

Senate Study Bill 1209 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON DVORSKY)

A BILL FOR

1 An Act relating to flood mitigation by establishing a flood
2 mitigation program, establishing a flood mitigation board,
3 authorizing the use of certain sales tax revenue and
4 other financial assistance for flood mitigation projects,
5 establishing a flood mitigation fund, authorizing the
6 issuance of bonds for certain flood mitigation projects, and
7 including effective date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.8, subsection 3, Code 2011, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *h.* Carry out duties related to the flood
4 mitigation program and the flood mitigation board under chapter
5 418.

6 Sec. 2. Section 331.430, subsection 2, Code 2011, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. *d.* Payments required to be made from the
9 debt service fund to a flood project fund under section 418.14,
10 subsection 5.

11 Sec. 3. Section 384.4, subsection 1, Code 2011, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *e.* Payments required to be made from the
14 debt service fund to a flood project fund under section 418.14,
15 subsection 5.

16 Sec. 4. NEW SECTION. **418.1 Definitions.**

17 For purposes of this chapter, unless the context otherwise
18 requires:

19 1. "*Base year*" means the fiscal year ending during the
20 calendar year in which the governmental entity's project is
21 approved by the board under section 418.9.

22 2. "*Board*" means the flood mitigation board as created in
23 section 418.5.

24 3. "*Division*" means the homeland security and emergency
25 management division of the department of public defense.

26 4. "*Governmental entity*" means any of the following:

27 *a.* A county.

28 *b.* A joint board or other legal or administrative entity
29 established or designated in an agreement pursuant to chapter
30 28E between a county and one or more cities located within the
31 county.

32 5. "*Project*" means the construction and reconstruction
33 of levees, embankments, impounding reservoirs, or conduits
34 that are necessary for the protection of property from the
35 effects of floodwaters and may include the deepening, widening,

1 alteration, change, diversion, or other improvement of
2 watercourses if necessary for the protection of such property
3 from the effects of floodwaters.

4 6. "*Retail establishment*" means a business operated by a
5 retailer as defined in section 423.1.

6 7. "*Sales tax*" means the sales and services tax imposed
7 pursuant to section 423.2.

8 Sec. 5. NEW SECTION. **418.4 Projects.**

9 1. A governmental entity may use the moneys in its flood
10 project fund established pursuant to section 418.13 to fund
11 projects that meet the requirements of this section.

12 2. Prior to undertaking a project, the governmental entity
13 shall adopt a project plan. The project plan shall include
14 a detailed description of the project, clearly state the
15 cost of the project and the amount of debt to be incurred
16 for purposes of funding the project, and include a detailed
17 description of all funding sources for the project, including
18 information relating to either the proposed use of financial
19 assistance from the flood mitigation fund under section 418.10
20 or the proposed use of sales tax increment revenues received
21 under section 418.12. The project plan shall also include
22 information related to the approval criteria in section 418.9,
23 subsection 2.

24 3. A governmental entity shall not undertake a project under
25 this chapter unless all of the following conditions are met:

26 a. Bidding for the project has been completed.

27 b. The project has been awarded financial assistance under
28 the federal Water Resources Development Act or has been awarded
29 other federal financial assistance specifically for hazard
30 mitigation.

31 c. The project plan has been approved by the board under
32 section 418.9.

33 d. Following approval of the project plan by the board,
34 the governmental entity has adopted a resolution authorizing
35 the use of sales tax increment revenue from the governmental

1 entity's flood project fund, if sales tax increment revenue
2 was approved by the board as a funding source for the project.
3 Within ten days of adoption, the governmental entity shall
4 provide a copy of the resolution to the department of revenue.

5 4. A governmental entity shall not seek approval from the
6 board for a project if the governmental entity previously
7 had a project approved pursuant to section 418.9 or if the
8 governmental entity previously was part of a governmental
9 entity as defined in section 418.1, subsection 4, paragraph "b",
10 that had a project approved pursuant to section 418.9.

11 5. Following approval of a project under section 418.9, the
12 governmental entity shall on or before December 15 of each year
13 submit a report to the board detailing all of the following:

14 a. The current status of the project.

15 b. Total expenditures and the types of expenditures that
16 have been made related to the project.

17 c. The amount of the total project cost remaining as of the
18 date the report is submitted.

19 d. The amounts, types, and sources of funding being used.

20 e. The amount of bonds issued or other indebtedness incurred
21 for the project, including information related to the rate of
22 interest, length of term, costs of issuance, and net proceeds.
23 The report shall also include the amounts and types of moneys
24 used for payment of such bonds or indebtedness.

25 6. A governmental entity may contract with a council of
26 governments to perform any duty or power authorized under this
27 chapter or for the completion of a project.

