

Division XXIII

I am unable to approve the items designated as Sections 440 and 441 in their entirety. These sections establish and repeal a new state tax implementation committee. Two years ago, I recommended that the Department of Revenue conduct a two-year tax fairness study and provided \$400,000 for staff and support. In contrast, the Legislature continually fails to devote sufficient time or resources to make this study workable. Under the framework devised, in less than a year's time, the Committee and the Departments of Revenue and Management are charged with reviewing and analyzing all revenue sources available to the State; all current exemptions, credits and exclusions; all revenue sources available to local governments; all services provided by local government; the role of property taxes in funding local government, including examining the state school aid formula; alternative systems of property taxation, protesting property assessments; and methods of controlling property tax revenues and expenditures. To accomplish all this, the Legislature appropriated a meager \$50,000.

In the past, the Legislature has devoted as much as two years to tax studies that were not nearly as broad as this one. Last year, the Legislature assembled a similar group charged with making recommendations for changes to the property tax system alone; and after a year of study and meeting, the group has yet to make substantive recommendations for reform. Iowa's tax structure must be reviewed and reformed. Our property tax system is outdated and unfair. Until the Legislature gets serious about tax reform, these insufficient attempts to study the issue are a waste of limited time and resources.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2298 are hereby approved as of this date.

Sincerely,  
THOMAS J. VILSACK, *Governor*

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**CHAPTER 1176****HEALTHY IOWANS TOBACCO TRUST AND  
TOBACCO SETTLEMENT TRUST FUND —  
APPROPRIATIONS — MISCELLANEOUS PROVISIONS***H.F. 2577*

**AN ACT** relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund and providing an effective date.

*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, 2004, and ending June 30, 2005, 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, 2004, through June 30, 2005, 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, 2004, through June 30, 2005, for dental services under the medical assistance program:

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

c. 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, 2004, through June 30, 2005, for hospitals under the medical assistance program:

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

d. 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, 2004, through June 30, 2005, for home health care services under the medical assistance program:

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

e. 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, 2004, through June 30, 2005, for critical access hospitals under the medical assistance program:

..... \$ 250,000

f. 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

g. 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

h. 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, 2004, through June 30, 2005, for rehabilitative treatment and support services providers under child and family services:

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

i. 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, 2004, through June 30, 2005, for adoption, independent living, shelter care, and home studies services providers:

..... \$ 468,967

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, 2004, through June 30, 2005, 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 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 "b":

..... \$ 250,000

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

..... \$ 14,346,750

Of the amount appropriated in this subsection, \$50,000 shall be used to continue the efforts

of the Iowa chronic care consortium pursuant to 2003 Iowa Acts, chapter 112, section 12, as amended by 2003 Iowa Acts, chapter 179, sections 166 and 167.

5. To the department of human services for general administration of health-related programs:

..... \$ 274,000

6. 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:

..... \$ 5,011,565

..... 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.

(4) Of the funds appropriated in this paragraph "a", not less than 80 percent of the amount expended in the fiscal year beginning July 1, 2001, for community partnerships shall be expended in the fiscal year beginning July 1, 2004, for that purpose.

b. For provision of smoking cessation and smoking-related diseases products as provided in this paragraph:

..... \$ 75,000

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 and smoking-related diseases 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.

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

..... \$ 11,800,000

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

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

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

(6) The department shall submit a report annually by March 1, to the governor and the general assembly delineating the success rates of the substance abuse treatment programs that receive funding under this paragraph "c".

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

..... \$ 2,346,960

..... FTEs 4.00

(1) Of the funds appropriated in this paragraph "d", not more than \$1,157,482 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 “d”, not more than \$387,320 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 “d”, not more than \$437,000 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph “d”, not more than \$288,770 shall be used for the development of scientific and medical expertise in environmental epidemiology.

