

MAR 14 1995

EDUCATION

HOUSE FILE 422

BY WITT and SHOULTZ

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act creating an essential school repair and construction
2 program and making appropriations.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 422

1 Section 1. NEW SECTION. 16.152 ESSENTIAL SCHOOL REPAIR
2 AND CONSTRUCTION PROGRAM -- FUNDING -- BONDS AND NOTES.

3 1. The authority shall cooperate with the department of
4 education in the creation, administration, and financing of
5 the essential school repair and construction program
6 established in sections 297.41 through 297.46.

7 2. The authority may issue its bonds and notes for the
8 purpose of funding the revolving loan fund created under
9 section 297.43 and providing low-interest loans to school
10 districts to implement essential school repair and
11 construction plans approved by the department of education.

12 3. The authority may issue its bonds and notes for the
13 purposes established and may enter into one or more lending
14 agreements or purchase agreements with one or more bondholders
15 or noteholders containing the terms and conditions of the
16 repayment of and the security for the bonds or notes. The
17 authority and the bondholders or noteholders or a trustee
18 agent designated by the authority may enter into agreements to
19 provide for any of the following:

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

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

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

1 accordance with the loan agreement or other instrument.

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

4 4. The powers granted the authority under this section are
5 in addition to other powers contained in this chapter. All
6 other provisions of this chapter, except section 16.28,
7 subsection 4, apply to bonds or notes issued and powers
8 granted to the authority under this section except to the
9 extent they are inconsistent with this section.

10 5. All bonds or notes issued by the authority in
11 connection with the program are exempt from taxation by this
12 state and the interest on the bonds or notes is exempt from
13 state income tax.

14 Sec. 2. NEW SECTION. 16.153 SECURITY -- RESERVE FUNDS --
15 PLEDGES -- NONLIABILITY -- IRREVOCABLE CONTRACTS.

16 1. The authority may provide in the resolution, trust
17 agreement, or other instrument authorizing the issuance of its
18 bonds or notes pursuant to section 16.152 that the principal
19 of, premium, and interest on the bonds or notes are payable
20 from any of the following and may pledge the same to its bonds
21 and notes:

22 a. The income and receipts or other money derived from the
23 projects financed with the proceeds of the bonds or notes.

24 b. The income and receipts or other money derived from
25 designated projects whether or not the projects are financed
26 in whole or in part with the proceeds of the bonds or notes.

27 c. The amounts on deposit in the revolving loan fund.

28 d. The amounts payable to the department of education by
29 school districts pursuant to loan agreements with school
30 districts.

31 e. Any other funds or accounts established by the
32 authority in connection with the program or the sale and
33 issuance of its bonds or notes.

34 2. The authority may establish reserve funds, to secure
35 one or more issues of its bonds or notes. The authority may

1 deposit in a reserve fund established under this subsection
2 the proceeds of the sale of its bonds or notes and other money
3 made available from any other source.

4 3. It is the intention of the general assembly that a
5 pledge made in respect of bonds or notes shall be valid and
6 binding from the time the pledge is made, that the money or
7 property so pledged and received after the pledge by the
8 authority shall immediately be subject to the lien of the
9 pledge without physical delivery or further act, and that the
10 lien of the pledge shall be valid and binding as against all
11 parties having claims of any kind in tort, contract, or
12 otherwise against the authority whether or not the parties
13 have notice of the lien. Neither the resolution, trust
14 agreement, nor any other instrument by which a pledge is
15 created needs to be recorded or filed under the Iowa uniform
16 commercial code to be valid, binding, or effective against the
17 parties.

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

23 5. The bonds or notes issued by the authority are not an
24 indebtedness or other liability of the state or of a political
25 subdivision of the state within the meaning of any
26 constitutional or statutory debt limitations but are special
27 obligations of the authority, and are payable solely from the
28 income and receipts or other funds or property of the
29 department of education, and the amounts on deposit in the
30 revolving loan fund, and the amounts payable to the department
31 under its loan agreements with the school districts to the
32 extent that the amounts are designated in the resolution,
33 trust agreement, or other instrument of the authority
34 authorizing the issuance of the bonds or notes as being
35 available as security for such bonds or notes. The authority

1 shall not pledge the faith or credit of the state or of a
2 political subdivision of the state to the payment of any bonds
3 or notes. The issuance of any bonds or notes by the authority
4 does not directly, indirectly, or contingently obligate the
5 state or a political subdivision of the state to apply money
6 from, or levy or pledge any form of taxation whatever to, the
7 payment of the bonds or notes.