28 **Sec. 6. NEW SECTION. 418.5 Flood mitigation board.**

29 1. The flood mitigation board is established consisting of
30 nine voting members and four ex officio, nonvoting members, and
31 is located for administrative purposes within the division.
32 The administrator of the division shall provide office space,
33 staff assistance, and necessary supplies and equipment for
34 the board. The administrator shall budget funds to pay the
35 necessary expenses of the board. In performing its functions,

1 the board is performing a public function on behalf of the
2 state and is a public instrumentality of the state.

3 2. The voting membership of the board shall include all of
4 the following:

5 a. Four members of the general public. Each general public
6 member of the board shall have demonstrable experience or
7 expertise in the field of natural disaster or flood mitigation.

8 b. The director of the department of natural resources or
9 the director's designee.

10 c. The secretary of agriculture or the secretary's designee.

11 d. The treasurer of state or the treasurer's designee.

12 e. The administrator of the division or the administrator's
13 designee.

14 f. The executive director of the Iowa finance authority or
15 the executive director's designee.

16 3. The general public members shall be appointed by
17 the governor, subject to confirmation by the senate. The
18 appointments shall comply with sections 69.16 and 69.16A.

19 4. The chairperson and vice chairperson of the board shall
20 be designated by the governor from the board members listed
21 in subsection 2. In case of the absence or disability of the
22 chairperson and vice chairperson, the members of the board
23 shall elect a temporary chairperson by a majority vote of those
24 members who are present and voting.

25 5. The members appointed under subsection 2, paragraph
26 "a", shall be appointed to three-year staggered terms and the
27 terms shall commence and end as provided by section 69.19. If
28 a vacancy occurs, a successor shall be appointed to serve the
29 unexpired term. A successor shall be appointed in the same
30 manner and subject to the same qualifications as the original
31 appointment.

32 6. The board's ex officio membership shall include four
33 members of the general assembly with one each appointed by
34 the majority leader of the senate, the minority leader of the
35 senate, the speaker of the house of representatives, and the

1 minority leader of the house of representatives. A legislative
2 member serves for a term as provided in section 69.16B in an ex
3 officio, nonvoting capacity and is eligible for per diem and
4 expenses as provided in section 2.10.

5 7. A majority of the board constitutes a quorum.

6 Sec. 7. NEW SECTION. **418.6 Expenses of board members.**

7 The voting members of the board are entitled to receive
8 reimbursement for actual expenses incurred while engaged in the
9 performance of official duties. A member of the board is not
10 eligible to receive the additional expense allowance provided
11 in section 7E.6, subsection 2.

12 Sec. 8. NEW SECTION. **418.7 Division duties.**

13 The division, subject to approval by the board, shall
14 adopt administrative rules pursuant to chapter 17A necessary
15 to administer the flood mitigation program. The division
16 shall provide the board with assistance in implementing
17 administrative functions and providing technical assistance and
18 application assistance to applicants under the program.

19 Sec. 9. NEW SECTION. **418.8 Flood mitigation program.**

20 1. The board shall establish and the division, subject
21 to direction and approval by the board, shall administer a
22 flood mitigation program to assist governmental entities
23 in undertaking projects approved under this chapter. The
24 flood mitigation program shall include projects approved
25 by the board to utilize either financial assistance from
26 the flood mitigation fund created under section 418.10 or
27 sales tax revenues remitted to the governmental entity under
28 section 418.12. A governmental entity shall not be approved
29 by the board to utilize both financial assistance from the
30 flood mitigation fund and sales tax revenues remitted to the
31 governmental entity.

32 2. The board shall, by rules adopted under section
33 418.7, prescribe application instructions, forms, and other
34 requirements deemed necessary to operate the flood mitigation
35 program.

1 3. The board may contract with or otherwise consult with the
2 Iowa flood center, established under section 466C.1, to assist
3 the board in administering the flood mitigation program.

4 4. The board shall submit a written report to the governor
5 and the general assembly on or before January 15 of each year.
6 The report shall include information relating to all projects
7 approved by the board for inclusion in the flood mitigation
8 program, the status of such projects, summaries of each report
9 submitted to the board under section 418.4, subsection 5,
10 information relating to the types of funding being used for
11 each approved project, including all indebtedness incurred by
12 the applicable governmental entities, and any recommendations
13 for legislative action to modify the provisions of this
14 chapter.

15 Sec. 10. NEW SECTION. **418.9 Project application review.**

16 1. *a.* A governmental entity shall submit an application
17 to the board for approval of a project plan. The board shall
18 not approve a project for inclusion in the program if the
19 application is submitted after January 1, 2016.

