

## TREASURER OF STATE

### **12.1 Office accounts reports.**

The treasurer shall keep the treasurer's office at the seat of government, and shall keep an accurate account of the receipts and disbursements at the treasury in books kept for that purpose, in which the treasurer shall specify the names of the persons from whom money is received, and on what account, and the time thereof.

The treasurer is responsible for reporting on the bonding activities of all political subdivisions, instrumentalities, and agencies of the state and shall make recommendations to the general assembly and the governor on modification in the bonding authority. The treasurer shall notify each political subdivision, instrumentality, and agency of the state to report to the treasurer the amount of bonds outstanding and each new bond issue. The treasurer shall adopt rules and establish forms for carrying out this provision. Each political subdivision, instrumentality, and agency of the state shall provide all the information required by the treasurer under this provision.

[C51, § 62; R60, § 83; C73, § 75; C97, § 101; C24, 27, 31, 35, 39, § **131**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.1]

86 Acts, ch 1245, § 823

### **12.2 Daily balance sheet.**

The treasurer of state shall so keep the books of the treasurer's office that at the close of each day's business the account of each fund will show the balance or deficit therein, and show also the total amount of the money in the state treasury, and should the books not be in balance, the daily statement shall show the amount of the surplus or deficit by which the books fail to balance.

[C24, 27, 31, 35, 39, § **132**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.2]

### **12.3 Record and payment of warrants.**

The treasurer of state shall keep a record of warrants issued as certified by the director of the department of administrative services, and receive in payment of public dues the warrants so issued in conformity with law, and redeem the same, if there be money in the treasury not otherwise appropriated, and on receiving any such warrant shall cause the person presenting it to endorse it, and shall indicate on its face in a suitable manner that it has been redeemed, and keep a record of warrants redeemed showing the name of the person to whom paid, date of payment, and amount of interest paid.

[C51, § 63; R60, § 84; C73, § 76; C97, § 102; C24, 27, 31, 35, 39, § **133**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.3]

2003 Acts, ch 145, §286

### **12.4 Receipts.**

When money is paid to the treasurer, the treasurer shall execute receipts in duplicate therefor, stating the fund to which it belongs, one of which must be delivered to the director of the department of administrative services in order to obtain the proper credit, and the treasurer must be charged therewith.

[C51, § 64; R60, § 85; C73, § 77; C97, § 103; C24, 27, 31, 35, 39, § **134**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.4]

2003 Acts, ch 145, §286

### **12.5 Payment.**

The treasurer shall pay no money from the treasury but upon the warrants of the director of the department of administrative services, and only in the order of their presentation.

[C51, § 65; R60, § 86; C73, § 78; C97, § 104; S13, § 104; C24, 27, 31, 35, 39, § **135**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.5]

2003 Acts, ch 145, §286

### **Footnotes**

Warrants not paid for want of funds, chapter 74

### **12.6 Report to and account with director of the department of administrative services.**

Once in each week the treasurer shall certify to the director of the department of administrative services the number, date, amount, and payee of each warrant taken up by the treasurer, with the date when taken up, and the amount of interest allowed; and on the first Monday of January, and the first day of April, July, and October, annually, the treasurer is directed to account with the director of the department of administrative services and deposit with the department of administrative services all such warrants received at the treasury, and take the director's receipt therefor.

[C51, § 67; R60, § 88; C73, § 80; C97, § 106; S13, § 106; C24, 27, 31, 35, 39, § **137**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.6]

2003 Acts, ch 145, §286

### **12.7 Interest on bonds.**

When interest on any bonds of the state becomes due, the treasurer shall provide funds for the payment thereof on the day and at the place where payable; and persons holding such bonds are required to present the same at such place within ten days from such day, at the expiration of which time the funds remaining unexpended and vouchers for interest paid shall be returned to the treasury.

[C73, § 82; C97, § 108; C24, 27, 31, 35, 39, § **138**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.7]

### **Footnotes**

Deposits in general, § 12C.1

### **12.8 Investment or deposit of surplus appropriation investment income lending securities.**

The treasurer of state shall invest or deposit, as provided by law, any of the public funds not currently needed for operating expenses and shall do so upon receipt of monthly notice from the director of the department of administrative services of the amount not so needed. In the event of loss on redemption or sale of securities invested as prescribed by law, and if the transaction is reported to the executive council, neither the treasurer nor director of the department of administrative services is personally liable but the loss shall be charged against the funds which would have received the profits or interest of the investment and there is appropriated from the funds the amount so required.

Investment income may be used to maintain compensating balances, pay transaction costs for investments made by the treasurer of state, and pay administrative and related overhead costs incurred by the treasurer of state in the management of money. The treasurer of state shall coordinate with the affected departments to determine how compensating balances, transaction costs, or money management and related costs will be established. All charges against a retirement system must be documented and notification of the charges shall be made to the appropriate administration of the retirement system affected.

The treasurer of state, with the approval of the investment board of the Iowa public employees' retirement system, may conduct a program of lending securities in the Iowa public employees' retirement system portfolio. When securities are loaned as provided by this paragraph, the treasurer shall act in the manner provided for investment of moneys in the Iowa public employees' retirement fund under section 97B.7A. The treasurer of state shall report at least annually to the investment board of the Iowa public employees' retirement system on the program and shall provide additional information on the program upon the request of the investment board or the employees of the Iowa public employees' retirement system.

[C24, 27, 31, 35, 39, § 141; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.8]

84 Acts, ch 1180, § 6; 85 Acts, ch 227, §6; 88 Acts, ch 1242, § 1; 91 Acts, ch 268, §123; 94 Acts, ch 1001, §1; 2001 Acts, ch 68, §1, 24; 2003 Acts, ch 145, §286

## Footnotes

Investment or deposit, § 12B.10

**12.9 Annual report of filing fees.** Repealed by 95 Acts, ch 219, § 46.

### **12.10 Deposits by state officers.**

Except as otherwise provided, all elective and appointive state officers, boards, commissions, and departments shall, within ten days succeeding the collection, deposit with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received. The balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the state fair board, the state board of regents, the utilities board of the department of commerce, the director of the department of human services, the Iowa finance authority or to the funds received by the state racing and gaming commission under sections 99D.7 and 99D.14.

