which a manufactured or mobile home used as a dwelling or place of business, is located for ninety consecutive days except a construction site when the manufactured or mobile home is used by a commercial contractor as a construction office or storage room.

25. "Tiedown system" means a ground support system and a ground anchoring system used in concert to provide anchoring and support for a manufactured or mobile home.

Sec. 61. Section 103A.26, Code 2001, if enacted by 2001 Iowa Acts, Senate File 185,<sup>22</sup> section 4, is amended to read as follows:

#### 103A.26 MANUFACTURED OR MOBILE HOME INSTALLERS CERTIFICATION — VIOLATION — CIVIL PENALTY.

1. a. A person who installs a manufactured or mobile home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The commissioner may assess a fee sufficient to recover the costs of administering the certification of manufactured or mobile home installers. The commissioner may suspend or revoke the certification of a manufactured or mobile home installer for failure to perform installation of a manufactured or mobile home, pursuant to certification standards as provided by rules of the commissioner.

b. Notwithstanding section 103A.23, all fees collected by the commissioner for the administration of the manufactured or mobile home program shall be credited to the general fund of the state and are appropriated to the commissioner for the purpose of administering this certification program including the employment of personnel for the enforcement and administration of this program.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured or mobile home is violated, the commissioner may assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured or mobile home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter, or a rule adopted pursuant to this chapter constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.

<sup>20</sup> According to enrolled Act; unnumbered paragraph 1 probably intended

\* Item veto; see message at end of the Act

<sup>21</sup> Chapter 137 herein

<sup>22</sup> Chapter 100 herein

Sec. 62. Section 165A.5, subsection 1, as enacted by 2001 Iowa Acts, Senate File 209,<sup>23</sup> section 5, is amended to read as follows:

1. ~~Except as provided in this subsection, a~~ A person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. The proceeding to assess a civil penalty shall be conducted as a contested case proceeding under chapter 17A.

Sec. 63. Section 172E.1, subsection 3, as enacted by 2001 Iowa Acts, Senate File 209,<sup>24</sup> section 6, is amended to read as follows:

3. "Livestock market" means any place where livestock are assembled from two or more sources for public auction, private sale, or sale on a commission basis, which is under state or federal supervision, including a livestock auction market, if such livestock are kept in the place for ten days or less.

Sec. 64. Section 232.21, subsection 4, Code 2001, as amended by 2001 Acts, Senate File 458,<sup>25</sup> section 5, if enacted, is amended to read as follows:

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a ~~finding~~ determination, supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 65. Section 321.113, subsection 5, paragraph b, unnumbered paragraph 1, if enacted by 2001 Iowa Acts, Senate File 350,<sup>26</sup> section 4, is amended to read as follows:

If the title of a 1993 model year or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:

Sec. 66. Section 322B.2, subsection 4, if enacted by 2001 Iowa Acts, House File 656,<sup>27</sup> section 2, is amended to read as follows:

4. "Manufactured or mobile home distributor" means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.

Sec. 67. Section 331.303, subsection 1, paragraph b, Code 2001, as amended by 2001 Iowa Acts, Senate File 453,<sup>28</sup> section 1, is amended to read as follows:

b. A "warrant book" which records each warrant drawn in the order of issuance by number, date, amount, and name of drawee, and refers to the order in the minute book authorizing its drawing. The board may authorize the auditor to issue checks in lieu of warrants. If the issuance of checks is authorized, the word "check" shall be substituted for the word "warrant" in those sections of this chapter and chapters ~~6B, 11~~ 6B, 11, 35B, 336, 349, 350, 427B, and 468 in which the issuance of a check is authorized in lieu of a warrant.

<sup>23</sup> Chapter 101 herein

<sup>24</sup> Chapter 101 herein

<sup>25</sup> Chapter 135 herein

<sup>26</sup> Chapter 132 herein

<sup>27</sup> Chapter 153 herein

<sup>28</sup> Chapter 45 herein

Sec. 68. Section 351.39, Code 2001, as amended by 2001 Iowa Acts, House File 179,<sup>29</sup> section 1, is amended to read as follows:

351.39 CONFINEMENT.

If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section shall not apply to ~~if~~ a police service dog or a horse used by a law enforcement agency, ~~that is~~ and acting in the performance of its duties ~~which~~ has bitten a person.

Sec. 69. Section 466.8, unnumbered paragraph 1, as enacted by 2001 Iowa Acts, Senate File 479,<sup>30</sup> section 2, is amended to read as follows:

The department of natural resources shall establish an on-site wastewater systems assistance program for the purpose of providing low-interest loans to homeowners residing outside the boundaries of a city for improving on-site wastewater disposal systems.

