

*Reprinted*

MAR 23 1988

WAYS & MEANS CALENDAR

HOUSE FILE 2459

BY COMMITTEE ON WAYS AND MEANS

(Formerly House File 2359)

Passed House, Date 4/4/88 (S 1355) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 91 Nays 5 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the imposition and collection of the state  
2 sales, services, and use taxes by out-of-state retailers.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4

HOUSE FILE 2459

H-6003

1 Amend House File 2459 as follows:

2 1. Page 1, by inserting after line 27 the  
3 following:

4 "Sec. \_\_\_\_ . Section 422.69, Code 1987, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 4. The director shall estimate  
7 the amount of tax revenues collected as a result of  
8 the sales tax imposed under section 422.43, subsection  
9 12, and shall deposit a like amount in a "GAAP escrow  
10 account" to be created within the general fund.

11 Amounts deposited in the GAAP escrow account shall be  
12 used to implement generally accepted accounting

13 principles as required in 1986 Iowa Acts, chapter

6015 14 1245, subsection 2046, as amended by 1986 Iowa Acts,

15 chapter 1238, section 59."

By METCALF of Polk  
DODERER of Johnson

H-6003 FILED MARCH 28, 1988

*Adopted as amended by 6015 4/4 (S 1354)*

HOUSE FILE 2459

H-6015

1 Amend the amendment, H-6003, to House File 2459 as  
2 follows:

3 1. Page 1, line 14, by striking the word  
4 "subsection" and inserting the following: "section".

By METCALF of Polk

H-6015 FILED MARCH 29, 1988

*Adopted 4/4 (S 1354)*

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

3 NEW SUBSECTION. 12. A tax of four percent is imposed upon  
4 the gross receipts from all sales of tangible personal  
5 property, consisting of goods, wares, or merchandise, except  
6 as otherwise provided in this division, sold at retail in the  
7 state to consumers or users within the state by retailers that  
8 meet any of the following criteria:

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

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

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

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

28 Sec. 2. Section 422B.8, unnumbered paragraph 1, Code 1987,  
29 is amended to read as follows:

30 A local sales and services tax at the rate of not more than  
31 one percent may be imposed by a county on the gross receipts  
32 taxed by the state under chapter 422, division IV. A local  
33 sales and services tax shall be imposed on the same basis as  
34 the state sales and services tax and may not be imposed on the  
35 sale of any property or on any service not taxed by the state,

1 except the tax shall not be imposed on the gross receipts from  
2 the sale of motor fuel or special fuel as defined in chapter  
3 324, on the gross receipts from the rental of rooms,  
4 apartments, or sleeping quarters which are taxed under chapter  
5 422A during the period the hotel and motel tax is imposed, on  
6 the gross receipts from the sale of natural gas or electric  
7 energy in a city or county where the gross receipts are  
8 subject to a franchise fee or user fee during the period the  
9 franchise or user fee is imposed, on the gross receipts upon  
10 which sales tax is imposed only under section 422.43,  
11 subsection 12, and on the gross receipts from the sale of a  
12 lottery ticket or share in a lottery game conducted pursuant  
13 to chapter 99E. ~~However, notwithstanding that the gross~~  
14 ~~receipts from the sale or rental of the tangible personal~~  
15 ~~property described in section 422.45, subsections 26 and 27~~  
16 ~~are taxable during the period beginning July 1, 1985 and~~  
17 ~~ending June 30, 1987, a local sales and services tax shall not~~  
18 ~~be imposed on the sale or rental of such property.~~ A local  
19 sales and services tax is applicable to transactions within  
20 those incorporated and unincorporated areas of the county  
21 where it is imposed and shall be collected by all persons  
22 required to collect state gross receipts taxes. All cities  
23 contiguous to each other shall be treated as part of one  
24 incorporated area and the tax would be imposed in each of  
25 those contiguous cities only if the majority of those voting  
26 in the total area covered by the contiguous cities favor its  
27 imposition.

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## EXPLANATION

29 The bill imposes the state sales tax on sales of tangible  
30 personal property solicited by advertising that is broadcast  
31 or transmitted from a location within this state, solicited by  
32 mail or otherwise, made by a retailer owned or controlled by  
33 the same interests as any other retailer engaged in business  
34 in this state, or made by a retailer that maintains or has a  
35 franchisee or licensee operating under the retailer's trade

1 name in this state that is required to collect sales tax.

