

result in reductions in animal feeding operations inspections and a delay in the department's response to complaints. The impact will be that Iowans must put up with the smell and contamination of our rivers and lakes from livestock operations out of compliance for longer periods of time while the division staff is required by the Legislature to process paper.

I am greatly concerned about the number of bad budgeting practices the Legislature has included in House File 725. This bill includes the appropriation of \$913,606 in one-time funding sources to fund ongoing expenditures. For example, the Legislature appropriated \$250,000 from stormwater permit fees deposits to an ongoing water monitoring and well testing program. This is problematic in that Iowans rely on these ongoing water quality services that have only a single year's funding.

House File 725 is, therefore, approved on this date, with the following exceptions, which I hereby disapprove. I do not approve Section 9, subsection 1, paragraph a and the designated portions of Section 9, subsection 2. This item redirects \$100,000 from the groundwater protection fund to support the Leopold Center to the DALS for the operations of their pesticide program. These provisions take money from a program targeted at reducing the need for pesticides and transfer it to a program that provides training for pesticide applicators. While both are important programs to Iowa agriculture, research funding for one will reduce the demand for the other.

I do not approve Section 10. This item appropriates \$40,000 from the DNR forestry management and enhancement fund to the DALS to support the gypsy moth eradication program. This transfer of funds is not needed; however, the opportunity exists for the DNR to work cooperatively with the DALS on implementing this important program.

For the above reasons, I hereby respectfully approve House File 725 with the exceptions noted above.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 184

TOBACCO SETTLEMENT FUND APPROPRIATIONS

S.F. 537

AN ACT relating to and making appropriations from the tobacco settlement endowment fund and the healthy Iowans tobacco trust, establishing certain uses for the appropriations, and providing effective dates.

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

Section 1. **HEALTHY IOWANS TOBACCO TRUST — APPROPRIATIONS TO DEPARTMENTS.** There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the following departments for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the department of human services:
 - a. Unless otherwise provided, to maintain the reimbursement rate for all noninstitutional

medical assistance providers, with the exception of anesthesia and dental services, at the rate provided under the federal Medicare program for such providers during the fiscal year beginning July 1, 2000, and ending June 30, 2001, as specified in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "a", for the fiscal year July 1, 2001, through June 30, 2002, and to continue the resource-based relative value system of reimbursement under the medical assistance program:

..... \$ 8,095,718

b. To maintain the reimbursement rate at the usual and customary rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "b", for the fiscal year July 1, 2001, through June 30, 2002, for dental services under the medical assistance program:

..... \$ 3,814,973

c. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "c", for the fiscal year July 1, 2001, through June 30, 2002, for rehabilitative treatment and support services providers under child and family services:

..... \$ 3,243,026

d. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "d", for the fiscal year July 1, 2001, through June 30, 2002, for adoption, independent living, shelter care, and home studies services providers:

..... \$ 468,967

e. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "e", for the fiscal year July 1, 2001, through June 30, 2002, for hospitals under the medical assistance program:

..... \$ 3,035,278

f. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "f", for the fiscal year July 1, 2001, through June 30, 2002, for home health care services under the medical assistance program:

..... \$ 2,108,279

g. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "g", for the fiscal year July 1, 2001, through June 30, 2002, for critical access hospitals under the medical assistance program:

..... \$ 250,000

h. To maintain the expansion of home health care services and habilitative day care as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "h", under the medical assistance program for children with special needs:

..... \$ 1,975,496

i. To maintain the expansion of respite care services provided through home and community-based waivers as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "i", under the medical assistance program:

..... \$ 1,137,309

j. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "j", for the fiscal year July 1, 2001, through June 30, 2002, to service providers under the purview of the department of human services:

..... \$ 545,630

2. To the department of human services to continue the supplementation of the children's health insurance program appropriation:

..... \$ 200,000

3. To the department of human services to continue the supplementation of the medical assistance appropriation:

..... \$ 7,500,000

4. To the department of human services to provide coverage under the medical assistance program to women who require treatment for breast or cervical cancer as provided in section 249A.3, subsection 2, paragraph "aa":

..... \$ 250,000

5. To the Iowa department of public health:

a. For the tobacco use prevention and control initiative, including efforts at the state and local levels, as provided in chapter 142A and for not more than the following full-time equivalent positions:

.....	\$	9,345,394
.....	FTEs	7.00

(1) The director of public health shall dedicate sufficient resources to promote and ensure retailer compliance with tobacco laws and ordinances relating to persons under 18 years of age, and shall prioritize the state’s compliance in the allocation of available funds to comply with 42 U.S.C. § 300X-26 and section 453A.2.