Sec. 70. Section 466.8, subsection 4, as enacted by 2001 Iowa Acts, Senate File 479,<sup>31</sup> section 2, is amended to read as follows:

4. The department shall report to the general assembly annually on the progress of the on-site wastewater systems assistance program.

Sec. 71. Section 507B.4A, subsection 2, paragraph c, as enacted by 2001 Iowa Acts, Senate File 500,<sup>32</sup> section 8, is amended to read as follows:

c. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims by insurers for health care benefits. The rules shall be consistent with the time frames and other procedural standards for claims decisions by group health plans established by the United States department of labor pursuant to 29 C.F.R. pt. 2560 in effect ~~at the time of passage of this Act~~ on January 1, 2002.

Sec. 72. Section 522B.14, subsection 11, as enacted by 2001 Iowa Acts, Senate File 276,<sup>33</sup> section 28, is amended to read as follows:

11. An insurer, the authorized representative of the insurer, or an insurance producer that fails to report as required under this section, or that is found to have reported with actual malice by a court of competent jurisdiction, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be ~~fin~~ penalized as provided in section 522B.17.

Sec. 73. Section 523A.401, subsection 5, paragraph c, if enacted by 2001 Iowa Acts, Senate File 473,<sup>34</sup> section 28, is amended to read as follows:

c. The policy shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of cemetery merchandise, funeral merchandise, and cemetery goods and funeral services increases.

Sec. 74. Section 523A.405, subsection 1, if enacted by 2001 Iowa Acts, Senate File 473,<sup>35</sup> section 32, is amended to read as follows:

1. In lieu of trust requirements, a seller may file with the commissioner a surety bond issued by a surety company authorized to do business and doing business within this state. The bond must be conditioned upon the seller's faithful performance of purchase agreements subject to this chapter. The surety's liability extends to each such agreement executed

<sup>29</sup> Chapter 19 herein

<sup>30</sup> Chapter 37 herein

<sup>31</sup> Chapter 37 herein

<sup>32</sup> Chapter 69 herein

<sup>33</sup> Chapter 16 herein

<sup>34</sup> Chapter 118 herein

<sup>35</sup> Chapter 118 herein

while the bond is in force and until performance or rescission of the purchase agreement. The aggregate liability of the surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond. To the extent expressly agreed to in writing by the surety, the surety's liability extends to each such agreement subject to this chapter executed prior to the time the bond was in force and until performance or rescission of the agreement. A purchaser aggrieved by a breach of a condition of the bond covering the purchaser's agreement may maintain an action against the bond. If, at the time of the breach, the purchaser is aware of the purchaser's rights under the bond and how to file a claim against the bond, the surety shall not be liable for any breach of condition unless the surety receives notice of a claim within sixty days following discovery of the acts, omissions, or conditions constituting the breach of condition, except as otherwise provided in this section. A surety bond shall not be canceled by a surety except upon a written notice of cancellation given by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner. The surety's liability shall extend to each purchase agreement subject to this chapter executed prior to cancellation of the surety bond until the seller has complied with ~~section~~ subsection 3.

Sec. 75. Section 554.9525, subsections 3 and 4, as enacted by 2000 Iowa Acts, chapter 1149, section 96, are amended to read as follows:

~~3.~~ 2. NUMBER OF NAMES. The number of names required to be indexed does not affect the amount of the fee in ~~subsections~~ subsection 1 and 2.

~~4.~~ 3. RESPONSE TO INFORMATION REQUEST. A rule ~~or ordinance~~ adopted pursuant to subsection 1 must set the fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor. A fee for responding to a request communicated in writing must be not less than twice the amount of the fee for responding to a request communicated by another medium authorized by the office of secretary of state or the board of supervisors for the filing office where its filing office is located.

Sec. 76. Section 558.39, unnumbered paragraph 1, Code 2001, as amended by 2001 Iowa Acts, House File 259,<sup>36</sup> is amended to read as follows:

The following forms of acknowledgment shall be sufficient in the cases to which they are respectively applicable. In each case where one of these forms is used, the name of the state and county where the acknowledgment is taken shall precede the body of the certificate, and the signature and official title of the officer shall follow it as indicated in the first form and shall constitute a part of the certificate, and the stamp or seal of the officer shall be attached when necessary under the provision of this chapter and as provided in section ~~9E-6~~ 9E.6A. No certificate of acknowledgment shall be held to be defective on account of the failure to show the official title of the officer making the certificate if such title appears either in the body of such certificate or in connection therewith, or with the signature thereto.