20 *b.* The application shall specify whether the governmental
21 entity is requesting financial assistance from the flood
22 mitigation fund or approval for the use of sales tax revenues.
23 Applications for financial assistance from the flood mitigation
24 fund shall describe the type and amount of assistance
25 requested. Applications for the use of sales tax revenues
26 shall state the amount of sales tax revenues necessary for
27 completion of the project.

28 2. Each application shall include or have attached to
29 the application, the governmental entity's project plan
30 adopted under section 418.4, subsection 2. When reviewing
31 applications, in addition to the project plan, the board shall
32 consider, at a minimum, all of the following:

33 *a.* Whether the project is designed to mitigate future
34 flooding of property that has sustained significant flood
35 damage and is likely to sustain significant flood damage in the

1 future.

2 *b.* Whether the project plan addresses the impact of flooding
3 both upstream and downstream from the area where the project is
4 to be undertaken.

5 *c.* Whether the area that would benefit from the project's
6 flood mitigation efforts is valuable to the economic viability
7 of the state or is of historic value to the state.

8 *d.* The extent to which the project would utilize local
9 matching funds. The board shall not approve a project unless
10 at least fifty percent of the total cost of the project is
11 funded using public and nonpublic local matching funds. Of the
12 required amount of local matching funds under this paragraph,
13 not less than fifty percent of the local matching funds shall
14 be from nonpublic sources.

15 *e.* The extent of nonfinancial support committed to the
16 project from public and nonpublic sources.

17 *f.* The net number of new jobs proposed to be created as a
18 direct result of the project and its completion in the area for
19 which the project is designed to mitigate future flooding.

20 *g.* Whether the project plan is consistent with the
21 applicable comprehensive, countywide emergency operations plan
22 in effect.

23 *h.* Whether financial assistance through the flood mitigation
24 program is essential to meet the necessary expenses or serious
25 needs of the governmental entity related to flood mitigation.

26 3. Upon review of the applications, the board, following
27 consultation with the department of economic development, shall
28 approve, defer, or deny the applications. If a project plan
29 is denied, the board shall state the reasons for the denial
30 and the governmental entity may resubmit the application so
31 long as the application is filed on or before January 1, 2016.
32 If a project plan application is approved, the board shall
33 specify whether the governmental entity is approved for the
34 use of sales tax revenues under section 418.12 or whether the
35 governmental entity is approved to receive financial assistance

1 from the flood mitigation fund under section 418.10. If
2 the board approves a project plan application that includes
3 financial assistance from the flood mitigation fund, the board
4 shall negotiate and execute on behalf of the division all
5 necessary agreements to provide such financial assistance.

6 4. The board shall not approve a project plan application
7 that includes financial assistance from the flood mitigation
8 fund or the use of sales tax revenue to pay principal and
9 interest on or to refinance any debt or other obligation
10 existing prior to the approval of the project.

11 5. Upon approval of an application for financial assistance
12 under the program, the board shall notify the treasurer of
13 state regarding the amount of moneys needed to satisfy the
14 award of financial assistance and the terms of the award. The
15 treasurer of state shall notify the division any time moneys
16 are disbursed to a recipient of financial assistance under the
17 program.

18 6. If, following approval of a project application under the
19 program, it is determined that the amount of federal financial
20 assistance under section 418.4, subsection 3, paragraph "b",
21 exceeds the amount of federal financial assistance specified in
22 the application, the board shall reduce the award of financial
23 assistance from the flood mitigation fund or reduce the amount
24 of sales tax revenue to be received for the project by a
25 corresponding amount.

26 Sec. 11. NEW SECTION. 418.10 Flood mitigation fund.

27 1. A flood mitigation fund is created as a separate and
28 distinct fund in the state treasury under the control of the
29 board and consists of moneys appropriated by the general
30 assembly and any other moneys available to and obtained or
31 accepted by the board for placement in the fund. Moneys in the
32 fund shall only be used for the purposes of this section.

33 2. Payments of interest, repayments of moneys loaned
34 pursuant to this chapter, and recaptures of grants, if provided
35 for in the financial assistance agreements, shall be deposited

1 in the fund.

2 3. The moneys in the fund shall be used to provide
3 assistance in the form of grants, loans, and forgivable loans.
4 The use of moneys in the fund for such assistance shall be on
5 a first-come, first-served basis. The board may only provide
6 financial assistance from moneys in the fund.

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

10 5. If any portion of the moneys appropriated for deposit
11 in the fund have not been awarded during the fiscal year for
12 which the appropriation is made, the portion which has not
13 been awarded may be utilized by the board to provide financial
14 assistance under the program in subsequent fiscal years.

15 6. The board may make a multiyear commitment to a
16 governmental entity of up to four million dollars in any one
17 fiscal year.