[C73, § 3778; C97, § 191; S13, § 170-d; C24, 27, 31, 35, 39, § 143; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.10]

83 Acts, ch 96, § 157, 159; 83 Acts, ch 187, § 29; 84 Acts, ch 1266, § 2

**12.11 Unclaimed fees.** Repealed by 90 Acts, ch 1090, § 1. See chapter 556.

**12.12 Statement required.** Repealed by 95 Acts, ch 219, § 46.

**12.13 Payment of claims.** Repealed by 95 Acts, ch 219, § 46.

**12.14 Statement itemized.**

Each deposit shall be accompanied by an itemized statement of the sources from which the money has been collected, and the funds to be credited, a duplicate of which shall, at the time, be filed with the department of administrative services.

[S13, § 170-d; C24, 27, 31, 35, 39, § **144**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.14]

2003 Acts, ch 145, §286

### **12.15 Director and treasurer to keep account.**

The treasurer and director of the department of administrative services shall each keep an accurate account of the moneys so deposited.

[S13, § 170-f; C24, 27, 31, 35, 39, § **145**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.15]

2003 Acts, ch 145, §286

### **12.16 Swampland indemnity.**

All swampland indemnity money paid by the federal government to this state under any Act of Congress relating thereto shall be paid by the treasurer of state to the county treasurer of the county where the land, on account of which such payment is made, is located. The county treasurer shall be liable on a bond for the safe custody of said funds and shall promptly notify the board of supervisors of the receipt thereof. Said funds shall be applied by the said supervisors as required by law.

[S13, § 116-d, -e, -f; C24, 27, 31, 35, 39, § **146**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.16]

### **12.17 Biennial report.**

The treasurer of state shall, biennially, at the time provided by law, report to the governor the state of the treasury and exhibit therein the amount received and paid out by the treasurer since the last report, and the balance remaining in the treasury.

[C51, § 68; R60, § 89; C73, § 81; C97, § 107; C24, 27, 31, 35, 39, § **147**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.17]

### **Footnotes**

See also § 258.12

### **12.18 Salary.**

The salary of the treasurer of state shall be as fixed by the general assembly.

[C31, 35, § 147-c1; C39, § **147.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.18]

### **12.19 Six-months' limit on checks.**

On the first day of each quarter of each fiscal year of the state, the state treasurer shall stop payment on and make void all treasury checks dated six months or more prior to that date, and the state treasurer shall not redeem any such check thereafter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.19]

### **12.20 Issuance of new check.**

Upon presentation of any check voided as above provided by the holder thereof after said six months' period, the state treasurer is hereby authorized to issue to said holder, a new check for the amount of the original check.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 12.20]

### **12.21 Accepting credit card payments.**

The treasurer of state may enter into an agreement with a financial institution to provide credit card receipt processing for state departments which are authorized by the treasurer of state to accept payment by credit card. A department which accepts credit card payments may adjust its fees to reflect the cost of processing as determined by the treasurer of state. A fee may be charged by a department for using the credit card payment method notwithstanding any other provision of the Code setting specific fees. The treasurer of state shall adopt rules to implement this section.

89 Acts, ch 120, §1; 92 Acts, ch 1126, §1; 95 Acts, ch 219, § 36

**12.22 through 12.24** Reserved.

### **12.25 Legislative findings.**

The general assembly finds and declares that because of differences in the timing of the receipt of tax and other revenues and the expenditure of funds by the state, the state has been unable to remain timely on its obligations, including its payments of school aid; the untimely payment of state aid has created a hardship for schools by increasing their costs and hindering their ability to remain timely on their obligations; it would be advantageous to the state to be able to issue notes in anticipation of its tax and other revenues in order to coordinate its cash flow; and pending their use, the proceeds of notes issued in anticipation of tax and other revenues should be invested in order to pay the cost of issuing the notes and as a benefit to the state. It is the purpose of this section and section 12.26 to enable the state to make timely payments of its obligations, including its school aid payments, by securing funds through the issuance of notes in anticipation of the state's tax and other revenues.

85 Acts, ch 34, §18

### **12.26 Issuance of revenue anticipation notes.**

1. In anticipation of the collection of revenues in and for a fiscal year, the treasurer of state may borrow money, and issue notes for the money, in an amount not exceeding the estimated state revenues for that year. The sums so anticipated are appropriated for the payment of the notes with interest at maturity. The notes may be issued prior to the beginning of a fiscal year, but the notes shall be payable not later than the end of the fiscal year for which they are issued. More than one series of notes may be issued in a fiscal year and the proceeds of notes may be used to retire a prior issue of notes provided that the total outstanding at any one time shall not exceed the limit prescribed in this section. The proceeds from the issuance of notes shall be invested in the same manner as other public funds and shall be used only for the purposes for which the anticipated tax revenues were levied, collected, and appropriated.

2. The principal of and the interest on notes are payable solely out of the taxes and revenues of the state for the fiscal year for which the notes are issued. The notes of each issue shall be dated, shall bear interest at a rate or rates which may be variable according to a method approved by the treasurer of state, without regard to any limit contained in chapter 74A or any other law of this state, and shall mature at a time or times not

later than the end of the fiscal year, all as determined by the treasurer of state. The notes may be made redeemable before maturity, at the option of the treasurer of state, at the price and under the terms and conditions provided by the treasurer of state. The treasurer of state shall determine the form of the notes and shall fix the denomination of the notes and the place of payment of principal and interest which may be at any bank within or without the state. The notes shall be executed by the manual or facsimile signatures of the treasurer of state, the director of management, and the director of the department of administrative services. If an official whose signature or a facsimile of whose signature appears on any notes ceases to hold office before the delivery of the notes, the signature or the facsimile is valid and sufficient for all purposes the same as if the official had remained in office until the delivery. All notes issued under this section have the qualities and incidents of negotiable instruments under the laws of this state and without regard to any other law. The notes shall be issued in registered form. The notes may be sold in a manner, at public or private sale, as the treasurer of state may determine without regard to chapter 75.