Sec. 77. Section 627.6, subsection 8, paragraph f, subparagraph (3), Code 2001, as amended by 2001 Iowa Acts, House File 654,<sup>37</sup> section 3, if enacted, is amended to read as follows:

(3) For simplified employee pension plans, self-employed pension plans (also known as Keogh plans or H.R. 10 plans), individual retirement accounts established under section 408(a) of the Internal Revenue Code, individual retirement annuities established under section 408(b) of the Internal Revenue Code, savings incentive matched plans for employees, salary reduction simplified employee pension plans (also known as SARSEPs), and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted ~~for individual retirement accounts and annuities established under section 408 of the Internal Revenue Code or the maximum amount which could be contributed and deducted in the tax year of the contribution~~ on the debtor's tax return or

<sup>36</sup> Chapter 38, §7 herein

<sup>37</sup> Chapter 80 herein

the maximum amount which could be contributed to an individual retirement account established under section 408(a) of the Internal Revenue Code and deducted in the tax year of the contribution, whichever is less. The exemption for accumulated earnings and market increases in value of plans under this subparagraph shall be limited to an amount determined by multiplying all the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

Sec. 78. Section 633.4213, subsection 5, Code 2001, is amended to read as follows:

5. A trustee shall prepare and send to the beneficiaries an account of the trust property, liabilities, receipts, and disbursements at least annually, at the termination of the trust, and upon a change of a trustee. An accounting on behalf of a former trustee shall be prepared by the former trustee, or if the trustee's appointment is is terminated by reason of death or incapacity, by the former trustee's personal representative or guardian or conservator.

Sec. 79. Section 702.11, subsection 2, paragraph e, as enacted by 2001 Iowa Acts, Senate File 63,<sup>38</sup> section 1, is amended to read as follows:

e. Child endangerment resulting in bodily injury to a child or a minor in violation of section 726.6, subsection 2A.

Sec. 80. 2001 Iowa Acts, House File 656,<sup>39</sup> section 15, is amended to read as follows:

SEC. 15. Sections ~~103A.3~~, 103A.30, 103A.31, 321.1, 321.47, 321.123, 321.251, 321.284A, 321.457, 321E.28, 321E.31, 331.429, 331.653, 422.43, 422A.1, 425.17, 426A.11, 427.11, 435.22, 441.17, 445.1, 445.36A, 445.37, 445.38, 515C.1, 534.605, 562B.2, 562B.13, 631.1, 631.4, and 648.3, Code 2001, are amended by inserting before the words "mobile home" the words "manufactured or".

Sec. 81. DIRECTION TO CODE EDITOR. In codifying provisions of 2000 Iowa Acts, chapter 1149, in Code Supplement 2001, the Code editor may change references from "this Act" to an appropriate reference, including but not limited to "this Article", wherever it appears in the Act, after consultation with the Iowa state bar association. The Iowa state bar association is requested to respond to the Code editor's consultations by no later than July 31, 2001. Nothing in this section limits the authority of the Code editor under section 2B.13.

Sec. 82. CONTINGENT EFFECTIVENESS. The sections of this division of this Act amending Code section 103A.3 and Code section 103A.26, if enacted, and Code section 322B.2, take effect only if 2001 Iowa Acts, House File 656<sup>40</sup> is enacted.

*Approved May 22, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Secretary Culver:

I hereby transmit House File 755, an Act relating to public expenditure and regulatory matters, making and reducing appropriations, and including effective date and retroactive applicability provisions.

I will, reluctantly, approve this legislation with the exceptions noted. I do so for two reasons. First, I have come to the conclusion that a significantly better bill is unlikely to be approved by the Legislature in the time remaining before fiscal year 2002 begins. Secondly, I believe that by careful use of the item veto, this bill can be somewhat improved through executive action.

<sup>38</sup> Chapter 3 herein

<sup>39</sup> Chapter 153 herein

<sup>40</sup> Chapter 153 herein



House File 755 contains 82 distinct operations making numerous last-minute changes in laws and appropriations considered by the Legislature in the closing hours of the 2001 regular session. The most important of these are sections making reductions to ongoing statutory appropriations, generally known as “standing appropriations.” While much attention is focused on the legislative appropriations subcommittee process for state agency budgets, the fact remains that standing appropriations comprise nearly half of the state general fund budget.

The most critical standing appropriations — both for their financial size and their importance for state policy — are those that support local K-12 schools in our state. This includes the basic funding for local schools provided by the school aid formula, as well as other assistance, such as the class size reduction initiative for Iowa elementary schools, and educational excellence programs supporting local educators. These are critical to efforts to improve our local schools and re-shape our education system.