(5) Of the funds appropriated in this paragraph “d”, not more than \$76,388 shall be used for the childhood lead poisoning prevention program.

e. For the automated external defibrillator grant program established by 2004 Iowa Acts, House File 2464,<sup>1</sup> if enacted:

..... \$ 250,000

f. For the center for congenital and inherited disorders:

..... \$ 26,000

7. To the department of corrections:

..... \$ 980,000

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, \$255,693 is allocated to the fifth judicial district department of correctional services to replace expired funding for the drug court program.

e. Of the funds appropriated in this subsection, \$370,000 is allocated to the Newton correctional facility for a value-based treatment program. *\*Of the funds allocated in this paragraph, \$60,000 shall be used to operate a similar value-based treatment program at the Iowa correctional institution for women at Mitchellville. Moneys allocated for the program at Mitchellville that remain unencumbered or unobligated for that purpose at the close of the fiscal year shall revert.\**

8. To the department for the blind:

..... \$ 130,000

To plan, establish, administer, and promote a statewide program to provide audio news and information services to blind or visually impaired persons residing in this state.

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, 2004, and ending June 30, 2005, 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. IOWA EMPOWERMENT FUND. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the Iowa empowerment fund created in section 28.9

<sup>1</sup> Chapter 1034 herein

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

for the fiscal year beginning July 1, 2004, and ending June 30, 2005, for deposit in the school ready children grants account and for distribution as provided in this section:

..... \$ 2,153,250

Sec. 4. DEPARTMENT OF CORRECTIONS — SPECIAL NEEDS UNIT. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the department of corrections for the fiscal year beginning July 1, 2004, and ending June 30, 2005, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For operating the special needs unit at the Fort Madison correctional facility:  
..... \$ 1,187,285

Sec. 5. ENDOWMENT FOR IOWA’S HEALTH ACCOUNT — TRANSFER. In addition to the amount transferred pursuant to section 12E.12, subsection 1, paragraph “b”, subparagraph (2), subparagraph subdivision (b), \$6,316,077 is transferred from the endowment for Iowa’s health account of the tobacco settlement trust fund created in section 12E.12 to the healthy Iowans tobacco trust created in section 12.65 for the fiscal year beginning July 1, 2004, and ending June 30, 2005.

Sec. 6. Section 142A.3, subsection 2, Code 2003, is amended to read as follows:  
2. A commission on tobacco use prevention and control is established to develop policy, provide direction for the initiative, and perform all other duties related to the initiative and other tobacco use prevention and control activities as directed by this chapter or referred to the commission by the director of public health.

Sec. 7. Section 142A.4, Code 2003, is amended by adding the following new subsection:  
NEW SUBSECTION. 12A. Represented by the chairperson of the commission, annually appear before the joint appropriations subcommittee that makes recommendations concerning the commission’s budget to report on budget expenditures and division operations relative to the prior fiscal year and the current fiscal year.

Sec. 8. Section 142A.5, subsection 1, paragraph b, Code Supplement 2003, is amended to read as follows:  
b. Employ a separate division administrator who, in accordance with the requirements of section 142A.4, subsection 14, in a full-time equivalent position whose sole responsibility and duty shall be responsible for the administration and oversight of the division. The division administrator shall report to and shall serve at the pleasure of the director. The administrator shall be exempt from the merit system provisions of chapter 8A, subchapter IV.

Sec. 9. Section 142A.5, subsection 2, Code Supplement 2003, is amended by adding the following new paragraph:  
NEW PARAGRAPH. g. Provide necessary information to the commission to assist the commission in making its annual report to the joint appropriations subcommittee pursuant to section 142A.4, subsection 12A, and in fulfilling other commission duties pursuant to section 142A.4.

Sec. 10. Section 216B.3, Code Supplement 2003, is amended by adding the following new subsection:  
NEW SUBSECTION. 18. Plan, establish, administer, and promote a statewide program to provide audio news and information services to blind or visually impaired persons residing in this state.  
a. The commission may enter into necessary contracts and arrangements with the national federation for the blind to provide for the delivery of newspapers over the telephone, furnished by the national federation for the blind.  
b. The commission may enter into necessary contracts and arrangements with the Iowa radio reading information service for the blind and print handicapped to provide for the delivery

of newspapers, magazines, and other printed materials over the radio, furnished by the Iowa radio reading information service for the blind and print handicapped.

Sec. 11. Section 216B.4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The director may accept financial aid from the government of the United States for carrying out rehabilitation and physical restoration of the blind and for providing library, news, and information services to persons who are blind and persons with physical disabilities.