18 7. Moneys received by a governmental entity from the fund
19 shall be deposited in the governmental entity's flood project
20 fund under section 418.13.

21 8. The board is not required to award financial assistance
22 pursuant to this section unless moneys are appropriated to and
23 available from the fund.

24 9. Following completion of all projects approved to utilize
25 financial assistance from the fund and upon a determination
26 by the board that remaining moneys in the fund are no longer
27 needed for the program, all moneys remaining in the fund or
28 subsequently deposited in the fund shall be credited for
29 deposit in the general fund of the state.

30 **Sec. 12. NEW SECTION. 418.11 Sales tax increment**
31 **calculation.**

32 1. The department of revenue shall calculate quarterly the
33 amount of increased sales tax revenues to be deposited in the
34 sales tax increment fund pursuant to section 423.2, subsection
35 11, paragraph "a", subparagraph (2).

1 2. The department of revenue shall calculate the amount of
2 the increase for purposes of subsection 1 as follows:

3 a. Determine the amount of sales tax revenue collected by
4 the department in each applicable area specified in subsection
5 3, during the corresponding quarter in the base year from
6 retail establishments located in such areas.

7 b. Determine the amount of sales tax revenue collected by
8 the department in each applicable area specified in subsection
9 3, during the corresponding quarter in each subsequent calendar
10 year from retail establishments located in such areas.

11 c. Subtract the base year quarterly amount determined in
12 paragraph "a" from the subsequent calendar year quarterly
13 amount determined in paragraph "b".

14 d. The result of the calculation in paragraph "c", to
15 the extent that the amount of revenue in the quarter of the
16 subsequent year exceeds the total amount of revenue in the
17 corresponding quarter of the base year, shall constitute the
18 amount of increased revenues for purposes of subsection 1.

19 3. a. For projects approved for a governmental entity as
20 defined in section 418.1, subsection 4, paragraph "a", the area
21 used to determine the sales tax increment shall include only
22 the unincorporated areas of the county.

23 b. For projects approved for a governmental entity as
24 defined in section 418.1, subsection 4, paragraph "b", the
25 area used to determine the sales tax increment shall include
26 the incorporated areas of each city that is participating in
27 the chapter 28E agreement and the unincorporated areas of the
28 county.

29 4. Each governmental entity shall assist the department
30 of revenue in identifying retail establishments in the
31 governmental entity's applicable area that are collecting sales
32 tax. This process shall be ongoing until the governmental
33 entity ceases to utilize sales tax revenue under this chapter.

34 **Sec. 13. NEW SECTION. 418.12 Sales tax increment fund.**

35 1. A sales tax increment fund is established as a separate

1 and distinct fund in the state treasury under the control of
2 the department of revenue consisting of the amount of the
3 increased state sales and services tax revenues collected by
4 the department of revenue within each applicable area specified
5 in section 418.11, subsection 3, and deposited in the fund
6 pursuant to section 423.2, subsection 11, paragraph "a",
7 subparagraph (2). Moneys in the fund shall only be used for
8 the purposes of this section.

9 2. An account is created within the fund for each
10 governmental entity that has adopted a resolution under section
11 418.4, subsection 3, paragraph "d".

12 3. The department of revenue shall credit to the fund the
13 moneys described in subsection 1 beginning the first day of the
14 quarter following receipt of a resolution under section 418.4,
15 subsection 3, paragraph "d".

16 4. *a.* A governmental entity may request remittance of
17 the moneys in the governmental entity's account within the
18 fund. Such requests shall be made not more than quarterly.
19 Requests for remittance shall be submitted on forms prescribed
20 by the department of revenue. Requests for remittance shall
21 be made for the amount of moneys in the governmental entity's
22 account necessary to pay the governmental entity's costs or
23 obligations related to the project, according to the sales
24 tax revenue funding needs specified in the approved project
25 plan. A governmental entity shall not, however, during any
26 fiscal year receive remittances under this section exceeding
27 fifteen million dollars or the total yearly amount of increased
28 revenue in the governmental entity's applicable area, whichever
29 is less. The total amount of remittances during any fiscal
30 year for all governmental entities approved to use sales tax
31 revenues under this chapter shall not exceed, in the aggregate,
32 thirty million dollars. Remittances from the department of
33 revenue shall be deposited in the governmental entity's flood
34 project fund under section 418.13.

35 *b.* The department of revenue shall adopt rules for the

1 remittance of moneys to governmental entities.

2 5. If the department of revenue determines that the revenue
3 accruing to the fund or accounts within the fund exceeds
4 thirty million dollars or exceeds the amount necessary for
5 the purposes of this chapter if the amount necessary is less
6 than thirty million dollars, then those excess moneys shall
7 be credited by the department of revenue for deposit in the
8 general fund of the state.

