

Sec. 6. **NEW SECTION. 422B.11 CONSTRUCTION CONTRACTOR REFUNDS.**

1. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the following conditions:

a. The goods, wares, or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to the date of the imposition or increase in rate of a local sales and services tax under this chapter. The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract.

b. The contractor has paid to the department or to a retailer the full amount of the state and local tax.

c. The claim is filed on forms provided by the department and is filed within six months of the date the tax is paid.

2. The department shall pay the refund from the appropriate city's or county's account in the local sales and services tax fund.

3. A contractor who makes an erroneous application for refund shall be liable for payment of the excess refund paid plus interest at the rate in effect under section 421.7. In addition, a contractor who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the excess refund claimed. Excess refunds, penalties, and interest due under this subsection may be enforced and collected in the same manner as the local sales and services tax imposed under this chapter.

Sec. 7. In a city that was authorized to impose a local hotel and motel tax under chapter 422A as a result of an election held during the last quarter of the 1987 calendar year, any hotel and motel owner or other person responsible for collection of a local hotel and motel tax that prematurely collects a local hotel and motel tax in such city during the period beginning January 1, 1988, and ending with the actual imposition of such tax, shall remit the amount collected to the department of revenue and finance at the time of filing the person's next state sales, services, and use tax return. Moneys received by the department pursuant to this section shall be deposited and disbursed as provided in section 422A.2. To the extent of the amount prematurely collected, the local hotel and motel tax shall be deemed to have been imposed January 1, 1988, in a city described in this section.

Sec. 8. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1988

CHAPTER 1154

SALES, SERVICES, AND USE TAXES ON OUT-OF-STATE RETAILERS

H.F. 2459

AN ACT relating to the imposition and collection of the state sales, services, and use taxes by out-of-state retailers.

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

Section 1. Section 422.43, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A tax of four percent is imposed upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as

otherwise provided in this division, sold at retail in the state to consumers or users within the state by retailers that meet any of the following criteria:

a. Solicit retail sales of tangible personal property from residents of this state on a continuous, regular, seasonal, or systematic basis by means of advertising which is broadcast from or relayed from a transmitter within this state.

b. Solicit orders from residents of this state for tangible personal property by mail or otherwise, if the solicitations are continuous, regular, or systematic and if the retailer benefits from any banking, financing, debt collection, telecommunications, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

c. Are owned or controlled by the same interests which own or control a retailer engaged in business in the same or a similar line of business in this state.

d. Maintain or have a franchisee or licensee operating under the retailer's trade name in this state if the franchisee or licensee is required to collect the tax imposed by this division or chapter 423.

Sec. 2. Section 422.69, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The director shall estimate the amount of tax revenues collected as a result of the sales tax imposed under section 422.43, subsection 12, and shall deposit a like amount in a "GAAP escrow account" to be created within the general fund. Amounts deposited in the GAAP escrow account shall be used to implement generally accepted accounting principles as required in 1986 Iowa Acts, chapter 1245, section 2046, as amended by 1986 Iowa Acts, chapter 1238, section 59.

Sec. 3. Section 422B.8, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 324, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts upon which sales tax is imposed only under section 422.43, subsection 12, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E. ~~However, notwithstanding that the gross receipts from the sale or rental of the tangible personal property described in section 422.45, subsections 26 and 27 are taxable during the period beginning July 1, 1985 and ending June 30, 1987, a local sales and services tax shall not be imposed on the sale or rental of such property.~~ A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Approved May 4, 1988

CHAPTER 1155**SPECIAL EDUCATION SERVICES FEDERAL FUNDING***S.F. 2296*

AN ACT requiring the area education agencies to utilize federally funded health care programs to share in the costs of services provided to certain children requiring special education and providing an effective date.

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

Section 1. NEW SECTION. 281.15 SPECIAL EDUCATION SERVICES.

1. The state board of education in conjunction with the department of education shall develop a program to utilize federally funded health care programs, except the federal medically needy program for individuals who have a spend-down, to share in the costs of services which are provided to children requiring special education.

2. The department of education shall designate an area education agency to develop a system for collecting the information necessary to implement procedures for billing and collecting the costs of the services. The area education agency shall begin to develop the system immediately. The area education agency shall consult with and work jointly with state agencies and federal agencies to determine procedures and standards which shall be initiated by all area education agencies to qualify for receipt of benefits under federal programs.

3. The department of education, in conjunction with the area education agency, shall determine those specific services which are covered by federally funded health care programs, which shall include, but not be limited to, physical therapy, audiology, speech language therapy, and psychological evaluations. The department shall also determine which other special services may be subject to reimbursement and the qualifications necessary for personnel providing those services. If it is determined that services are required from other service providers, these providers shall be reimbursed for those services.

4. All services referred to in subsection 1 shall be initially funded by the area education agency and shall be provided regardless of subsequent subrogation collections. The area education agency shall make a claim for reimbursement to federally funded health care programs.

5. Not later than July 1, 1988, the area education agency designated by the department of education shall have developed the program for collecting for the services provided. The program shall be distributed to all of the area education agencies in the state. All area education agencies shall begin collecting the information on July 1, 1988.

6. Effective November 1, 1988, all area education agencies in the state shall participate in the program and begin billing for and collecting for the covered services and shall bill for services provided retroactive to July 1, 1988. Retroactive Title XIX billing is contingent upon state plan approval. Nothing contained in this section shall be construed to allow nonlicensed individuals to perform services which otherwise require licenses under the laws of this state or to allow licensed providers to perform services outside their scope of practice.

7. All reimbursements received by the area education agencies for eligible services shall be paid annually to the treasurer of state. The treasurer of state shall credit all receipts received under this subsection to the general fund of the state.

8. The department of education and the department of human services may adopt rules pursuant to chapter 17A as these agencies deem necessary to implement this section. These rules shall take effect immediately as provided in section 17A.5, subsection 2, paragraph "b".

9. Students or their parents or guardians covered by a federal health care program shall provide health care information to an area education agency or local school district.

10. The department of education and the department of human services shall adopt rules to implement this section to be effective immediately upon filing with the administrative rules