8 6. The state pledges to and agrees with the holders of
9 bonds or notes issued under the essential school repair and
10 construction program that the state will not limit or alter
11 the rights and powers vested in the authority to fulfill the
12 terms of a contract made by the authority with respect to the
13 bonds or notes, or in any way impair the rights and remedies
14 of the holders until the bonds or notes, together with the
15 interest on them including interest on unpaid installments of
16 interest, and all costs and expenses in connection with an
17 action or proceeding by or on behalf of the holders, are fully
18 met and discharged. The authority is authorized to include
19 this pledge and agreement of the state, as it refers to
20 holders of bonds or notes of the authority, in a contract with
21 the holders.

22 Sec. 3. NEW SECTION. 16.154 ADOPTION OF RULES.

23 The authority shall adopt rules pursuant to chapter 17A to
24 implement sections 16.152 and 16.153.

25 Sec. 4. Section 256.9, Code 1995, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 49. Develop a system to prioritize the
28 school building repair and construction needs of Iowa's school
29 districts pursuant to section 297.42 and based upon age of the
30 buildings and life safety factors. In addition, the
31 department shall establish criteria for evaluating school
32 district essential school repair and construction plans as
33 provided in section 297.42.

34 Sec. 5. NEW SECTION. 297.41 FINDINGS.

35 The general assembly finds and declares that safe, well-

1 maintained school buildings designed for efficiency are
2 essential for Iowa's continued educational success. The
3 general assembly further finds and declares that to meet
4 present and future school building needs, it is in the state's
5 best interest to encourage local school districts to maintain
6 and construct buildings to provide safe learning environments.
7 To assist school districts and communities in repairing or
8 replacing crumbling, deteriorating, and outdated school
9 buildings in the state, it is the intent of the general
10 assembly to establish a state-sponsored mechanism to provide
11 loans to school districts at the lowest reasonable rates.

12 Sec. 6. NEW SECTION. 297.42 ESSENTIAL SCHOOL REPAIR AND
13 CONSTRUCTION PROGRAM.

14 1. An essential school repair and construction program
15 providing assistance to school districts for funding the
16 repair and construction of Iowa's school buildings is
17 established. A board of directors that wishes to consider
18 participating in the essential school repair and construction
19 program shall develop and submit by October 1 to the
20 department of education for review an essential school repair
21 and construction plan which shall specify funding needs and
22 meet the criteria established by the department pursuant to
23 section 256.9, subsection 49.

24 2. If the department approves of the district plan, the
25 department shall establish a priority level for the plan based
26 upon criteria developed pursuant to section 256.9, subsection
27 49, and shall consult with the Iowa finance authority about
28 the availability of funding for loans pursuant to the loan
29 program established in sections 16.152 through 16.154. The
30 department shall notify districts of their plan approval and
31 loan eligibility based upon the funds available through the
32 Iowa finance authority and the school district priority.

33 3. Upon notification of loan eligibility from the
34 department, the board of directors of a school district may
35 adopt a resolution to participate in the essential school

1 repair and construction program for a period not exceeding
2 five years. The resolution shall include authorization for
3 the board to levy the essential school repair and construction
4 property tax levy to repay the loans. The board shall certify
5 its action to the department, and the department shall notify
6 the Iowa finance authority to make loans available.

7 4. Districts which have approved plans but the priority
8 level of the district is too low to receive funding may adopt
9 the essential school repair and construction levy. The
10 procedure specified in section 257.18 for the instructional
11 support program, including, but not limited to, provisions
12 relating to a public hearing, publication of notice, adoption
13 of a resolution, election and petition for election shall be
14 used for the levy. The property tax shall be levied pursuant
15 to section 297.44.

16 5. Participation in the essential school repair and
17 construction program is not affected by a change in the
18 boundaries of the school district, except as otherwise
19 provided in this section. If each school district involved in
20 a school reorganization under chapter 275 has approved an
21 essential school repair and construction levy, the existing
22 essential school repair and construction program is in effect
23 for the reorganized district for the least amount and the
24 shortest time for which it is in effect in any of the
25 districts.

