

APR 19 2005  
WAYS & MEANS CALENDAR

HOUSE FILE 864  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 296)

Passed House, Date 4/26/05 Passed Senate, Date 2/1/06  
Vote: Ayes 79 Nays 21 Vote: Ayes 48 Nays 0  
Approved Feb. 17, 2006

**A BILL FOR**

1 An Act providing an exemption from and a refund of sales and use  
2 taxes on materials and services used in the construction of a  
3 building or addition to a building to be used as a  
4 collaborative educational facility and including effective and  
5 applicability date provisions.

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

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HF-864

1 Section 1. Section 423.3, subsection 80, paragraph a, Code  
2 2005, is amended to read as follows:

3 a. For purposes of this subsection, "designated exempt  
4 entity" means an entity which is designated in section 423.4,  
5 subsection 1 or 4.

6 Sec. 2. Section 423.3, Code 2005, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 85. a. The sales price of all goods,  
9 wares, or merchandise sold, or of services furnished, which  
10 are used in the fulfillment of a written construction contract  
11 for the original construction of a building or structure to be  
12 used as a collaborative educational facility.

13 b. The sales price of all goods, wares, or merchandise  
14 sold, or of services furnished, which are used in the  
15 fulfillment of a written construction contract for the  
16 construction of additions or modifications to a building or  
17 structure used as part of a collaborative educational  
18 facility.

19 c. To receive the exemption provided in paragraph "a" or  
20 "b", a collaborative educational facility must meet all of the  
21 following criteria:

22 (1) The contract for construction of the building or  
23 structure is entered into on or after April 1, 2003.

24 (2) The building or structure is located within the  
25 corporate limits of a city in the state with a population in  
26 excess of one hundred ninety-five thousand residents.

27 (3) The sole purpose of the building or structure is to  
28 provide facilities for a collaborative of public and private  
29 educational institutions that provide education to students.

30 (4) The owner of the building or structure is a nonprofit  
31 corporation governed by chapter 504 or 504A which is exempt  
32 from federal income tax pursuant to section 501(a) of the  
33 Internal Revenue Code.

34 References to "building" or "structure" in subparagraphs  
35 (1) through (4) include any additions or modifications to the

1 building or structure.

2 Sec. 3. Section 423.4, Code 2005, is amended by adding the  
3 following new subsection:

4 NEW SUBSECTION. 4. a. The owner of a collaborative  
5 educational facility in this state may make application to the  
6 department for the refund of the sales or use tax upon the  
7 sales price of all sales of goods, wares, or merchandise, or  
8 from services furnished to a contractor, used in the  
9 fulfillment of a written construction contract with the owner  
10 of the collaborative educational facility for the original  
11 construction, or additions or modifications to, a building or  
12 structure to be used as part of the collaborative educational  
13 facility.

14 To receive the refund under this subsection, a  
15 collaborative educational facility must meet all of the  
16 following criteria:

17 (1) The contract for construction of the building or  
18 structure is entered into on or after April 1, 2003.

19 (2) The building or structure is located within the  
20 corporate limits of a city in the state with a population in  
21 excess of one hundred ninety-five thousand residents.

22 (3) The sole purpose of the building or structure is to  
23 provide facilities for a collaborative of public and private  
24 educational institutions that provide education to students.

25 (4) The owner of the building or structure is a nonprofit  
26 corporation governed by chapter 504 or 504A which is exempt  
27 from federal income tax pursuant to section 501(a) of the  
28 Internal Revenue Code.

29 References to "building" or "structure" in subparagraphs  
30 (1) through (4) include any additions or modifications to the  
31 building or structure.

32 b. Such contractor shall state under oath, on forms  
33 provided by the department, the amount of such sales of goods,  
34 wares, or merchandise, or services furnished and used in the  
35 performance of such contract, and upon which sales or use tax

1 has been paid, and shall file such forms with the owner of the  
2 collaborative educational facility which has made any written  
3 contract for performance by the contractor.

4 c. The owner of the collaborative educational facility  
5 shall, not more than one year after the final settlement has  
6 been made, make application to the department for any refund  
7 of the amount of the sales or use tax which shall have been  
8 paid upon any goods, wares, or merchandise, or services  
9 furnished, the application to be made in the manner and upon  
10 forms to be provided by the department, and the department  
11 shall forthwith audit the claim and, if approved, issue a  
12 warrant to the owner of the collaborative educational facility  
13 in the amount of the sales or use tax which has been paid to  
14 the state of Iowa under the contract.

15 Refunds authorized under this subsection shall accrue  
16 interest at the rate in effect under section 421.7 from the  
17 first day of the second calendar month following the date the  
18 refund claim is received by the department.