(2) Of the full-time equivalent positions funded under this section, two full-time equivalent positions shall be utilized to provide for enforcement of tobacco laws, regulations, and ordinances under a chapter 28D agreement entered into between the Iowa department of public health and the alcoholic beverages division of the department of commerce.

(3) Of the funds appropriated in this paragraph “a”, not more than \$525,759 shall be expended on administration and management of the program.

b. For additional substance abuse treatment under the substance abuse treatment program:

.....	\$	11,825,000
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(1) The department shall use funds appropriated in this paragraph “b” to enhance the quality of and to expand the capacity to provide 24-hour substance abuse treatment programs.

(2) The department shall use funds appropriated in this paragraph to expand the length of individual client substance abuse treatment plans, as necessary to reduce program recidivism.

(3) The department shall use funds appropriated in this paragraph to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph to develop a program to encourage individuals who are successfully managing their substance abuse problems to serve as role models.

c. For the healthy Iowans 2010 plan within the Iowa department of public health and for not more than the following full-time equivalent positions:

.....	\$	2,550,000
.....	FTEs	4.00

(1) Of the funds appropriated in this paragraph “c”, not more than \$1,250,000 shall be used for core public health functions, including home health care and public health nursing services, contracted through a formula by local boards of health, to enhance disease and injury prevention services.

(2) Of the funds appropriated in this paragraph “c”, not more than \$400,000 shall be used for the continuation and support of a coordinated system of delivery of trauma and emergency medical services.

(3) Of the funds appropriated in this paragraph “c”, not more than \$437,000 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph “c”, not more than \$300,000 shall be used for the development of scientific and medical expertise in environmental epidemiology.

(5) Of the funds appropriated in this paragraph “c”, not more than \$81,500 shall be used to implement prevention strategies of healthy Iowans 2010 to address the leading causes of death in Iowa.

(6) Of the funds appropriated in this paragraph “c”, not more than \$81,500 shall be used for the childhood lead poisoning prevention program.

d. For provision of smoking cessation products as provided in this paragraph:

.....	\$	75,000
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The department shall award grants to free health clinics that are tax-exempt organizations pursuant to 26 U.S.C. § 501(c)(3) to fund the provision of smoking cessation products to patients. The department shall adopt a methodology for the awarding of the grants to the health clinics based upon the order of receipt of applications.

6. To the department of corrections:

- \$ 610,000
- a. Of the funds appropriated in this subsection, \$127,217 is allocated to the second judicial district department of correctional services to replace expired federal funding for day programming.
- b. Of the funds appropriated in this subsection \$35,359 is allocated to the third judicial district department of correctional services to replace expired federal funding for the drug court program.
- c. Of the funds appropriated in this subsection, \$191,731 is allocated to the fourth judicial district department of correctional services for a drug court program.
- d. Of the funds appropriated in this subsection, \$255,692 is allocated to the fifth judicial district department of correctional services to replace expired funding for the drug court program.

Sec. 2. PURCHASE OF SERVICE CONTRACT PROVIDERS — REIMBURSEMENT INCREASE. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the property tax relief fund created in section 426B.1 for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For assistance to the counties with limited county mental health, mental retardation, and developmental disabilities services fund balances which were selected in accordance with 2000 Iowa Acts, chapter 1221, section 3 to receive such assistance in the same amount provided during the fiscal year beginning July 1, 2000, and ending June 30, 2001, to pay reimbursement increases in accordance with 2000 Iowa Acts, chapter 1221, section 3:

..... \$ 146,750

Sec. 3. SAVINGS ACCOUNT FOR HEALTHY IOWANS — APPROPRIATIONS. There is appropriated from the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, to the following funds and entities for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the Iowa empowerment fund created in section 28.9 for deposit in the school ready children grants account and for distribution as provided in this subsection:

..... \$ 1,153,250

The moneys appropriated in this subsection shall be used along with other appropriations made to the Iowa empowerment fund and shall be distributed as provided in 2001 Iowa Acts, Senate File 535,¹ if enacted by the Seventy-ninth General Assembly, 2001 session.