3. Notes may be issued under this section without obtaining the consent of any officer or agency of this state, and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by this section. The treasurer of state, the director of management, and the director of the department of administrative services are not liable personally on the notes or subject to any personal liability or accountability by reason of the issuance of the notes.

4. As used in this section, "*notes*" means notes and other obligations, including short term obligations backed by a commercial letter of credit, issued by the treasurer of state pursuant to this section.

85 Acts, ch 34, §19; 88 Acts, ch 1134, § 11; 2003 Acts, ch 145, §286

**12.27 Credit rules.** Repealed by 99 Acts, ch 73, § 1.

### **12.28 Centralized financing for state agency purchase of real and personal property.**

1. As used in this section, unless the context otherwise requires:

*a. "Financing agreement"* means any lease, lease-purchase agreement, or installment acquisition contract in which the lessee may purchase the leased property at a price which is less than the fair market value of the property at the end of the lease term, or any lease, agreement, or transaction which would be considered under criteria established by the internal revenue service to be a conditional sale agreement for tax purposes.

*b. "State agency"* means a board, commission, bureau, division, office, department, or branch of state government. However, state agency does not mean the state board of regents, institutions governed by the board of regents, or authorities created under chapter 16, 16A, 175, 257C, 261A, or 327I.

2. The treasurer of state shall have sole authority to enter into financing agreements on behalf of state agencies. The treasurer of state may enter into financing agreements, including master lease-purchase agreements, for the purpose of funding state agency requests for the financing of real or personal property, wherever located within the state, including equipment, buildings, facilities, and structures, or additions or improvements to existing buildings, facilities, and structures. Subject to the selection procedures of section 12.30, the treasurer may employ financial consultants, banks, trustees, insurers, underwriters, accountants, attorneys, and other advisors or consultants as necessary to implement the provisions of this section. The costs of professional services and any other costs of entering into the financing agreements may be included in the financing agreement as a cost of the property being financed.

3. The financing agreement may provide for ultimate ownership of the property by the state. Title to all property acquired in this manner shall be taken and held in the name of the state. The state shall be the lessee or contracting party under all financing agreements entered into pursuant to this section. The financing agreements may contain provisions pertaining, but not limited to, interest, term, prepayment, and the state's

obligation to make payments on the financing agreement beyond the current budget year subject to availability of appropriations. All projects financed under this section shall be deemed to be for an essential governmental purpose.

4. The treasurer of state may contract for additional security or liquidity for a financing agreement and may enter into agreements for letters of credit, lines of credit, insurance, or other forms of security with respect to rental and other payments due under a financing agreement. Fees for the costs of additional security or liquidity are a cost of entering into the financing agreement and may be paid from funds annually appropriated by the general assembly to the state agency for which the property is being obtained, from other funds legally available, or from proceeds of the financing agreement. The provision of a financing agreement which provides that a portion of the periodic rental or lease payment be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 does not apply to financing agreements entered into pursuant to this section.

5. Payments and other costs due under financing agreements entered into pursuant to this section shall be payable from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available. The treasurer of state, in cooperation with the department of administrative services, shall implement procedures to ensure that state agencies are timely in making payments due under the financing agreements.

6. The maximum principal amount of financing agreements which the treasurer of state can enter into shall be one million dollars per state agency in a fiscal year, subject to the requirements of section 8.46. For the fiscal year, the treasurer of state shall not enter into more than one million dollars of financing agreements per state agency, not considering interest expense. However, the treasurer of state may enter into financing agreements in excess of the one million dollar per agency per fiscal year limit if a constitutional majority of each house of the general assembly, or the legislative council if the general assembly is not in session, and the governor, authorize the treasurer of state to enter into additional financing agreements above the one million dollar authorization contained in this section. The treasurer of state shall not enter into a financing agreement for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be financed. However, financing agreements for an energy conservation measure, as defined in section 7D.34, are exempt from the provisions of this subsection, but are subject to the requirements of section 7D.34 or 473.20A. In addition, financing agreements funded through the materials and equipment revolving fund established in section 307.47 are exempt from the provisions of this subsection.

7. The treasurer of state shall decide upon the most economical method of financing a state agency's request for funds. The treasurer of state may utilize master lease-purchase agreements, issue certificates of participation in lease-purchase agreements, or use any other financing method or method of sale which the treasurer believes will provide savings to the state in issuance or interest costs.

8. A financing agreement to which the state is a party is an obligation of the state for purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and other fiduciaries responsible for the investment of funds.

9. Publication of any notice, whether under section 73A.12 or otherwise, and other or further proceedings with respect to the financing agreements referred to in this section are not required except as set forth in this section, notwithstanding any provisions of other statutes of the state to the contrary.

96 Acts, ch 1177, §2; 2003 Acts, ch 145, §286

**12.29** Reserved.

### **12.30 Coordination of bonding activities.**

1. As used in this section, unless the context otherwise requires:

*a. "Authority"* means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which has the power to issue obligations, except that *"authority"* does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C.

*b. "Obligations"* means notes, bonds, including refunding bonds, and other evidences of indebtedness of an authority.

2. Notwithstanding any other provision of the Code the treasurer shall coordinate the issuance of obligations by authorities. The treasurer, or the treasurer's designee, shall serve as ex officio nonvoting member of each authority. Prior to the issuance of obligations, an authority shall notify the treasurer of its intention to do so. The treasurer shall:

*a.* Select and fix the compensation for, in consultation with the respective authority, through a competitive selection procedure, attorneys, accountants, financial advisors, banks, underwriters, insurers, and other employees and agents which in the treasurer's judgment are necessary to carry out the authority's intention. Prior to the initial selection, the treasurer shall, after consultation with the authorities, establish a procedure which provides for a fair and open selection process including, but not limited to, the opportunity to present written proposals and personal interviews. The treasurer shall maintain a list of firms which have requested to be notified of requests for proposal. The selection criteria shall take into consideration, but are not limited to, compensation, expenses, experience with similar issues, scheduling, ability to provide the services of individuals with specific knowledge in the relevant subject matter and length of the engagement. The treasurer may waive the requirements for a competitive selection procedure for any specific employment upon written notice to the executive council stating why the waiver is in the public interest. Upon selection by the treasurer, the authority shall promptly employ the individual or firm and be responsible for payment of costs.