9 Sec. 14. NEW SECTION. 418.13 Flood project fund.

10 1. Sales tax revenue remitted by the department of revenue
11 to a governmental entity under section 418.12 or financial
12 assistance received by a governmental entity pursuant to
13 section 418.10 shall be deposited in the governmental entity's
14 flood project fund created for purposes of this chapter and
15 shall be used to fund the governmental entity's approved
16 project and to pay principal and interest on bonds issued
17 pursuant to section 418.14, if applicable.

18 2. In addition to the moneys received pursuant to section
19 418.10 or 418.12, a governmental entity may deposit in the
20 flood project fund any other moneys lawfully received by the
21 governmental entity.

22 Sec. 15. NEW SECTION. 418.14 Bond issuance.

23 1. a. A governmental entity receiving sales tax revenues
24 pursuant to this chapter is authorized to issue bonds that are
25 payable from revenues deposited in the governmental entity's
26 flood project fund created pursuant to section 418.13 for the
27 purpose of funding a project in the area from which sales tax
28 revenues will be utilized.

29 b. A governmental entity shall have the authority to pledge
30 irrevocably to the payment of the bonds an amount of revenue
31 derived from the sales tax revenue received by the governmental
32 entity pursuant to section 418.12 for each of the years the
33 bonds remain outstanding.

34 2. a. If a governmental entity elects to authorize the
35 issuance of bonds payable as provided in this section, the

1 governmental entity shall follow the authorization procedures
2 for cities set forth in section 384.83.

3 *b.* A governmental entity shall have the authority to issue
4 bonds for the purpose of refunding outstanding bonds issued
5 under this section without otherwise complying with the notice
6 and hearing provisions of section 384.83.

7 3. If less than four calendar quarters have elapsed
8 following the submission of the resolution to the department of
9 revenue under section 418.4, subsection 3, paragraph "d", the
10 sales tax collected within the shorter period may be adjusted
11 to project the collections of the designated portion for the
12 full year for the purpose of determining the amount of the
13 bonds which may be issued.

14 4. *a.* Except as otherwise provided in this section,
15 bonds issued pursuant to this section shall not be subject to
16 the provisions of any other law or charter relating to the
17 authorization, issuance, or sale of bonds.

18 *b.* The bonds may be issued in one or more series and shall
19 comply with all of the following:

20 (1) The bonds shall bear the date of issuance.

21 (2) The bonds shall specify whether they are payable on
22 demand or the time of maturity.

23 (3) The bonds shall bear interest at a rate not exceeding
24 that permitted by chapter 74A.

25 (4) The bonds shall be in a denomination or denominations,
26 be in the form, have the rank or priority, be executed in
27 the manner, be payable in the medium of payment, at the
28 place or places, be subject to the terms of redemption, with
29 or without premium, be secured in the manner, and have the
30 other characteristics, as may be provided by the resolution
31 authorizing their issuance.

32 *c.* The bonds may be sold at public or private sale at a
33 price as may be determined by the governmental entity.

34 5. *a.* Bonds, notes, or other obligations issued by a
35 governmental entity for purposes of financing a project under

1 this chapter are not an obligation of this state. Except as
2 provided in paragraph "b", bonds, notes, or other obligations
3 issued by a governmental entity for purposes of financing
4 a project under this chapter are not an obligation of any
5 political subdivision of this state other than the governmental
6 entity. A governmental entity shall not pledge the credit or
7 taxing power of this state. Except as provided in paragraph
8 "b", a governmental entity shall not pledge the credit or taxing
9 power of any political subdivision of this state other than the
10 governmental entity or make its debts payable out of any of the
11 moneys except those in the governmental entity's flood project
12 fund.

13 b. If the moneys in the governmental entity's flood project
14 fund are insufficient to pay the governmental entity's costs
15 related to bonds, notes, or other obligations issued under
16 this chapter, the amounts necessary to pay such costs shall
17 be transferred for deposit in the governmental entity's flood
18 project fund from the debt service fund of the county or the
19 debt service fund of the city or county for a governmental
20 entity as defined in section 418.1, subsection 4, paragraph
21 "b", as provided in the chapter 28E agreement. The chapter
22 28E agreement for a governmental entity as defined in
23 section 418.1, subsection 4, paragraph "b", shall specify the
24 participating city or county responsible for any payment from a
25 debt service fund required under this paragraph.

26 Sec. 16. NEW SECTION. 418.15 Durational limitation on use
27 of revenues — property disposition.

28 1. A governmental entity shall not utilize sales tax revenue
29 under this chapter after twenty-five years from the date the
30 governmental entity's project was approved by the board.

31 2. If the governmental entity ceases to need the sales
32 tax revenues prior to the expiration of the limitation under
33 subsection 1, the governmental entity shall notify the director
34 of revenue.