2. To the Iowa department of public health to be used for the purpose designated and for not more than the following full-time equivalent positions:

For establishing and operating the substance abuse treatment facility for persons on probation as created in section 135.130 and providing staffing for the facility to be used exclusively to provide substance abuse treatment for persons on probation and under the supervision of the judicial district department of correctional services:

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

..... FTEs 60.00

3. Any moneys remaining in the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, on June 30, 2001, shall be transferred to the healthy Iowans tobacco trust created in section 12.65, as amended in this Act, to be used for the purposes specified in that section.

¹ Chapter 181 herein

Sec. 4. PRIOR YEAR NONREVERSION. Notwithstanding 2000 Iowa Acts, chapter 1221, section 5, moneys appropriated under 2000 Iowa Acts, chapter 1221, section 3, for purchase of service contract providers which is unexpended or unencumbered at the end of the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall be deposited in the healthy Iowans tobacco trust created in section 12.65, as amended in this Act, to be used for the purposes specified in that section.

Sec. 5. Section 12.65, Code 2001, is amended to read as follows:

12.65 HEALTHY IOWANS TOBACCO SETTLEMENT ENDOWMENT FUND TRUST.

1. A healthy Iowans tobacco settlement endowment fund trust is created in the office of the treasurer of state. ~~After payment of litigation costs, all moneys paid to the state pursuant to the master settlement agreement, as defined in section 453C.1, 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 fund healthy Iowans tobacco trust.~~

~~2. Any moneys paid to the state by the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund. Additionally, the state's share of the moneys which are not sold to the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund.~~

~~3.~~ 2. Moneys deposited in the fund healthy Iowans tobacco trust shall be used only in accordance with appropriations from the fund 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.

~~4. A savings account for healthy Iowans is created within the tobacco settlement endowment fund. Moneys, appropriated annually, shall be deposited in the account and shall be invested to provide an ongoing source of investment earnings.~~

~~5.~~ 3. Notwithstanding section 8.33, any unexpended balance in the fund healthy Iowans tobacco trust at the end of the fiscal year shall be retained in the fund trust. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the healthy Iowans tobacco settlement endowment fund, in the savings account for healthy Iowans, and in any other account established within the fund trust shall be credited to the healthy Iowans tobacco settlement endowment fund, to the savings account for healthy Iowans, or to any other account established, respectively trust.

~~6. For the purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the attorney general.~~

~~7.~~ 4. Moneys in the fund 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 fund trust by the close of each fiscal year.

Sec. 6. Section 135.11, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 26. Establish and administer a substance abuse treatment facility pursuant to section 135.130.

DIVISION XIII

Sec. 7. NEW SECTION. 135.130 SUBSTANCE ABUSE TREATMENT FACILITY FOR PERSONS ON PROBATION.

1. The director shall establish and operate a facility for the purpose of providing a structured treatment program for persons with a substance abuse problem who are on probation and under the supervision of a judicial district department of correctional services. The department shall enter into an agreement pursuant to chapter 28E with the department of corrections for assistance in establishing security for the facility. The department, in consultation with the department of corrections, shall adopt rules pursuant to chapter 17A to administer this section. The rules adopted shall include rules related to the treatment requirements of the program.

2. A substance abuse treatment facility advisory council is established within the department to advise and make recommendations to the director regarding the establishment and operation of a facility for persons with a substance abuse problem who are on probation and to assist with the implementation of treatment programs that are proven to be effective for offenders. The substance abuse treatment facility advisory council shall consist of the directors of the eight judicial district departments of correctional services and one representative each from the judicial branch, the Iowa department of public health, the department of corrections, and the governor's office of drug control policy.

3. The department, in consultation with the department of corrections and the advisory council, shall adopt rules pursuant to chapter 17A to establish and operate the facility.

Sec. 8. Section 136.3, subsection 7, Code 2001, is amended to read as follows:

7. Adopt, promulgate, amend, and repeal rules and regulations consistent with law for the protection of the public health and prevention of substance abuse, and for the guidance of the department. All rules which have been or are hereafter adopted by the department shall be subject to approval by the board. However, rules adopted by the commission on substance abuse for section 125.7, subsections 1 and 7, and rules adopted by the department pursuant to section 135.130 are not subject to approval by the board of health.