2 The local option sales tax does not apply to sales on which  
3 tax is imposed only as a result of this bill.

4 SIMILAR TO HF 2359 (LSB 7491H)

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HOUSE FILE 2459  
FISCAL NOTE

In compliance with a written request received March 23, 1988, a fiscal note for HOUSE FILE 2459 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE FILE 2459 extends the retail sales tax to include sales of tangible personal property solicited by advertising that is (a) broadcast or transmitted or distributed from a location within this state, (b) solicited by mail, (c) made by a retailer owned or controlled by the same interests as any other retailer engaged in business in this state, or (d) made by a retailer that maintains or has a franchisee or licensee operating under the retailer's trade name in this state that is required to collect sales tax. In addition, the local option sales tax does not apply to sales on which tax is imposed only as a result of this bill.

**ASSUMPTIONS**

1. Estimates provided by the Advisory Commission on Intergovernmental Relations (ACIR) are valid. These estimates were adjusted to reflect estimated Iowa sales tax collections currently being collected from such retailers.
2. Any possible litigation which might delay collection of receipts is not considered here.
3. The bill will be fully implemented.

**FISCAL EFFECT**

The estimated annual increase in general fund revenues is expected to range from \$17.0 to \$20.0 million.

Source: Department of Revenue and Finance

(LSB 7491h.2, PDD)

FILED MARCH 24, 1988

BY DENNIS PROUTY, FISCAL DIRECTOR

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HOUSE FILE 2459

BY COMMITTEE ON WAYS AND MEANS

(As Amended and Passed by the House April 4, 1988)

*Substituted for S.F. 2319 4/14*

Passed House, Date 4/4/88 (p. 1355) Passed Senate, Date 4/14/88 (p. 1535)

Vote: Ayes 91 Nays 5 Vote: Ayes 48 Nays 0

Approved May 4, 1988  
*Repassed Senate 4/14/88 (p. 2459)*  
*41-1*

**A BILL FOR**

1 An Act relating to the imposition and collection of the state  
5893 2 sales, services, and use taxes by out-of-state retailers.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

5934 amended  
22

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

3 NEW SUBSECTION. 12. A tax of four percent is imposed upon  
4 the gross receipts from all sales of tangible personal  
5 property, consisting of goods, wares, or merchandise, except  
6 as otherwise provided in this division, sold at retail in the  
7 state to consumers or users within the state by retailers that  
8 meet any of the following criteria:

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

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

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

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

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

30 NEW SUBSECTION. 4. The director shall estimate the amount  
31 of tax revenues collected as a result of the sales tax imposed  
32 under section 422.43, subsection 12, and shall deposit a like  
33 amount in a "GAAP escrow account" to be created within the  
34 general fund. Amounts deposited in the GAAP escrow account  
35 shall be used to implement generally accepted accounting

1 principles as required in 1986 Iowa Acts, chapter 1245,  
2 section 2046, as amended by 1986 Iowa Acts, chapter 1238,  
3 section 59.

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

6 A local sales and services tax at the rate of not more than  
7 one percent may be imposed by a county on the gross receipts  
8 taxed by the state under chapter 422, division IV. A local  
9 sales and services tax shall be imposed on the same basis as  
10 the state sales and services tax and may not be imposed on the  
11 sale of any property or on any service not taxed by the state,  
12 except the tax shall not be imposed on the gross receipts from  
13 the sale of motor fuel or special fuel as defined in chapter  
14 324, on the gross receipts from the rental of rooms,  
15 apartments, or sleeping quarters which are taxed under chapter  
16 422A during the period the hotel and motel tax is imposed, on  
17 the gross receipts from the sale of natural gas or electric  
18 energy in a city or county where the gross receipts are  
19 subject to a franchise fee or user fee during the period the  
20 franchise or user fee is imposed, on the gross receipts upon  
21 which sales tax is imposed only under section 422.43,  
22 subsection 12, and on the gross receipts from the sale of a  
23 lottery ticket or share in a lottery game conducted pursuant  
24 to chapter 99E. ~~However, notwithstanding that the gross~~  
25 ~~receipts from the sale or rental of the tangible personal~~  
26 ~~property described in section 422.45, subsections 26 and 27~~  
27 ~~are taxable during the period beginning July 1, 1985 and~~  
28 ~~ending June 30, 1987, a local sales and services tax shall not~~  
29 ~~be imposed on the sale or rental of such property.~~ A local  
30 sales and services tax is applicable to transactions within  
31 those incorporated and unincorporated areas of the county  
32 where it is imposed and shall be collected by all persons  
33 required to collect state gross receipts taxes. All cities  
34 contiguous to each other shall be treated as part of one  
35 incorporated area and the tax would be imposed in each of

1 those contiguous cities only if the majority of those voting  
2 in the total area covered by the contiguous cities favor its  
3 imposition.