35 3. Upon the receipt of a notification pursuant to subsection

1 2, or the expiration of the limitation under subsection 1, the
2 department of revenue shall cease to credit revenues to the
3 governmental entity's account in the sales tax increment fund.

4 4. All property and improvements acquired by a governmental
5 entity as defined in section 418.1, subsection 4, paragraph
6 "b", relating to a project shall be transferred to the county
7 or city designated in the chapter 28E agreement to receive
8 such property and improvements. The city or county to which
9 such property or improvements are transferred shall, unless
10 otherwise provided in the chapter 28E agreement, be solely
11 responsible for the ongoing maintenance and support of such
12 property and improvements.

13 Sec. 17. Section 423.2, subsection 11, Code 2011, is amended
14 to read as follows:

15 11. a. (1) All revenues arising under the operation of the
16 provisions of this section shall be deposited into the general
17 fund of the state.

18 (2) Subsequent to the deposit into the general fund of
19 the state, the director shall credit an amount equal to
20 six cents of every dollar of the amount of the increase
21 in sales subject to the tax imposed under this section and
22 made in the applicable area of a governmental entity that is
23 approved to use sales tax revenues under chapter 418 into an
24 account created for that governmental entity in the sales
25 tax increment fund created in section 418.12. The director
26 shall credit the moneys beginning the first day of the quarter
27 following adoption of the resolution pursuant to section 418.4,
28 subsection 3, paragraph "d".

29 b. Subsequent to the deposit into the general fund of the
30 state ~~and after the transfer of such~~ pursuant to paragraph "a",
31 the department shall do the following in the order prescribed:

32 (1) Transfer the revenues collected under chapter 423B, the
33 department shall transfer.

34 (2) Transfer one-sixth of such the remaining revenues to the
35 secure an advanced vision for education fund created in section

1 423F.2. This ~~paragraph~~ subparagraph (2) is repealed December
2 31, 2029.

3 (3) Credit that portion of the sales tax receipts described
4 in paragraph "a", subparagraph (2).

5 Sec. 18. EFFECTIVE UPON ENACTMENT. This Act, being deemed
6 of immediate importance, takes effect upon enactment.

7 EXPLANATION

8 This bill relates to flood mitigation by establishing a
9 flood mitigation program, establishing a flood mitigation
10 board, authorizing the use of certain sales tax revenue and
11 other financial assistance for certain flood-related projects,
12 establishing a flood mitigation fund, and authorizing the
13 issuance of bonds for certain flood mitigation projects.

14 The bill authorizes certain governmental entities to
15 undertake flood-related projects. The bill defines "project"
16 to mean the construction and reconstruction of levees,
17 embankments, impounding reservoirs, or conduits that are
18 necessary for the protection of property from the effects
19 of floodwaters and may include the deepening, widening,
20 alteration, change, diversion, or other improvement of
21 watercourses if necessary for the protection of such property
22 from the effects of floodwaters. The bill requires a project
23 to be preceded by adoption of a project plan that includes a
24 detailed description of the project, clearly states the cost of
25 the project and the amount of debt to be incurred for purposes
26 of funding the project, and includes a description of all
27 funding sources for the project. The project plan must also
28 include information related to the approval criteria used by
29 the flood mitigation board.

30 The bill prohibits a governmental entity from undertaking
31 a project unless bidding for the project is complete, the
32 project has been awarded certain federal financial assistance,
33 the project plan has been approved by the flood mitigation
34 board, and the governmental entity has adopted and filed with
35 the department of revenue a resolution authorizing the use of

1 sales tax increment revenue, if sales tax increment revenue
2 was designated as a funding source for the project. The bill
3 authorizes a governmental entity to contract with a council of
4 governments to perform any duty or power authorized in the bill
5 or for the completion of the project.

6 The bill provides that a governmental entity may not seek
7 approval from the board for a project if the governmental
8 entity previously had a project approved under the flood
9 mitigation program or was part of a governmental entity that
10 previously had a project approved by the board under the flood
11 mitigation program.

12 The bill requires a governmental entity that has a project
13 approved by the flood mitigation board to prepare and submit an
14 annual report on or before December 15 to the board detailing
15 the status and progress of the project

16 The bill establishes a flood mitigation board within the
17 homeland security and emergency management division of the
18 department of public defense consisting of nine voting members
19 and four ex officio, nonvoting legislative members. The voting
20 membership of the board includes four members of the general
21 public having demonstrable experience or expertise in the field
22 of natural disaster or flood mitigation, the director of the
23 department of natural resources or the director's designee,
24 the secretary of agriculture or the secretary's designee,
25 the treasurer of state or the treasurer's designee, the
26 administrator of the homeland security and emergency management
27 division or the administrator's designee, and the executive
28 director of the Iowa finance authority or the executive
29 director's designee. Appointment of the general public members
30 shall be made by the governor, shall be subject to confirmation
31 by the senate, and shall be for three-year staggered terms.
32 The members of the board are entitled to receive reimbursement
33 for actual expenses incurred while engaged in the performance
34 of official duties.