*b.* Submit an account to the respective authority for all costs incurred in each transaction. The treasurer will charge an authority for costs of administration. The authority shall disburse to the treasurer the amounts set forth in the account.

*c.* Direct the investment or deposit of the proceeds of the sale of the obligations, in accordance with the language of the documents drafted to effectuate issuance of the obligations, except for the proceeds necessary to fund the ongoing operations of the authority. This paragraph does not apply to proceeds of obligations issued before July 1, 1986.

*d.* Collect from an authority and other sources, any statistical and financial information necessary to draft an offering document or prepare a presentation necessary for the issuance or marketing of the obligations.

3. Each respective authority shall consult with the treasurer on the following:

*a.* Amount, terms, and conditions of the obligations to be issued by the authority including other provisions deemed necessary by the treasurer or the authority.

*b.* The documents or instruments necessary to effectuate issuance of the obligation.

*c.* Presentations to rating agencies and marketing activities. The treasurer may choose to participate in these presentations.



4. Professional services, including but not limited to attorneys, accountants, financial advisors, banks, underwriters, insurers, and other employees employed by a project sponsor may be selected by the project sponsor, if the obligation is issued in behalf of the project sponsor and the purchaser of the obligation does not have recourse to the authority or state.

5. The treasurer may delay implementation of this section for up to six months following July 1, 1986, for an authority to facilitate an orderly transition.

86 Acts, ch 1245, §24; 90 Acts, ch 1254, §29; 2000 Acts, ch 1208, §19, 25

### **12.31 Short title.**

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

86 Acts, ch 1096, §1; 89 Acts, ch 234, §1; 2000 Acts, ch 1058, §3

### **12.32 Definitions.**

As used in section 12.31, this section, and sections 12.33 through 12.43B, unless the context otherwise requires:

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

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

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

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

86 Acts, ch 1096, §2; 89 Acts, ch 234, §2; 96 Acts, ch 1058, §1; 97 Acts, ch 195, §1, 2, 10; 99 Acts, ch 177, §1, 9; 2000 Acts, ch 1058, §4, 5; 2001 Acts, ch 24, §1

### **12.33 Public policy.**

It is the public policy of this state that a linked investments for tomorrow program be established to provide statewide availability of lower cost funds for lending purposes that will inject needed capital into the business of, and stimulate existing or encourage new businesses in, the area of producing, processing, or marketing horticultural or nontraditional crops.

86 Acts, ch 1096, § 3; 89 Acts, ch 234, § 3; 97 Acts, ch 195, §3, 10

### **12.34 Linked investments limitations rules maturity and renewal of certificates.**

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

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

*b.* The treasurer of state shall invest the remaining amount as follows:

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

(2) At least twenty million dollars shall be invested in order to support the value-added agricultural linked investment loan program as provided in section 12.43B.

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

*b.* The treasurer of state in cooperation with the board of directors of the agricultural development authority as established in section 175.3 shall adopt rules for the administration of the traditional livestock producers linked investment loan program as provided in section 12.43A. The treasurer of state in cooperation with the agricultural products advisory council established in section 15.203 shall adopt rules for the administration of the value-added agricultural linked investment loan program as provided in section 15.204.

3. A certificate of deposit, which is placed by the treasurer of state with an eligible lending institution on or after July 1, 1996, may be renewed at the option of the treasurer. The following shall apply to the certificate of deposit:

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

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

86 Acts, ch 1096, § 4; 89 Acts, ch 234, § 4; 96 Acts, ch 1058, § 2, 3, 9, 10, 12; 97 Acts, ch 195, §4, 10; 99 Acts, ch 177, § 2, 7, 9; 2001 Acts, ch 24, §2

### **12.35 Agreement loan applications.**

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

2. An eligible lending institution that desires to receive a linked investment shall accept and review applications for loans from eligible borrowers.

3. The eligible lending institution shall forward to the treasurer of state a linked investment loan package in the form and manner as prescribed by the treasurer of state. The package shall include information required by the treasurer of state, including but not limited to the amount of the loan requested and the purpose of the loan. The institution shall certify that the applicant is an eligible borrower.

86 Acts, ch 1096, § 5; 89 Acts, ch 234, § 5; 96 Acts, ch 1058, §4; 2001 Acts, ch 24, §3

### **12.36 Actions by treasurer.**

1. The treasurer of state shall accept or reject a linked investment loan package or any portion of the package based on the type or terms of the loan involved, the availability of state funds, or the compliance of the eligible borrower or eligible lending institution.

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall place certificates of deposit with the eligible lending institution at a rate not more than three percent below the current market rate. The treasurer of state shall not place a certificate of deposit with an eligible lending institution pursuant to sections 12.32 through 12.35, this section, and sections 12.37 through 12.43B, unless the certificate of deposit earns a rate of interest of at least two percent. Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit matures. Certificates of deposit placed pursuant to sections 12.32 through 12.35, this section, and sections 12.37 through 12.43B are not subject to a penalty for early withdrawal.

86 Acts, ch 1096, § 6; 89 Acts, ch 234, § 6; 92 Acts, ch 1105, §1; 96 Acts, ch 1058, § 5; 2001 Acts, ch 24, §4

### **12.37 Loans.**

1. Upon the placement of a linked investment with an eligible lending institution, the institution is required to lend the funds to the eligible borrower listed in the linked investment loan package and in accordance with the investment agreement. The loan shall be at a rate not more than four percent above the rate paid the treasurer by the financial institution. The eligible lending institution shall be required to submit a certification of compliance with this section in the form and manner as prescribed by the treasurer of state.

2. The treasurer of state shall take all steps necessary to implement the linked investments for tomorrow program and monitor compliance of eligible lending institutions and eligible borrowers.