26 Sec. 7. NEW SECTION. 297.43 ESSENTIAL SCHOOL REPAIRS AND
27 CONSTRUCTION REVOLVING FUND.

28 1. An essential school repair and construction revolving
29 fund is created in the office of the treasurer of state under
30 the control of the Iowa finance authority. The revolving loan
31 fund shall include sums appropriated to the revolving loan
32 fund by the general assembly and all receipts received by the
33 revolving loan fund. All moneys appropriated to and deposited
34 in the revolving fund are appropriated and shall be used for
35 the sole purpose of making low-interest loans to school

1 districts to finance all or part of the cost of implementing
2 essential school repair and construction plans approved by the
3 department of education. The moneys in the revolving loan
4 fund are not considered part of the general fund of the state,
5 are not subject to appropriation for any other purpose by the
6 general assembly, and in determining a general fund balance at
7 the close of a fiscal year shall not be included in the
8 general fund of the state. Notwithstanding section 8.33,
9 moneys remaining in the revolving fund at the close of a
10 fiscal year shall remain in the revolving loan fund to be used
11 for purposes of the fund. The revolving loan fund is a
12 dedicated fund under the administration and control of the
13 authority and subject to section 16.31. Moneys on deposit in
14 the revolving loan fund shall be invested by the treasurer of
15 state in cooperation with the authority, and the income from
16 the investments shall be credited to and deposited in the
17 revolving loan fund.

18 2. The department and the authority may establish and
19 maintain other funds or accounts determined to be necessary to
20 carry out the purposes of this part and shall provide for the
21 funding, administration, investment, restrictions, and
22 disposition of the funds and accounts.

23 3. There is appropriated to the essential school repairs
24 and construction fund for the fiscal year beginning July 1,
25 1995, and ending June 30, 1996, the sum of fifteen million
26 dollars from the general fund of the state. There is
27 appropriated to the essential school repairs and construction
28 fund for the fiscal year beginning July 1, 1996, and ending
29 June 30, 1997, the sum of thirty million dollars from the
30 general fund of the state. There is appropriated to the
31 essential school repairs and construction fund for the fiscal
32 year beginning July 1, 1997, and ending June 30, 1998, the sum
33 of forty-five million dollars from the general fund of the
34 state. There is appropriated to the essential school repairs
35 and construction fund for the fiscal year beginning July 1,

1 1998, and ending June 30, 1999, the sum of sixty million
2 dollars from the general fund of the state.

3 4. The department and the authority shall establish fiscal
4 controls and accounting procedures during appropriate
5 accounting periods for payments and disbursements received and
6 made by the revolving loan fund and other funds established
7 pursuant to subsection 3, and to fund balances at the
8 beginning and end of the accounting periods.

9 5. For purposes of sections 297.41 through 297.46,
10 "authority" means the Iowa finance authority established in
11 section 16.2.

12 Sec. 8. NEW SECTION. 297.44 ESSENTIAL SCHOOL REPAIRS AND
13 CONSTRUCTION PROPERTY TAX.

14 A school district may certify an essential school repair
15 and construction property tax levy in an amount not to exceed
16 one dollar per thousand dollars of taxable value in the
17 district each year. Moneys received by a district from the
18 property tax levy and from the revolving loan fund for the
19 essential school repair and construction program shall be
20 deposited in the district's capital projects fund under
21 section 298A.9.

22 Certification of a board's intent to participate for a
23 budget year, the method of funding, and the amount to be
24 raised shall be made to the department of management not later
25 than April 15 of the base year.

26 Sec. 9. NEW SECTION. 297.45 POWERS AND DUTIES OF THE
27 DIRECTOR OF THE DEPARTMENT OF EDUCATION.

28 The director of the department of education shall:

29 1. Process and review essential school repair and
30 construction plans submitted by school districts pursuant to
31 section 297.42.

32 2. Approve loan applications of school districts that
33 satisfy the rules adopted by the state board of education.

34 3. Process and review all documents relating to projects
35 and the extending of loans.

1 4. Prepare and process, in coordination with the
2 authority, documents relating to the extending of loans to
3 school districts, the sale and issuance of bonds, notes, or
4 other obligations of the authority relating to the program,
5 and the administration of the program.

6 5. Include in the budget prepared pursuant to section
7 256.9, subsection 6, an annual budget for the administration
8 of the program and the use and disposition of amounts on
9 deposit in the revolving fund.

10 6. Charge each school district receiving a loan from the
11 revolving loan fund a loan origination fee and an annual loan
12 servicing fee. The amount of the loan origination fees and
13 the loan servicing fees established shall be relative to the
14 amount of a loan made from the revolving loan fund.

15 Notwithstanding section 297.43, subsection 1, the director
16 shall deposit the receipts from the loan origination fees and
17 the loan servicing fees in a separate account within the
18 revolving fund for administration of the program.

19 7. Consult with and receive the approval of the authority
20 concerning the terms and conditions of loan agreements with
21 school districts as to the financial integrity of the loan.