35 The bill requires the board to establish and administer a

1 flood mitigation program to assist governmental entities in
2 undertaking approved projects. The flood mitigation program
3 includes projects approved by the board to utilize either
4 financial assistance from the flood mitigation fund created
5 in the bill or sales tax increment revenues remitted to the
6 governmental entity. The bill prohibits a project from being
7 approved by the board to utilize both financial assistance from
8 the flood mitigation fund and sales tax increment revenues for
9 the same project. The bill authorizes the board to consult
10 with the Iowa flood center to assist the board in administering
11 the flood mitigation program.

12 Governmental subdivisions must submit project applications
13 to the flood mitigation board for approval. The board is
14 prohibited from approving applications submitted after
15 January 1, 2016. The application shall specify whether the
16 governmental entity is requesting financial assistance from
17 the flood mitigation fund or approval for the use of sales tax
18 increment revenues. Applications for financial assistance
19 from the flood mitigation fund are required to describe the
20 type and amount of assistance requested. Applications for the
21 use of sales tax increment revenues shall state the amount of
22 such revenues necessary for completion of the project. Each
23 application shall include, or have attached to the application,
24 the governmental entity's project plan.

25 The bill requires the board, when reviewing applications,
26 in addition to the governmental entity's project plan, to
27 consider, at a minimum, whether the project is designed
28 to mitigate future flooding of property that has sustained
29 significant flood damage and is likely to sustain significant
30 flood damage in the future, whether the project addresses
31 the impact of flooding both upstream and downstream from
32 the area where the project is to be undertaken, whether the
33 area that would benefit from the project's flood mitigation
34 efforts is valuable to the economic viability of the state or
35 is of historic value to the state, the extent to which the

1 project would utilize local matching funds including whether
2 the project meets specific local matching funds requirements,
3 the extent of nonfinancial support from public and nonpublic
4 sources, the net number of new jobs proposed to be created
5 as a direct result of the project and its completion in the
6 area for which the project is designed to mitigate future
7 flooding, whether the project is consistent with the applicable
8 comprehensive, countywide emergency operations plan, and
9 whether financial assistance through the flood mitigation
10 program is essential to meet the necessary expenses or serious
11 needs of the governmental entity related to flood mitigation.

12 Upon review of the applications, the flood mitigation
13 board, following consultation with the department of economic
14 development, shall approve, defer, or deny the applications.
15 If a project plan is denied, the board shall state the reasons
16 for the denial and the governmental entity may resubmit the
17 application so long as the application is filed on or before
18 January 1, 2016.

19 If a project plan application is approved, the board shall
20 specify whether the governmental entity is approved for the use
21 of sales tax increment revenues or whether the governmental
22 entity is approved to receive financial assistance from the
23 flood mitigation fund. If the board approves a project plan
24 application that includes financial assistance from the flood
25 mitigation fund, the board shall negotiate and execute on
26 behalf of the division all necessary agreements to provide such
27 financial assistance. The bill provides for the reduction of
28 an award of financial assistance from the flood mitigation fund
29 or a reduction in the amount of sales tax increment revenues
30 to be received for the project if federal financial assistance
31 exceeds the amount stated in the project plan application.

32 The bill requires the flood mitigation board to prepare
33 and submit an annual report to the governor and the general
34 assembly on or before January 15 containing certain information
35 relating to the projects approved by the board, certain

1 information relating to the governmental entities undertaking
2 each project, and any recommendations for legislative action to
3 modify the provisions of new Code chapter 418.

4 The bill establishes a flood mitigation fund as a separate
5 and distinct fund in the state treasury under the control of
6 the board. Moneys in the flood mitigation fund are used to
7 provide assistance in the form of grants, loans, and forgivable
8 loans. Assistance provided from the fund shall be on a
9 first-come, first-served basis. The board may make a multiyear
10 commitment to a governmental entity of up to \$4 million in
11 any one fiscal year. Following completion of all projects
12 approved to utilize financial assistance from the fund and upon
13 a determination by the board that remaining moneys in the fund
14 are no longer needed for the program, all moneys remaining
15 in the fund or subsequently deposited in the fund shall be
16 credited for deposit in the general fund of the state.