86 Acts, ch 1096, § 7; 89 Acts, ch 234, § 7

### **12.38 Reports.**

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow programs for the preceding calendar year to the governor, the department of economic development, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the house co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the house which customarily consider legislation regarding agriculture and commerce, and the president of the senate shall transmit copies of this report to the senate co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture and commerce. The report shall set forth the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and the eligible borrowers to which the loans were made.

86 Acts, ch 1096, § 8; 89 Acts, ch 234, § 8; 94 Acts, ch 1188, §31; 96 Acts, ch 1058, §6

### **12.39 Liability.**

The state and the treasurer of state are not liable to an eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not in any manner affect the investment agreement between the eligible lending institution and the treasurer of state.

86 Acts, ch 1096, § 9; 90 Acts, ch 1168, § 6

### **12.40 Rural small business transfer linked investment loan program.**

1. As used in this section, "*rural small business*" means an existing rural small business, for which local competition does not exist in the principal realm of business activity of that business, and the loss of which will work a hardship on the rural community. A rural small business may include a grocery store, drug store, gasoline station, convenience store, hardware business, or farm supply store. A rural small business does not include a new business.
2. The treasurer of state shall adopt rules consistent with sections 12.32 through 12.39, this section, and sections 12.41 through 12.43B to implement a rural small business transfer linked investment loan program to maintain and expand existing employment opportunities and the provision of retail goods on a local level in small rural communities by assisting in the transfer of ownership of retail-oriented businesses where, in the absence of sufficient financial assistance, the businesses may close.
3. In order to qualify as an eligible borrower, the rural small business must be located in a city with a population of five thousand or less. A rural small business located in a city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be ineligible to qualify as a borrower. In order to qualify under this program, all owners of the business or borrowers must not have a combined net worth exceeding five hundred thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the rural small business must meet all of the following criteria:
  - a. Be a for-profit business.
  - b. Have annual sales of two million dollars or less.
  - c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.
  - d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.
  - e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class "C" liquor license issued pursuant to section 123.30.
4. In order to qualify as an eligible borrower, the transfer of the rural small business must be by purchase, lease-purchase, or contract of sale. The purchase must be for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment, supplies, and machinery relied upon by the business, and inventory for sale by the business.
5. In order to qualify as an eligible borrower, a borrower and the seller of the rural small business shall not be within the third degree of consanguinity or affinity.
6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the

linked investment loan package.

7. During the lifetime of this loan program, the maximum amount of assistance that an eligible borrower or a business may receive through this loan program shall be fifty thousand dollars.

92 Acts, ch 1105, §2; 96 Acts, ch 1058, § 7; 97 Acts, ch 23, §4; 97 Acts, ch 195, §57, 10; 2001 Acts, ch 24, §5

#### **12.41 Horticultural and nontraditional crops linked investment loan program.**

The treasurer of state shall adopt rules to implement a horticultural and nontraditional crops linked investment loan program to provide statewide availability of lower cost funds for lending that will stimulate existing or encourage new businesses in the areas of producing, processing, or marketing horticultural or nontraditional crops. The rules shall be in accordance with the following:

1. In order to qualify as an eligible borrower, the loan application must be for the purchase or lease of land, machinery, equipment, or the purchase of other inputs used in the business of producing, processing, or marketing horticultural or nontraditional crops as defined in rules adopted by the treasurer.
2. The gross income earned by the borrower's business of producing, processing, or marketing horticultural or nontraditional crops is not more than three hundred thousand dollars for the borrower's last tax year.
3. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the linked investment loan package.
4. The maximum loan amount that an eligible borrower may receive under this program is two hundred thousand dollars for a production loan and five hundred thousand dollars for processing or marketing facilities.

96 Acts, ch 1058, §8; 97 Acts, ch 195, §8, 10; 99 Acts, ch 177, § 3, 9

**12.42** Reserved.

#### **12.43 Focused small business linked investments program created definitions.**

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

1. As used in this section:
  - a. "*Disability*" is defined as provided in section 15.102, subsection 5.
  - b. "*Focused small business*" means a new small business which is fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability, provided the business meets all the requirements of subsection 5.
  - c. "*Major life activity*" is defined as provided in section 15.102, subsection 5.
  - d. "*Minority person*" is defined as provided in section 15.102, subsection 5.

2. Loan applications for a focused small business shall be for the purchase of land, machinery, equipment, or licenses, or patent, trademark, or copyright fees and expenses.

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

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

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

a. Be a for-profit business.

b. Have annual sales of two million dollars or less.

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

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

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

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

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

87 Acts, ch 233, § 128; 88 Acts, ch 1273, § 4; 89 Acts, ch 234, § 9; 94 Acts, ch 1201, §13; 97 Acts, ch 195, §9, 10

#### **12.43A Traditional livestock producer's linked investment loan program.**

1. As used in this section, unless the context otherwise requires:

a. *"Farm operation"* means the same as defined in section 352.2.

b. *"Livestock"* means cattle or swine.

c. *"Livestock operation"* means an animal feeding operation as defined in section 459.102 in which livestock is provided care and feeding, or any other area which is used for raising crops or other vegetation and upon which livestock is fed or allowed to graze.

d. *"Traditional livestock producer"* means a person who is the owner and operator of livestock subject to care and feeding at a livestock operation in which the person holds a legal interest. The person may own the livestock or own the livestock jointly with another person. The person must be actively engaged in the

livestock operation by making management decisions and performing physical work relating to the care and feeding of the livestock on a regular, continuous, and substantial basis in a manner that is essential to the success of the livestock operation.

2. The treasurer of state shall adopt rules as provided in section 12.34 to implement a traditional livestock producers linked investment loan program. The purpose of the program is to increase the availability of lower cost loans to traditional livestock producers.

3. In order to qualify for a loan in accordance with an investment agreement under sections 12.32 through 12.43, this section, and section 12.43B, all of the following requirements must be satisfied:

*a.* In order to be an eligible borrower, all of the following must apply:

(1) The borrower must be a traditional livestock producer.

(2) The borrower must be a resident of this state who is at least eighteen years of age.

(3) The borrower must not be any of the following:

(a) A party to a pending legal or administrative action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(b) Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

*b.* The livestock operation must be located in this state.