19 d. Any contractor who willfully makes a false report of  
20 tax paid under the provisions of this subsection is guilty of  
21 a simple misdemeanor and in addition shall be liable for the  
22 payment of the tax and any applicable penalty and interest.

23 Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties  
24 which arise from claims resulting from the enactment of  
25 section 423.3, subsection 85, paragraph "a", in section 2 of  
26 this Act for the exemption of the sales of goods, wares, and  
27 merchandise, and the furnishing of services used in the  
28 fulfillment of a written construction contract for the  
29 original construction of a building or structure to be used as  
30 a collaborative educational facility occurring between April  
31 1, 2003, and June 30, 2005, shall not be allowed unless refund  
32 claims are filed by June 30, 2006, notwithstanding any other  
33 provision of law.

34 Sec. 5. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.  
35 Section 2 of this Act, being deemed of immediate importance,

1 takes effect upon enactment and applies retroactively to April  
2 1, 2003.

3 EXPLANATION

4 This bill provides for a sales and use tax exemption for  
5 sales of materials and services furnished pursuant to a  
6 written construction contract for the construction of a  
7 building and any addition to a building to be used as a  
8 collaborative educational facility. The bill provides that if  
9 sales or use tax has been paid, a refund of any taxes may be  
10 applied for.

11 To be eligible for the exemption or refund, the  
12 construction contract must be entered into on or after April  
13 1, 2003; the building or additions must be located within a  
14 city in the state with a population in excess of 195,000  
15 residents; the building or addition must be used to provide  
16 facilities for a collaborative of public and private  
17 educational institutions to provide education to students; and  
18 the owner must be a nonprofit corporation organized in Iowa  
19 which is exempt from federal income taxation.

20 A refund for taxes paid under a construction contract for  
21 the original construction of the building must be filed by  
22 June 30, 2006, and applies to sales and use taxes paid on  
23 materials and services provided between April 1, 2003, and  
24 June 30, 2005. A refund for taxes paid under a construction  
25 contract for additions to the original building must be filed  
26 within one year following final settlement on the completion  
27 of the addition.

28 The bill contains effective and retroactive applicability  
29 date provisions.

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**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 864 - Collaborative Educational Sales Tax Exemption (LSB 3403 HV)  
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)  
Fiscal Note Version - New

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**Description**

HF 864 provides a sales and use tax exemption/refund for the sale of material and services furnished for the construction of a "collaborative educational facility" meeting specific conditions. The conditions are:

1. The construction contract must be entered into on or after April 1, 2003.
2. The building must be located within a city with a population in excess of 195,000 persons.
3. The purpose of the building is to provide facilities for the collaboration between public and private educational institutions.
4. The owner of the building is a nonprofit corporation exempt from federal taxes under Section 501(a) of the federal Internal Revenue Code and is governed by Chapter 504 or 504A, Code of Iowa.

The sales tax exemption applies to the initial construction of the building and to any future modifications. The Bill is effective upon enactment and applies retroactively to April 1, 2003.

**Assumptions**

1. The sales tax exemption will apply to one building currently under construction in Des Moines.
2. The construction cost of the building is estimated at \$8.5 million.
3. Architectural and other professional fees (exempt from sales tax) will be 12.0% of the estimated cost.
4. Of the remaining construction cost, 50.0% will be for items subject to State and local sales tax, and 50.0% will be exempt from tax under current law.
5. The State sales tax rate is 5.0% and the local option tax rate is 1.0%.
6. The building will be completed after July 1, 2005.

**Fiscal Impact**

The sales tax exemption created in HF 864 will reduce net General Fund sales tax revenue by an estimated \$187,000 in FY 2006. The exemption will also reduce local option sales tax receipts by \$37,400.

Similar fiscal impacts will occur in a future fiscal year should the facility be expanded significantly.

**Sources**

Department of Revenue

/s/ Holly M. Lyons

April 20, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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tomenga, chair  
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Succeeded  
SF 0864

HSB 296  
WAYS AND MEANS

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON VAN FOSSEN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

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10 are used in the fulfillment of a written construction contract  
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19 c. To receive the exemption provided in paragraph "a" or  
20 "b", a collaborative educational facility must meet all of the  
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23 structure is entered into on or after April 1, 2003.

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25 corporate limits of a city in the state with a population in  
26 excess of one hundred ninety-five thousand residents.

27 (3) The sole purpose of the building or structure is to  
28 provide facilities for a collaborative of public and private  
29 educational institutions that provide education to students.

30 (4) The owner of the building or structure is a nonprofit  
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35 performance of such contract, and upon which sales or use tax

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4 c. The owner of the collaborative educational facility  
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11 shall forthwith audit the claim and, if approved, issue a  
12 warrant to the owner of the collaborative educational facility  
13 in the amount of the sales or use tax which has been paid to  
14 the state of Iowa under the contract.