Sec. 9. Section 249A.3, subsection 2, Code 2001, is amended by adding the following new paragraph after paragraph a, and renumbering the subsequent paragraph:

NEW PARAGRAPH. aa. As provided under the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000, Pub. L. No. 106-354, women who meet all of the following criteria:

(1) Are not described in 42 U.S.C. § 1396a(a)(10)(A)(i).

(2) Have not attained age sixty-five.

(3) Have been screened for breast and cervical cancer under the United States centers for disease control and prevention breast and cervical cancer early detection program established under 42 U.S.C. § 300k et seq., in accordance with the requirements of 42 U.S.C. § 300n, and need treatment for breast or cervical cancer. A woman is considered screened for breast and cervical cancer under this subparagraph if the woman is screened by any provider or entity, and the state grantee of the United States centers for disease control and prevention funds under Title XV of the federal Public Health Services Act has elected to include screening activities by that provider or entity as screening activities pursuant to Title XV of the federal Public Health Services Act. This screening includes but is not limited to breast or cervical cancer screenings or related diagnostic services provided by family planning or community health centers and breast cancer screenings funded by the Susan G. Komen foundation which are provided to women who meet the eligibility requirements established by the state grantee of the United States centers for disease control and prevention funds under Title XV of the federal Public Health Services Act.

(4) Are not otherwise covered under creditable coverage as defined in 42 U.S.C. § 300gg(c).

A woman who meets the criteria of this paragraph shall be presumptively eligible for medical assistance.

Sec. 10. Section 901B.1, subsection 1, paragraph c, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) A substance abuse treatment facility as established and operated by the Iowa department of public health.

Sec. 11. Section 901B.1, subsection 4, paragraph a, Code 2001, is amended to read as follows:

a. The district department of correctional services shall place an individual committed to it under section 907.3 to the sanction and level of supervision which is appropriate to the individual based upon a current risk assessment evaluation. Placements may be to levels two and three of the corrections continuum. The district department may, with the approval

of the Iowa department of public health and the department of corrections, place an individual in a level three substance abuse treatment facility established pursuant to section 135.130, to assist the individual in complying with a condition of probation. The district department may, with the approval of the department of corrections, place an individual in a level four violator facility established pursuant to section 904.207 only as a penalty for a violation of a condition imposed under this section.

Sec. 12. 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph c, is amended to read as follows:

c. To provide a cost-of-living adjustment for the fiscal year July 1, 2000, through June 30, 2001, of 5 percent to rehabilitative treatment and support services providers ~~under the medical assistance program~~ receiving child and family services reimbursements:

..... \$ 3,100,000

Sec. 13. REVERSION. Any moneys appropriated under this Act that are unexpended or unencumbered at the end of the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall revert to the healthy Iowans tobacco trust.

Sec. 14. REFERENCES. References in this Act to the tobacco settlement endowment fund and to the savings account for healthy Iowans of the tobacco settlement endowment fund are references to the fund and the account pursuant to section 12.65, Code 2001, and, unless otherwise provided, appropriations from the fund and the account are references to appropriations of moneys in the fund and the account on or before June 30, 2001, and such moneys shall remain available for appropriation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, as provided in this Act.

Sec. 15. EFFECTIVE DATES.

1. Section 3, subsection 3, of this Act relating to transfer of the moneys remaining in the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, on June 30, 2001, to the healthy Iowans tobacco trust, being deemed of immediate importance, takes effect upon enactment.

2. Section 4 of this Act, relating to nonreversion of funds remaining unencumbered or unobligated which were appropriated for the purchase of service contract providers, being deemed of immediate importance, takes effect upon enactment.

Sec. 16. CONTINGENT EFFECTIVE DATE. The section in this Act amending section 12.65 shall take effect only if 2001 Iowa Acts, Senate File 532² is enacted. If 2001 Iowa Acts, Senate File 532³ is not enacted, the section in this Act amending section 12.65 shall not take effect and references in this Act to the healthy Iowans tobacco trust are references to the tobacco settlement endowment fund created in section 12.65, Code 2001. If 2001 Iowa Acts, Senate File 532⁴ is not enacted, all moneys paid to the state pursuant to the master settlement agreement as defined in section 453C.1 shall be deposited in the tobacco settlement endowment fund created in section 12.65, Code 2001.

Approved May 29, 2001

² Chapter 164 herein
³ Chapter 164 herein
⁴ Chapter 164 herein