*c.* The gross income earned by the borrower's farm operation must be more than fifty thousand dollars but not more than five hundred thousand dollars for the borrower's last tax year.

*d.* At least fifty percent of the average annual gross income earned by the borrower's farm operation derives from livestock owned and sold by the borrower. The average annual gross income shall be computed as the average of the gross income earned by the farm operation in the three preceding tax years.

4. An investment agreement shall not be for a loan of more than one hundred thousand dollars.

5. A borrower is not eligible to receive a loan as part of a linked investment loan package under this program if the borrower has received three loans pursuant to a linked investment loan package under this program approved by the treasurer of state within the last ten years. For purposes of this subsection, a loan provided as part of a renewed certificate of deposit shall be deemed to be a new loan.

99 Acts, ch 177, §4, 9; 2000 Acts, ch 1172, §2, 3; 2001 Acts, ch 24, §6

#### **12.43B Value-added agricultural linked investment loan program.**

1. The treasurer of state shall establish and administer, and adopt rules as necessary to establish and administer, a value-added agricultural linked investment loan program. The purpose of the program is to provide capital in the form of low-interest loans in order to do any of the following:

*a.* Stimulate existing businesses or encourage the establishment of new businesses that add value through the processing of agricultural commodities.

b. Encourage the production of agricultural commodities, if a shortage in production exists.

2. A borrower shall be eligible to participate in the value-added agricultural linked investment loan program, to the extent that the borrower meets eligibility requirements established by the treasurer of state as provided in section 12.34.

3. A borrower shall not receive a loan of more than two hundred fifty thousand dollars under this program.

99 Acts, ch 177, §5, 9

#### **12.44 Iowa satisfaction and performance bond program.**

Agencies of state government shall be required to waive the requirement of satisfaction, performance, surety, or bid bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience, lack of net worth, or lack of capital. This waiver shall not apply to businesses with a record of repeated failure of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of inspections and appeals that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

The department of inspections and appeals shall certify targeted small businesses for eligibility and participation in this program and shall make this information available to other state agencies.

Subdivisions of state government may also grant such a waiver under similar circumstances.

87 Acts, ch 233, § 129; 88 Acts, ch 1273, § 5; 90 Acts, ch 1156, § 1; 92 Acts, ch 1244, §10

**12.45 through 12.50** Reserved.

**12.51 Main street linked investments loan program.** Repealed by 96 Acts, ch 1058, § 1012.

**12.52 Application process.** Repealed by 96 Acts, ch 1058, § 1012.

**12.53 through 12.60** Reserved.

#### **12.61 State-sponsored credit card.**

1. For purposes of this section, unless the context otherwise requires:

a. *"Financial institution"* means a state bank as defined in section 524.103, subsection 33, a federally chartered state bank having its principal office within this state, a federally chartered credit union having its principal office within this state, a federally chartered savings and loan association having its principal office within the state, a credit union organized under chapter 533, an association incorporated or authorized to do business under chapter 534, or a trust company organized or incorporated under the laws of this state.

b. *"Financial institution credit card"* means a credit card that entitles the holder to make open-account purchases up to an approved amount and is issued through the agency of a financial institution.

c. *"Sponsoring entity"* means an entity that allows its name or logo to be used on a particular financial institution credit card in exchange for a fee from the credit card issuer.



2. The treasurer is authorized to participate in a financial institution credit card program for the benefit of the state. Within six months of May 27, 1989, the treasurer shall contact each financial institution to determine if:

a. The financial institution or its Iowa holding company or Iowa affiliate currently administers a credit card program.

b. The credit card program provides a fee or commission on retail sales to the sponsoring entity for the issuance and use of the credit card.

c. The credit card program would accept the state as a sponsoring entity.

If the treasurer determines that the state may be a sponsoring entity for a financial institution credit card, the treasurer shall negotiate the most favorable rate for the state's fee by a credit card issuer. The state shall not offer a more favorable rate to any other credit card issuer. The rate must be expressed as a percentage of the gross sales from the use of the credit card. The proceeds of the fee shall be deposited in the Iowa resources enhancement and protection fund created under section 455A.18. The treasurer shall recommend a logo or design for the state-sponsored credit card indicating the use for which the revenues will be used.

In selecting a credit card issuer, the treasurer shall consider the issuer's record of investments in the state, shall take into consideration credit card features which will enhance the promotion of the state-sponsored credit card including, but not limited to, favorable interest rates, annual fees, and other fees for using the card, and shall require that the card be available to any person who qualifies for a credit card. Upon entering into an agreement with the financial institution, the treasurer shall notify all state agencies then possessing a credit card to obtain the new state-sponsored credit card.

89 Acts, ch 236, § 8; 90 Acts, ch 1255, § 1

### **12.62 Investments by agencies and political subdivisions technical information and assistance.**

The treasurer of state shall adopt rules pursuant to chapter 17A for providing technical information and assistance to political subdivisions, the state board of regents, instrumentalities, and agencies of the state authorized to invest funds which are seeking to invest public funds. The treasurer or the treasurer's designee shall provide technical information and assistance to a political subdivision, the state board of regents, or an instrumentality, or agency of the state authorized to invest funds at the request of the political subdivision, the state board of regents, or an instrumentality, or agency of the state authorized to invest funds, including but not limited to technical information regarding the statutory requirements for investments by the political subdivision, the state board of regents, or an instrumentality, or agency and technical assistance to enable the political subdivision, the state board of regents, or an instrumentality, or agency to invest funds in accordance with state law. However, the fact that information and assistance are provided under this section to a political subdivision, the state board of regents, or an instrumentality, or agency authorized to invest funds shall not make the state, the treasurer of state, or the treasurer's designee liable to a political subdivision, the state board of regents, or an instrumentality, or agency of the state in any manner for any loss, damage, or expense incurred by the political subdivision, the state board of regents, or an instrumentality, or agency as a result of an investment.

92 Acts, ch 1156, §5

**12.63 and 12.64** Reserved.

### **12.65 Healthy Iowans tobacco trust.**

1. A healthy Iowans tobacco trust is created in the office of the treasurer of state. 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 healthy Iowans tobacco trust.