When declining revenues made it necessary for me to revise my fiscal year 2002 general fund budget, I made a conscious decision not to try to balance the budget on the backs of our local school children. Because the education standing appropriations make up forty percent of the state general fund budget, I determined that it was necessary to use a portion of the state’s reserve funds to ensure that K-12 education had the funding necessary to maintain and build upon vital initiatives that help students learn.

Unfortunately, the Legislature chose instead to make deeper cuts to balance the budget, and made significant reductions to support for public schools. At a time when we are embarking on an historic effort to re-shape our teacher compensation system to ensure student achievement and teacher quality enhancements, I believe it would be counterproductive to reduce other targeted resources for our local schools to the extent this legislation suggests. There are significant reductions in this bill, for example, in the standing appropriations made to Area Education Agencies, the School Technology program, Child Development grants, Accelerated Career Education credits, Educational Excellence programs, the Class Size reduction program, and Transportation for nonpublic students.

The fact remains that this Legislature chose not to act on several of my recommendations that would have provided greater resources for our local schools. As a consequence, it is not possible to restore all of the unwise education cuts that the Legislature approved. Consistent with my responsibility to balance the budget within the expenditure limit in state law, I will be able, at this time, to restore only some of the items that I would under other circumstances. In the future, I will continue to press the Legislature to restore these education budgets to appropriate levels. In the meantime, I will exercise my item veto authority on House File 755 in the following areas.

I disapprove the item designated as Section 7 in its entirety. This would reduce the standing appropriation for the early intervention block grant, popularly known as the class size reduction initiative, by \$10,000,000. This initiative to reduce class sizes and improve reading scores for students in grades K-3 has already demonstrated success across Iowa. It makes no sense to embark on a new, promising initiative focused on student achievement while cutting an existing, promising initiative that helps students achieve and puts more skilled teachers in the classroom. This initiative deserves to be funded at the planned level in the coming year, and will be as a result of this action today.

I disapprove the item designated as Section 10 in its entirety. This would reduce the standing appropriation for nonpublic school transportation by an estimated \$505,000. Besides

providing necessary services for the efficient operation of schools in our state, this would require the department of education to prorate the amount of claims and would be a costly and time consuming exercise. This action is not necessary at this time.

I disapprove the item designated as Section 11 in its entirety. This would reduce by \$2,000,000 the amount appropriated for Phase III moneys under the Educational Excellence program. This initiative provides additional resources for teachers who add value to the regular school program and upgrade their skills. While a review of this program and how it may, over time, be refocused to better coordinate with other teacher quality initiatives may be of value, an arbitrary reduction at this time is not wise.

As I noted previously, it is not possible to restore all of the unwise cuts made by the Legislature in the area of K-12 education. I have carefully considered the reductions in this bill for school technology, at-risk early childhood grants, and the AEAs, and found a good case could be made to restore each of them as well. In the final analysis, however, the Legislature has chosen not to provide the resources necessary to support all of these initiatives.

I am unable to approve Section 34 in its entirety. This section would require the Iowa Finance Authority to use its reserve funds to support mental illness special services. Moody's Rating Service has indicated that the use of reserve funds will adversely impact the Authority's bond rating. A reduced bond rating will result in increased borrowing costs which will increase costs to first time home buyers. It is more appropriate for the Authority to leverage these assets and address Iowa's housing needs through established housing assistance programs.

I am also unable to approve Section 39 and Section 44 of this bill. The effect of these two sections is to totally re-write state law regarding the allocation of resources for textbooks for students at Iowa's nonpublic schools. These changes were added to this bill late in the legislative session, and did not receive adequate discussion or analysis. I am concerned about the unintended consequences of these provisions. I do not believe legislators intended to reduce funding to large public, private, and parochial schools. I do not support that result. I am not persuaded that a compelling case has been made to totally change the law in this way.

Additionally, I am unable to approve Section 42 and Section 48 of this bill. The effect of these two sections is to amend the Code presuming passage of Senate File 514, the property tax limitation bill related to counties. This bill was not passed in the 2001 legislative session, therefore these provisions are not necessary.

I am also unable to approve Section 58 of this bill. This section was designed to resolve a potential conflict between two other bills passed by the Legislature. One of those will not receive my approval, so no conflict will exist and this section of House File 755 is therefore unnecessary.

I hereby approve House File 755, with the exceptions noted.

Sincerely,  
THOMAS J. VILSACK, *Governor*