Sec. 12. Section 234.39, subsection 6, if enacted by 2004 Iowa Acts, Senate File 2298,<sup>2</sup> is amended by striking the subsection.

Sec. 13. Section 272C.3, subsection 1, paragraph k, Code Supplement 2003, is amended to read as follows:

k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, and who self-report the impairment to the committee, or who are referred by the board to the committee. Members of the committee shall receive actual expenses for the performance of their duties and shall be eligible to receive per diem compensation pursuant to section 7E.6. The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

Sec. 14. 2003 Iowa Acts, chapter 183, section 1, subsection 5, paragraph b, is amended to read as follows:

b. For a grant to a program that utilizes high school mentors to teach life skills, violence prevention, and character education in an effort to reduce the illegal use of alcohol, tobacco, and other substances:

..... \$ 400,000

(1) The program described in this paragraph "b" shall meet all of the following requirements:

(a) The program shall be a statewide mentoring program that is an alternative to mentoring programs that utilize the standards of effective practice.

(b) The program shall contract with a university to assist in curriculum development and performance evaluation.

(c) The program shall provide for some level of public-private partnership.

(d) The program shall obtain the assistance of the Iowa department of public health in the development of the performance evaluation design.

(e) The program shall demonstrate improvement in meeting the current standards.

(2) The Iowa department of public health shall negotiate a sole source contract with a non-profit corporation that mentors through live music and receives funds through private partnership to implement this paragraph "b".

(3) The Iowa department of public health may use up to \$50,000 of the moneys appropriated under this paragraph "b" to provide technical assistance to and monitoring of the program.

(4) Notwithstanding section 8.33, moneys appropriated under this paragraph "b" that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purpose designated in the succeeding fiscal year.

<sup>2</sup> See chapter 1175, §149 herein

Sec. 15. EFFECTIVE DATE. The section of this Act amending 2003 Iowa Acts, chapter 183, being deemed of immediate importance, takes effect upon enactment.

*Approved May 17, 2004, with exception noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2577, an Act relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund and providing an effective date.

House File 2577 is approved on this date with the following exceptions, which I hereby disapprove.

I approve Section 8, which requires the Department of Public Health to provide a separate division administrator for the Division of Tobacco Use Prevention and Control. I fully recognize the importance of focusing on the importance of preventing and reducing tobacco use and appreciate the interest of stakeholders in maintaining a separate division administrator. However, I retain this language with some reservation. I am concerned that this new position may not be the most efficient use of tobacco prevention dollars. The tobacco division consists of nine employees and two vacant positions, which does not meet the span-of-control goal of 1:12. The next smallest division in the Department has four times as many employees, and all of the other divisions have multiple programs. Over the last two years, the Legislature has decreased the budget of the tobacco division by 40 percent. I am hopeful that this language marks a shift in legislative priorities and that the Legislature will restore these funds and provide a strong fiscal commitment to reducing tobacco use. Without an accompanying financial commitment, this language and the new division administrator are primarily a symbolic act.

I am unable to approve the item designated as a portion of Section 1, subsection 7, paragraph e. This language requires allocation of funds for the implementation of a treatment program at the Iowa Correctional Institution for Women in Mitchellville. A similar value-based treatment program at the Newton Correctional Facility is the subject of a constitutional challenge currently before the U.S. District Court. In order to avoid expansion of potential liability, state appropriations for value-based treatment programming should not be expanded to other correctional institutions until the courts resolve this issue.

I approve the items designated as Section 14 and Section 15, which direct the Department of Public Health to issue a \$400,000 contract to a specific program targeted towards prevention efforts with Iowa youth. I support mentoring programs that focus on violence prevention and efforts to reduce the illegal use of alcohol, tobacco, and other substances among our youth. By preventing such acts, we save kids from a lot of pain and we save lives. However, I retain this language with some reservation. First, it is difficult to justify a sole source contract when there are other qualified organizations that would be denied any opportunity to bid on such a large contract. Furthermore, I expect this program to demonstrate its effectiveness through an independent evaluation. Certified mentoring programs in Iowa are required to meet standards of effective practice, and I expect the same of this program.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 2577 are hereby approved as of this date.

Sincerely,  
THOMAS J. VILSACK, *Governor*