2. Moneys deposited in the healthy Iowans tobacco trust shall be used only in accordance with appropriations from the 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.

3. Notwithstanding section 8.33, any unexpended balance in the healthy Iowans tobacco trust at the end of the fiscal year shall be retained in the trust. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the healthy Iowans tobacco trust shall be credited to the healthy Iowans tobacco trust.

4. Moneys in the 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 trust by the close of each fiscal year.

97 Acts, ch 209, §19; 2000 Acts, ch 1232, §12, 17; 2001 Acts, ch 164, §1, 21; 2001 Acts, ch 184, §5, 16

**12.66 through 12.70** Reserved.

**12.71 General and specific bonding powers vision Iowa program.**

1. The treasurer of state may issue bonds upon the request of the vision Iowa board created in section 15F.102 and do all things necessary with respect to the purposes of the vision Iowa fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the vision Iowa fund created in section 12.72, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, bonds issued pursuant to this section shall not be issued in an aggregate principal amount which exceeds three hundred million dollars. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

2. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the vision Iowa fund and any bond reserve funds established pursuant to section 12.72, all of which may be deposited with trustees or depositories in accordance with bond or security documents and pledged by the board to the payment thereof. Bonds issued under this section shall contain on their face a statement that the bonds do not constitute an indebtedness of the state. The treasurer of state shall not pledge the credit or taxing power of this state or any political subdivision of this state or make bonds issued pursuant to this section payable out of any moneys except those in the vision Iowa fund.

3. The proceeds of bonds issued by the treasurer of state and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested or reinvested in any investment as directed by the board and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of

redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

*b.* Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

*c.* Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the treasurer of state approved by the board. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the board the power to negotiate and fix the details of an issue of bonds.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code to be valid, binding, or effective.

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

9. Subject to the terms of any bond documents, moneys in the vision Iowa fund may be expended for administration expenses.

10. The treasurer of state may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the board for deposit in the vision Iowa fund established in section 12.72. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

2000 Acts, ch 1174, §15

### **12.72 Vision Iowa fund and reserve funds.**

1. A vision Iowa fund is created and established as a separate and distinct fund in the state treasury. The moneys in the fund are appropriated to the vision Iowa board for purposes of the vision Iowa program

established in section 15F.302. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the vision Iowa fund. The treasurer of state shall act as custodian of the fund and disburse moneys contained in the fund as directed by the vision Iowa board, including automatic disbursements of funds received pursuant to the terms of bond indentures and documents and security provisions to trustees. The fund shall be administered by the vision Iowa board which shall make expenditures from the fund consistent with the purposes of the vision Iowa program without further appropriation. An applicant under the vision Iowa program shall not receive more than seventy-five million dollars in financial assistance from the fund.

2. Revenue for the vision Iowa fund shall include, but is not limited to, the following, which shall be deposited with the treasurer of state or the treasurer's designee as provided by any bond or security documents and credited to the fund:

a. The proceeds of bonds issued to capitalize and pay the costs of the fund and investment earnings on the proceeds.

b. Interest attributable to investment of money in the fund or an account of the fund.

c. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

3. Moneys in the vision Iowa fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. a. The treasurer of state may create and establish one or more special funds, to be known as "*bond reserve funds*", to secure one or more issues of bonds or notes issued pursuant to section 12.71. The treasurer of state shall pay into each bond reserve fund any moneys appropriated and made available by the state or the treasurer for the purpose of the fund, any proceeds of sale of notes or bonds to the extent provided in the resolutions authorizing their issuance, and any other moneys which may be available to the treasurer for the purpose of the fund from any other sources. All moneys held in a bond reserve fund, except as otherwise provided in this chapter, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

b. Moneys in a bond reserve fund shall not be withdrawn from it at any time in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this subsection, except for the purpose of making, with respect to bonds secured in whole or in part by the fund, payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other moneys of the treasurer are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the treasurer to other funds or accounts to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for it.

c. The treasurer of state shall not at any time issue bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the fund, unless the treasurer at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the fund, will not be less than the bond reserve fund requirement for the fund. For the purposes of this subsection, the term "*bond reserve fund requirement*" means, as of any particular date of computation, an amount of money, as provided in the resolutions authorizing the bonds with respect to which the fund is established.

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph "a" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the treasurer in the applicable bond reserve fund.

2000 Acts, ch 1174, §16; 2001 Acts, ch 24, §7, 8; 2001 Acts, 1st Ex, ch 5, §3, 7; 2002 Acts, ch 1119, §3

2001 amendment to subsection 4 is effective July 5, 2001, and applies retroactively to July 1, 2001; 2001 Acts, 1st Ex, ch 5, §7

### **12.73 Vision Iowa fund moneys administrative costs.**

During the term of the vision Iowa program established in section 15F.302, two hundred thousand dollars of the moneys deposited each fiscal year in the vision Iowa fund and appropriated for the vision Iowa program shall be allocated each fiscal year to the department of economic development for administrative costs incurred by the department for purposes of administering the vision Iowa program.

2000 Acts, ch 1225, §31, 38, 39; 2001 Acts, ch 185, §34

### **12.74 Pledges.**

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 treasurer of state 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 treasurer of state whether or not the parties have notice of the lien.

2000 Acts, ch 1174, §17; 2000 Acts, ch 1232, §42; 2001 Acts, ch 24, §9; 2001 Acts, ch 185, §35, 49

### **12.75 Projects.**

1. The vision Iowa board may undertake a project for two or more applicants jointly or for any combination of applicants, and may combine for financing purposes, with the consent of all of the applicants which are involved, the project and some or all future projects of any applicant, and sections 12.71, 12.72, and 12.74, this section, and sections 12.76 and 12.77 apply to and for the benefit of the vision Iowa board and the joint applicants. However, the money set aside in a fund or funds pledged for any series or issue of bonds or notes shall be held for the sole benefit of the series or issue separate and apart from money pledged for another series or issue of bonds or notes of the treasurer of state. To facilitate the combining of projects, bonds or notes may be issued in series under one or more resolutions or trust agreements and may be fully open-ended, thus providing for the unlimited issuance of additional series, or partially open-ended, limited as to additional series.