22 8. Perform other acts and assume other duties and
23 responsibilities necessary for the operation of the program.

24 Sec. 10. NEW SECTION. 297.46 CONTINUATION OF ESSENTIAL
25 SCHOOL REPAIRS AND CONSTRUCTION PROGRAM.

26 At the expiration of the period for which the essential
27 school repair and construction program was adopted, the
28 program may be extended by a school district for a period not
29 exceeding five or ten years in the manner provided in section
30 297.42.

31 If an election is held on the adoption of the program, and
32 the voters do not approve adoption of the essential school
33 repair and construction program as provided in section 297.42,
34 the board shall wait at least one hundred twenty days
35 following the election before taking action to adopt the

1 program or resubmit the proposition.

2

EXPLANATION

3 This bill provides that the Iowa finance authority shall
4 cooperate with the department of education in the creation,
5 administration, and financing of the essential school repair
6 and construction program. The program is created to provide
7 low-interest loans to school districts to implement essential
8 school repair and construction plans approved by the
9 department of education.

10 To participate in the program, the board of directors of a
11 school district must develop and submit to the department of
12 education for review an essential school repair and
13 construction plan. If the department approves of the district
14 plan, the department shall establish a priority level for the
15 plan and consult with the authority about the availability of
16 loans. If the priority level assigned to the district plan is
17 sufficient to qualify the district for an essential school
18 repair and construction loan and if the authority determines
19 that sufficient loan moneys are available to implement the
20 plan, the department shall notify the district of its plan
21 approval and loan eligibility and the board may adopt a
22 resolution to participate in the program for a period not
23 exceeding five years, certify its action to the department of
24 education, and participate in the program.

25 If the authority determines that loan moneys are
26 insufficient to implement an approved plan, the department
27 shall advise the district of the insufficiency of loan moneys.
28 If the board still wishes to consider participating in the
29 program it may provide for the levying of property taxes
30 through the same process used for the instructional support
31 plan, including, but not limited to, holding a public hearing,
32 publishing notice, adopting a resolution, petitioning for an
33 election, and placing the question before the voters.

34 The bill sets forth the procedure by which the authority
35 may issue bonds and notes secured by a property levy and

1 establishes an essential school repair and construction
2 revolving fund under the control of the authority. The
3 receipts from a loan origination fee and an annual loan
4 servicing fee the department charges districts receiving loans
5 under the program are deposited in a separate account within
6 the revolving fund for administration of the program.

7 All bonds or notes issued by the authority in connection
8 with the program are exempt from state taxes and the interest
9 generated by the bonds and notes is exempt from state income
10 tax.

11 The department is directed to develop a system to
12 prioritize the school building needs of Iowa's school
13 districts and to establish criteria for evaluating school
14 district essential school repair and construction plans.

15 The bill contains a standing appropriation that deposits
16 \$15 million into the revolving fund in fiscal year 1996, \$30
17 million in fiscal year 1997, \$45 million in fiscal year 1998,
18 and \$60 million in fiscal year 1999. All moneys appropriated
19 to and deposited in the revolving fund are to be used for the
20 sole purpose of making low-interest loans to school districts
21 to finance all or part of the cost of implementing essential
22 school repair and construction plans. Moneys on deposit in
23 the revolving loan fund shall be invested by the treasurer of
24 state in cooperation with the authority, and the income from
25 the investments shall be credited to and deposited in the
26 revolving loan fund.

27 A school district may certify taxes not to exceed \$1 per
28 \$1,000 of taxable value in the district each year to repay the
29 loans or to provide moneys for essential school repairs and
30 construction without using the revolving fund. Moneys
31 received by a district for the essential school repair and
32 construction program shall be deposited in the district's
33 capital projects fund under section 298A.9.

34 The bill sets forth the duties of the director of the
35 department of education relating to processing and reviewing

1 district plans and documents relating to projects and the
2 extending of loans; approving loan applications; preparing and
3 processing, in coordination with the authority, documents
4 relating to the extending of loans to school districts, the
5 sale and issuance of bonds, notes, or other obligations of the
6 authority relating to the program, and the administration of
7 the program; preparing an annual budget for the administration
8 of the program and the use and disposition of amounts on
9 deposit in the revolving fund; and consulting with and
10 receiving the approval of the authority concerning the terms
11 and conditions of loan agreements with school districts as to
12 the financial integrity of the loan.

13 At the expiration of the period for which the essential
14 school repair and construction program was adopted, the
15 program may be extended for a period of not exceeding five or
16 10 years.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35