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4 SIMILAR TO HF 2359 (LSB 7491H)

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HOUSE FILE 2459

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1 Amend House File 2459 as amended, passed and  
2 reprinted by the House as follows:

3 1. Page 1, by inserting after line 27 the  
4 following:

5 "Sec. 10. NEW SECTION. 422.59A CATALOG SALES.

6 1. For purposes of this section, unless the  
7 context otherwise requires:

8 a. "Destination of sale" means the location to  
9 which a seller of tangible personal property delivers  
10 that property or causes that property to be delivered,  
11 to the purchaser of that property or to the agent or  
12 designee of that purchaser, by any means of delivery,  
13 including but not limited to the United States postal  
14 service, a common carrier, or a contract carrier.

15 b. "Person" means the same as defined in section  
16 7701(a)(1) of the Internal Revenue Code.

17 c. "Soliciting of sales" means making known that a  
18 kind of tangible personal property is for sale.

19 2. In the case of a person who may not  
20 constitutionally be required, under any other section  
21 of this division or chapter 423, to collect the tax  
22 imposed under this division or under chapter 423, the  
23 director shall require such person to collect the tax  
24 imposed under this division or under chapter 423 with  
25 respect to the sale of tangible personal property if  
26 all of the following apply:

27 a. The destination of the sale is in this state.

28 b. The person meets the following conditions:

29 (1) The person engages in regular or systematic  
30 soliciting of sales in the state.

31 (2) The person has gross receipts from the sale of  
32 such tangible personal property in the one-year period  
33 ending September 30 preceding the calendar year in  
34 which the sale which is the subject of the tax occurs  
35 of over twelve million five hundred thousand dollars  
36 in the United States or over five hundred thousand  
37 dollars in this state.

38 3. The director shall not require a person who  
39 collects the tax pursuant to this section to make an  
40 accounting for the receipts of the tax on the basis of  
41 the geographical location at which a taxable transac-  
42 tion occurs.

43 4. The director shall not require a person who is  
44 required to collect the tax pursuant to this section  
45 to file more than four sales tax returns reporting the  
46 amount of tax collected or required to be collected in  
47 any one-year period or shall not require such person  
48 to file a sales tax return or remit the receipts of  
the tax more frequently than once in a calendar  
quarter or before the expiration of the twenty-day

S-5893 Page 2

1 period beginning on the last day of the period for  
2 which the sales tax return is required to be filed."

3 2. Page 3, by inserting after line 3 the  
4 following:

5 "Sec. \_\_\_\_ . Section 10 of this Act is effective  
6 upon the passage by Congress and the enactment into  
7 law of an Act of Congress authorizing the states and  
8 the District of Columbia to collect sales taxes with  
9 respect to the sales of tangible personal property by  
10 nonresident persons who solicit such sales."

11 3. Title page, line 2, by inserting after the  
12 word "retailers" the following: "and providing an  
13 effective date".

S-5893

Filed April 11, 1988

*Placed o/o 4/14 (4 1535)*

BY MICHAEL GRONSTAL

HOUSE FILE 2459

S-5934

1 Amend House File 2459, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 422.59A CATALOG SALES.

6 1. For purposes of this section, unless the  
7 context otherwise requires:

8 a. "Destination of sale" means the location to  
9 which a seller of tangible personal property delivers  
10 that property or causes that property to be delivered,  
11 to the purchaser of that property or to the agent or  
12 designee of that purchaser, by any means of delivery,  
13 including but not limited to the United States postal  
14 service, a common carrier, or a contract carrier.

15 b. "Person" means the same as defined in section  
16 7701(a)(1) of the Internal Revenue Code.

17 c. "Soliciting of sales" means making known that a  
18 kind of tangible personal property is for sale.

19 2. In the case of a person who may not  
20 constitutionally be required, under any other section  
21 of this division or chapter 423, to collect the tax  
22 imposed under this division or under chapter 423, the  
23 director shall require such person to collect the tax  
24 imposed under this division or under chapter 423 with  
25 respect to the sale of tangible personal property if  
26 all of the following apply:

27 a. The destination of the sale is in this state.

28 b. The person meets the following conditions:

29 (1) The person engages in regular or systematic  
30 soliciting of sales in the state.

31 (2) The person has gross receipts from the sale of  
32 such tangible personal property in the one-year period  
33 ending September 30 preceding the calendar year in  
34 which the sale which is the subject of the tax occurs  
35 of over twelve million five hundred thousand dollars  
36 in the United States or over five hundred thousand  
37 dollars in this state.