2. For purposes of this section, "*applicant*" means a city or county or public organization applying for financial assistance under the vision Iowa program established in section 15F.302.

2000 Acts, ch 1174, §18

### **12.76 Limitations.**

Bonds or notes issued pursuant to section 12.71 are not debts of the state, or of any political subdivision of the state, and do not constitute a pledge of the faith and credit of the state or a charge against the general credit or general fund of the state. The issuance of any bonds or notes pursuant to section 12.71 by the treasurer of state 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. Bonds and notes issued under section 12.71 are payable solely and only from the sources and special fund provided in section 12.72.

2000 Acts, ch 1174, §19

### **12.77 Construction.**

Sections 12.71 through 12.76, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

2000 Acts, ch 1174, §20

**12.78 through 12.80** Reserved.

### **12.81 General and specific bonding powers school infrastructure program.**

1. The treasurer of state may issue bonds for purposes of the school infrastructure program established in section 292.2. Excluding the issuance of refunding bonds, the treasurer of state shall not issue bonds which result in the deposit of bond proceeds of more than fifty million dollars into the school infrastructure fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which are necessary to provide funds for the fund as provided by this section, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the treasurer of state necessary or convenient to administer the fund. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

2. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the school infrastructure fund and any bond reserve funds, all of which may be deposited with trustees or depositories in accordance with bond or security documents and pledged by the treasurer of state to the payment thereof. Bonds issued under this section shall contain on their face a statement that the bonds do not constitute an indebtedness of the state. The treasurer of state shall not pledge the credit or taxing power of this state or any political subdivision of this state or make bonds issued pursuant to this section payable out of any moneys except those in the school infrastructure fund.

3. The proceeds of bonds issued by the treasurer of state and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested or reinvested in any investment approved by the treasurer of state and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

4. The bonds shall be:

*a.* In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the treasurer of state. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the issuer the power to negotiate and fix the details of an issue of bonds.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code to be valid, binding, or effective.

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

9. Subject to the terms of any bond documents, moneys in the school infrastructure fund may be expended for administration expenses.

10. The treasurer of state may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned and deposited in the school infrastructure fund. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

2000 Acts, ch 1174, §21

### **12.82 School infrastructure fund and reserve funds.**

1. A school infrastructure fund is created and established as a separate and distinct fund in the state treasury under the control of the department of education. The fund shall be used for purposes of the school infrastructure program established in section 292.2.

2. Revenue for the school infrastructure fund shall include, but is not limited to, the following, which shall be deposited with the treasurer of state or its designee as provided by any bond or security documents and credited to the fund:

a. The proceeds of bonds issued to capitalize and pay the costs of the fund and investment earnings on the proceeds.

b. Interest attributable to investment of money in the fund or an account of the fund.

c. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

3. Moneys in the school infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. a. The treasurer of state may create and establish one or more special funds, to be known as "*bond reserve funds*", to secure one or more issues of bonds or notes issued pursuant to section 12.81. The treasurer of state shall pay into each bond reserve fund any moneys appropriated and made available by the state or the treasurer for the purpose of the fund, any proceeds of sale of notes or bonds to the extent provided in the resolutions authorizing their issuance, and any other moneys which may be available to the treasurer for the purpose of the fund from any other sources. All moneys held in a bond reserve fund, except as otherwise provided in this chapter, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

b. Moneys in a bond reserve fund shall not be withdrawn from it at any time in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this subsection, except for the purpose of making, with respect to bonds secured in whole or in part by the fund, payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other moneys of the treasurer are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the treasurer to other funds or accounts to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for it.

c. The treasurer of state shall not at any time issue bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the fund, unless the treasurer at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the fund, will not be less than the bond reserve fund requirement for the fund. For the purposes of this subsection, the term "*bond reserve fund requirement*" means, as of any particular date of computation, an amount of money, as provided in the resolutions authorizing the bonds with respect to which the fund is established.

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph "a" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund.



Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the treasurer in the applicable bond reserve fund.

2000 Acts, ch 1174, §22; 2001 Acts, 1st Ex, ch 5, §4, 7; 2002 Acts, ch 1119, §4

2001 amendment to subsection 4 is effective July 5, 2001, and applies retroactively to July 1, 2001; 2001 Acts, 1st Ex, ch 5, §7

### **12.83 School infrastructure fund moneys state fire marshal.**

During the term of the school infrastructure program established in section 292.2, up to fifty thousand dollars of the moneys deposited each fiscal year in the school infrastructure fund shall be allocated each fiscal year to the department of public safety for the use of the state fire marshal. The funds shall be used by the state fire marshal solely for the purpose of retaining an architect or architectural firm to evaluate structures for which school infrastructure program grant applications are made, to consult with school district representatives, to review construction drawings and blueprints, and to perform related duties at the direction of the state fire marshal to ensure the best possible use of moneys received by a school district under the school infrastructure program. The state fire marshal shall provide for the review of plans, drawings, and blueprints in a timely manner.

2000 Acts, ch 1225, §32, 38, 39

### **12.84 Pledges.**

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 treasurer of state 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 treasurer of state whether or not the parties have notice of the lien.

2000 Acts, ch 1174, §23; 2000 Acts, ch 1232, §43; 2001 Acts, ch 185, §36, 49

### **12.85 Limitations.**

Bonds or notes issued pursuant to section 12.81 are not debts of the state, or of any political subdivision of the state, and do not constitute a pledge of the faith and credit of the state or a charge against the general credit or general fund of the state. The issuance of any bonds or notes pursuant to section 12.81 by the treasurer of state 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. Bonds and notes issued under section 12.81 are payable solely and only from the sources and special fund provided in section 12.82. Expenses incurred in carrying out sections 12.81 through 12.84, this section, and section 12.86 are payable solely from funds available under those sections.

2000 Acts, ch 1174, §24

### **12.86 Construction.**

Sections 12.81 through 12.85, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

2000 Acts, ch 1174, §25