15 Refunds authorized under this subsection shall accrue  
16 interest at the rate in effect under section 421.7 from the  
17 first day of the second calendar month following the date the  
18 refund claim is received by the department.

19 d. Any contractor who willfully makes a false report of  
20 tax paid under the provisions of this subsection is guilty of  
21 a simple misdemeanor and in addition shall be liable for the  
22 payment of the tax and any applicable penalty and interest.

23 Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties  
24 which arise from claims resulting from the enactment of  
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20 A refund for taxes paid under a construction contract for  
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24 June 30, 2005. A refund for taxes paid under a construction  
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28 The bill contains effective and retroactive applicability  
29 date provisions.

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HOUSE FILE 864

AN ACT

PROVIDING AN EXEMPTION FROM AND A REFUND OF SALES AND USE TAXES ON MATERIALS AND SERVICES USED IN THE CONSTRUCTION OF A BUILDING OR ADDITION TO A BUILDING TO BE USED AS A COLLABORATIVE EDUCATIONAL FACILITY AND INCLUDING EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 423.3, subsection 80, paragraph a, Code 2005, is amended to read as follows:

a. For purposes of this subsection, "designated exempt entity" means an entity which is designated in section 423.4, subsection 1 or 4.

Sec. 2. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. a. The sales price of all goods, wares, or merchandise sold, or of services furnished, which are used in the fulfillment of a written construction contract for the original construction of a building or structure to be used as a collaborative educational facility.

b. The sales price of all goods, wares, or merchandise sold, or of services furnished, which are used in the fulfillment of a written construction contract for the construction of additions or modifications to a building or structure used as part of a collaborative educational facility.

c. To receive the exemption provided in paragraph "a" or "b", a collaborative educational facility must meet all of the following criteria:

(1) The contract for construction of the building or structure is entered into on or after April 1, 2003.

(2) The building or structure is located within the corporate limits of a city in the state with a population in excess of one hundred ninety-five thousand residents.

(3) The sole purpose of the building or structure is to provide facilities for a collaborative of public and private educational institutions that provide education to students.

(4) The owner of the building or structure is a nonprofit corporation governed by chapter 504 or 504A which is exempt from federal income tax pursuant to section 501(a) of the Internal Revenue Code.

References to "building" or "structure" in subparagraphs (1) through (4) include any additions or modifications to the building or structure.

Sec. 3. Section 423.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The owner of a collaborative educational facility in this state may make application to the department for the refund of the sales or use tax upon the sales price of all sales of goods, wares, or merchandise, or from services furnished to a contractor, used in the fulfillment of a written construction contract with the owner of the collaborative educational facility for the original construction, or additions or modifications to, a building or structure to be used as part of the collaborative educational facility.

To receive the refund under this subsection, a collaborative educational facility must meet all of the following criteria:

(1) The contract for construction of the building or structure is entered into on or after April 1, 2003.

(2) The building or structure is located within the corporate limits of a city in the state with a population in excess of one hundred ninety-five thousand residents.

(3) The sole purpose of the building or structure is to provide facilities for a collaborative of public and private educational institutions that provide education to students.

(4) The owner of the building or structure is a nonprofit corporation governed by chapter 504 or 504A which is exempt from federal income tax pursuant to section 501(a) of the Internal Revenue Code.

References to "building" or "structure" in subparagraphs (1) through (4) include any additions or modifications to the building or structure.

b. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares, or merchandise, or services furnished and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the owner of the collaborative educational facility which has made any written contract for performance by the contractor.

c. The owner of the collaborative educational facility shall, not more than one year after the final settlement has been made, make application to the department for any refund of the amount of the sales or use tax which shall have been paid upon any goods, wares, or merchandise, or services furnished, the application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit the claim and, if approved, issue a warrant to the owner of the collaborative educational facility in the amount of the sales or use tax which has been paid to the state of Iowa under the contract.

Refunds authorized under this subsection shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month following the date the refund claim is received by the department.

d. Any contractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition shall be liable for the payment of the tax and any applicable penalty and interest.

Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 423.3, subsection 85, paragraph "a", in section 2 of this Act for the exemption of the sales of goods, wares, and merchandise, and the furnishing of services used in the fulfillment of a written construction contract for the original construction of a building or structure to be used as

a collaborative educational facility occurring between April 1, 2003, and June 30, 2005, shall not be allowed unless refund claims are filed by June 30, 2006, notwithstanding any other provision of law.

Sec. 5. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE. Section 2 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to April 1, 2003.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 864, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2006

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THOMAS J. VILSACK  
Governor