38 3. The director shall not require a person who  
39 collects the tax pursuant to this section to make an  
40 accounting for the receipts of the tax on the basis of  
41 the geographical location at which a taxable transac-  
42 tion occurs.

43 4. The director shall not require a person who is  
44 required to collect the tax pursuant to this section  
45 to file more than four sales tax returns reporting the  
46 amount of tax collected or required to be collected in  
47 any one-year period or shall not require such person  
48 to file a sales tax return or remit the receipts of  
49 the tax more frequently than once in a calendar  
50 quarter or before the expiration of the twenty-day

S-5934 Page 2

1 period beginning on the last day of the period for  
2 which the sales tax return is required to be filed.

3 Sec. 2. This Act is effective upon the passage by  
4 Congress and the enactment into law of an Act of  
5 Congress authorizing the states and the District of  
6 Columbia to collect sales taxes with respect to the  
7 sales of tangible personal property by nonresident  
8 persons who solicit such sales."

9 2. Title page, by striking lines 1 and 2 and  
10 inserting the following: "An Act relating to the  
11 collection of the state sales, services and use tax  
12 with respect to the sales of tangible personal  
13 property by nonresidents who solicit such sales and  
14 providing an effective date."

S-5934  
Filed April 12, 1988

BY CALVIN HULTMAN

*Adopted 4/14 (p. 1534)*

## SENATE AMENDMENT TO HOUSE FILE 2459

H-6465

1 Amend House File 2459, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 422.59A CATALOG SALES.

6 1. For purposes of this section, unless the  
7 context otherwise requires:

8 a. "Destination of sale" means the location to  
9 which a seller of tangible personal property delivers,  
10 that property or causes that property to be delivered,  
11 to the purchaser of that property or to the agent or  
12 designee of that purchaser, by any means of delivery,  
13 including but not limited to the United States postal  
14 service, a common carrier, or a contract carrier.

15 b. "Person" means the same as defined in section  
16 7701(a)(1) of the Internal Revenue Code.

17 c. "Soliciting of sales" means making known that a  
18 kind of tangible personal property is for sale.

19 2. In the case of a person who may not  
20 constitutionally be required, under any other section  
21 of this division or chapter 423, to collect the tax  
22 imposed under this division or under chapter 423, the  
23 director shall require such person to collect the tax  
24 imposed under this division or under chapter 423 with  
25 respect to the sale of tangible personal property if  
26 all of the following apply:

27 a. The destination of the sale is in this state.

28 b. The person meets the following conditions:

29 (1) The person engages in regular or systematic  
30 soliciting of sales in the state.

31 (2) The person has gross receipts from the sale of  
32 such tangible personal property in the one-year period  
33 ending September 30 preceding the calendar year in  
34 which the sale which is the subject of the tax occurs  
35 of over twelve million five hundred thousand dollars  
36 in the United States or over five hundred thousand  
37 dollars in this state.

38 3. The director shall not require a person who  
39 collects the tax pursuant to this section to make an  
40 accounting for the receipts of the tax on the basis of  
41 the geographical location at which a taxable transac-  
42 tion occurs.

43 4. The director shall not require a person who is  
44 required to collect the tax pursuant to this section  
45 to file more than four sales tax returns reporting the  
46 amount of tax collected or required to be collected in  
47 any one-year period or shall not require such person  
48 to file a sales tax return or remit the receipts of  
49 the tax more frequently than once in a calendar  
50 quarter or before the expiration of the twenty-day

H-6465

Page 2

1 period beginning on the last day of the period for  
2 which the sales tax return is required to be filed.  
3 Sec. 2. This Act is effective upon the passage by  
4 Congress and the enactment into law of an Act of  
5 Congress authorizing the states and the District of  
6 Columbia to collect sales taxes with respect to the  
7 sales of tangible personal property by nonresident  
8 persons who solicit such sales."  
9 2. Title page, by striking lines 1 and 2 and  
10 inserting the following: "An Act relating to the  
11 collection of the state sales, services and use tax  
12 with respect to the sales of tangible personal  
13 property by nonresidents who solicit such sales and  
14 providing an effective date."

RECEIVED FROM THE SENATE

H-6465 FILED APRIL 14, 1988

*How* REFUSED TO CONCUR (p. 1930)*See 2. recorded 4/14 (p. 1607)*

HOUSE FILE 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 422.43, 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.

---

DONALD D. AVENSON  
Speaker of the House

---

JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2459, Seventy-second General Assembly.

---

JOSEPH O'HERN  
Chief Clerk of the House

Approved May 4, 1988

---

TERRY E. BRANSTAD  
Governor