local option sales and services tax is imposed is also authorized to enter into a chapter 28E agreement with another school district which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district shall only expend its designated portion of the local option sales and services tax for infrastructure purposes.

Sec. 21. Section 423.12, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An increase or decrease in the excise tax rate in this section shall only be effective on January 1 or July 1, but not sooner than ninety days after enactment of the rate increase or decrease.

Sec. 22. Section 423.16, Code 1999, is amended to read as follows:

423.16 DETERMINATION BY DEPARTMENT.

If any return required by this chapter is not filed, or if any return when filed is incorrect or insufficient, and the maker or person from whom it is due fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall have the same power to determine the amount due, as is vested in the department by sections 422.54, 422.55, and 422.57, subject to all of the provisions, and restrictions, and rights to seek judicial review provided in the sections. If a return required by this chapter has been filed, the ~~five-year~~ period of limitation specified in section 422.54, subsection 1, shall apply to the making of a determination by the department of the amount of tax due and to the giving of notice to the taxpayer of such determination. The right to waive the ~~five-year~~ period of limitation as provided in section 422.54, subsection 3, is applicable to this chapter.

Sec. 23. EFFECTIVE AND APPLICABILITY DATES.

1. Sections 1 through 4, 21, and 22 of this Act take effect January 1, 2000, for state sales and use taxes.
2. Sections 8, 9, 11, 13, and 15 of this Act take effect April 1, 2000, for local sales and services taxes.
3. Sections 19 and 20 of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 1998.
4. Sections 5, 6, and 7 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 20, 1999

CHAPTER 157

TOBACCO PRODUCT MANUFACTURERS — SETTLEMENT AGREEMENT

S.F. 482

AN ACT relating to tobacco product manufacturers, providing penalties, and providing an effective date.

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

Section 1. NEW SECTION. 453C.1 DEFINITIONS.

1. "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in exhibit "C" to the master settlement agreement.

2. "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns", "is owned", and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

3. "Allocable share" means allocable share as defined in the master settlement agreement.

4. "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any of the following:

a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco.

b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

c. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph "a" of this definition.

The term "cigarette" includes "roll-your-own" tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette", 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".

5. "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

6. "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with section 453C.2, subsection 2, paragraph "b".

7. "Released claims" means released claims as that term is defined in the master settlement agreement.

8. "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

9. "Tobacco product manufacturer" means an entity that on or after the effective date of this Act directly and not exclusively through any affiliate does any of the following:

a. Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of the subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreements* and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States.

b. Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.

c. Becomes a successor of an entity described in paragraph "a" or "b".

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs "a" through "c".

10. "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or

* The phrase "master settlement agreement" probably intended

similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs or roll-your-own tobacco containers bearing the excise tax stamp of the state. The department of revenue and finance shall adopt rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Sec. 2. NEW SECTION. 453C.2 REQUIREMENTS.

Any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, on or after the effective date of this Act shall do one of the following:

1. Become a participating manufacturer as that term is defined in section II(jj) of the master settlement agreement and generally perform its financial obligations under the master settlement agreement.

2. a. Place into a qualified escrow fund by April 15 of the year following the year in question, the following amounts, as such amounts are adjusted for inflation:

(1) For 1999: $.0094241 per unit sold on or after the effective date of this Act.

(2) For 2000: $.0104712 per unit sold.

(3) For each of 2001 and 2002: $.0136125 per unit sold.

(4) For each of 2003 through 2006: $.0167539 per unit sold.

(5) For 2007 and each year thereafter: $.0188482 per unit sold.

b. A tobacco product manufacturer that places funds into escrow pursuant to paragraph "a" shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under any of the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph (1) in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement.

(2) To the extent that a tobacco product manufacturer establishes that the amount the manufacturer was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement had such manufacturer been a participating manufacturer, as such payments are determined pursuant to section IX(i)(2) of the master settlement agreement and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment, the excess shall be released from escrow and revert back to such tobacco product manufacturer.

(3) To the extent not released from escrow under subparagraph (1) or (2), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

c. Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the attorney general that the manufacturer is in compliance with this subsection. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that is not a participating manufacturer under the master settlement agreement and fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this subsection shall be subject to all of the following:

(1) Be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this subsection. The court, upon a finding of a violation of this subsection, may impose a civil penalty, to be paid to the general fund of the state, in an amount not to exceed five percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent of the original amount improperly withheld from escrow.

(2) In the case of a knowing violation, be required within fifteen days to place such funds into escrow as shall bring the manufacturer into compliance with this subsection. The

court, upon a finding of a knowing violation of this subsection, may impose a civil penalty, to be paid to the general fund of the state, in an amount not to exceed fifteen percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent of the original amount improperly withheld from escrow.

(3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years.

d. Each failure to make an annual deposit required under this subsection shall constitute a separate violation.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 158

MARKETING OF TURKEYS AND TURKEY PRODUCTS — COUNCIL — PRODUCER ASSESSMENT

H.F. 570

AN ACT relating to the Iowa turkey marketing council, by providing procedures for the administration of the council, a producer assessment, refunds, and for the expenditure of moneys by the council, and providing an effective date.

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

Section 1. Section 184A.1, Code 1999, is amended to read as follows:

184A.1 DEFINITIONS.

As used in this chapter, unless the context indicates otherwise:

1. "Account" means the turkey council account created pursuant to section 184A.4.

2. "Council" means the "Iowa turkey marketing council" ~~or "council" means the council administrating promotion and research funds~~ established pursuant to sections 184A.1A and 184A.1B. ~~The council shall consist of the following seven members:~~

~~a. The Iowa secretary of agriculture or the secretary's representative.~~

~~b. The chairperson of the poultry science department of the Iowa state university of science and technology.~~

~~c. The Iowa turkey federation shall nominate ten representatives of the Iowa turkey industry, and the secretary shall appoint five representatives from the ten nominees or other representatives of the Iowa turkey industry of the secretary's choice as the representatives of the turkey industry on the council.~~

3. "Fund" means the Iowa turkey fund created pursuant to section 184A.4.

4. "Integrator" means any person who is both a producer and a processor.

~~2.~~ 5. "Market development" means research and education programs ~~directed toward~~ to provide better and more efficient production, marketing, and utilization of turkey and turkey products produced for resale~~, and methods and means, including~~. The programs may include, but are not limited to, supporting public relations ~~and other~~, promotion ~~techniques~~, ~~for~~ and research efforts. The programs may provide for all of the following:

a. The maintenance of present markets~~, for~~ and the development of new or larger domestic or foreign markets~~, for the sale of turkeys, and for~~,