17 The bill authorizes, upon approval of the flood mitigation
18 board, governmental entities to use increased sales tax
19 revenue collected within a specified area to fund projects.
20 For a governmental entity that is a county, the area used
21 to determine the sales tax increment shall include only the
22 unincorporated areas of the county. For a governmental entity
23 that is operated under a Code chapter 28E agreement, the area
24 used to determine the sales tax increment shall include the
25 incorporated areas of each city that is participating in the
26 Code chapter 28E agreement and the unincorporated areas of the
27 participating county.

28 To determine the amount of the increase in sales tax revenue,
29 the department of revenue calculates the amount of sales tax
30 revenues collected in a specified quarter in the base year and
31 the amount of tax revenues collected during the corresponding
32 quarter in subsequent years. The department of revenue
33 then subtracts the base year amount from the amounts in the
34 subsequent years to arrive at the amount of the increase.

35 The bill creates a sales tax increment fund within the

1 department of revenue and an account in the fund for each
2 governmental entity approved by the flood mitigation board to
3 use such revenues for a project. The department credits the
4 amount of the governmental entity's increased revenues to the
5 governmental entity's account.

6 The bill allows each governmental entity to request
7 remittance of the moneys in the governmental entity's account
8 within the fund. Such requests shall be made not more than
9 quarterly. Requests for remittance shall be made for the
10 amount of moneys in the governmental entity's account necessary
11 to pay the governmental entity's costs or obligations related
12 to the project, according to the sales tax revenue funding
13 needs specified in the approved project plan. A governmental
14 entity shall not, however, receive remittances during any
15 fiscal year exceeding \$15 million or the total yearly amount
16 of increased revenue in the governmental entity's applicable
17 area, whichever is less. Remittances from the department
18 of revenue are deposited in the governmental entity's flood
19 project fund. In addition, the total amount of remittances
20 during any fiscal year for all governmental entities approved
21 to use sales tax increment revenues under this chapter shall
22 not exceed, in the aggregate, \$30 million. If the department
23 of revenue determines that the revenue accruing to the sales
24 tax increment fund or accounts within the fund exceed \$30
25 million or the amount necessary for the purposes of new Code
26 chapter 418 if less than \$30 million, then those excess moneys
27 shall be credited by the department of revenue for deposit in
28 the general fund of the state.

29 The bill provides that moneys deposited in a governmental
30 entity's flood project fund shall be used to fund projects and
31 to pay principal and interest on bonds issued under the bill,
32 if applicable. The bill also provides that in addition to
33 the sales tax revenues remitted by the department of revenue
34 and financial assistance from the flood mitigation fund, a
35 governmental entity may deposit in the flood project fund any

1 other moneys lawfully received by the governmental entity.

2 The bill authorizes the issuance of bonds by a governmental
3 entity that are payable from moneys deposited in the
4 governmental entity's flood project fund if the governmental
5 entity is receiving sales tax revenue under the bill. In
6 issuing the bonds, the governmental entity must comply with
7 the revenue bond authorization procedures applicable to cities
8 pursuant to Code section 384.83. The bill provides that bonds,
9 notes, or other obligations issued by a governmental entity are
10 not an obligation of the state. The bill also provides that,
11 except as specifically provided in the bill, bonds, notes, or
12 other obligations issued by a governmental entity are not an
13 obligation of any political subdivision of the state except the
14 governmental entity. The bill prohibits a governmental entity
15 from pledging the credit or taxing power of the state. Except
16 as specifically provided in the bill, a governmental entity
17 is prohibited from pledging the credit or taxing power of a
18 political subdivision of the state.

19 If the moneys in the governmental entity's flood project
20 fund are insufficient to pay the governmental entity's costs
21 related to bonds, notes, or other obligations issued under
22 the bill, the amounts necessary to pay such costs shall be
23 transferred for deposit in the governmental entity's flood
24 project fund from the debt service fund of the county or the
25 debt service fund of the city or county for a governmental
26 entity operating under a Code chapter 28E agreement, as
27 provided in the Code chapter 28E agreement.

28 The bill provides that a governmental entity shall not
29 utilize sales tax increment revenue under the bill after
30 25 years from the date the governmental entity's project
31 was approved by the board. The bill provides that if the
32 governmental entity ceases to need the sales tax increment
33 revenues prior to the expiration of such limitation, the
34 governmental entity shall notify the director of revenue.

35 Under the bill, all property and improvements acquired by a

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1 governmental entity operated under a Code chapter 28E agreement
2 relating to a project shall be transferred to the county or
3 city designated in the Code chapter 28E agreement to receive
4 such property and improvements. The city or county to which
5 such property or improvements are transferred shall, unless
6 otherwise provided in the Code chapter 28E agreement, be solely
7 responsible for the ongoing maintenance and support of such
8 property and improvements.

9 The bill takes effect upon enactment.