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SENATE FILE

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BY McLAREN

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to sales and use taxes by incorporating the
 2 simplified sales and use tax administration Act into Iowa law,
 3 authorizing the director of revenue and finance to negotiate
 4 with other states to simplify and modernize sales and use tax
 5 administration, and including an effective date.

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

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WAYS & MEANS

1 Section 1. NEW SECTION. 421A.1 TITLE.

2 This chapter shall be known as and referred to as the
3 "Simplified Sales and Use Tax Administration Act".

4 Sec. 2. NEW SECTION. 421A.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Agreement" means the streamlined sales and use tax
8 agreement as amended and adopted by the special task force and
9 the executive committee of the national conference of state
10 legislatures on January 27, 2001.

11 2. "Certified automated system" means software certified
12 jointly by the states that are signatories to the agreement to
13 calculate the tax imposed by each jurisdiction on a
14 transaction, determine the amount of tax to remit to the
15 appropriate state, and maintain a record of the transaction.

16 3. "Certified service provider" means an agent certified
17 jointly by the states that are signatories to the agreement to
18 perform all of the seller's sales tax functions.

19 4. "Director" means the director of revenue and finance.

20 5. "Person" means an individual, trust, estate, fiduciary,
21 partnership, limited liability company, limited liability
22 partnership, corporation, or any other legal entity.

23 6. "Sales tax" means the tax levied under chapter 422,
24 division IV.

25 7. "Seller" means any person making sales, leases, or
26 rentals of personal property or services.

27 8. "State" means any state of the United States and the
28 District of Columbia.

29 9. "Use tax" means the tax levied under chapter 423 for
30 which the retailer collects and remits tax to the department
31 of revenue and finance.

32 Sec. 3. NEW SECTION. 421A.3 LEGISLATIVE FINDINGS.

33 The general assembly finds that a simplified sales and use
34 tax system will reduce and over time eliminate the burden and
35 cost for all sellers to collect this state's sales and use

1 taxes. The general assembly further finds that this state
2 should participate in multistate discussions to review or
3 amend the terms of the agreement to simplify and modernize
4 sales and use tax administration in order to substantially
5 reduce the burden of tax compliance for all sellers and for
6 all types of commerce.

7 Sec. 4. NEW SECTION. 421A.4 AUTHORITY TO PARTICIPATE IN
8 MULTISTATE NEGOTIATIONS.

9 For the purposes of reviewing or amending the agreement
10 embodying the simplification requirements as contained in
11 section 421A.7, the state shall enter into multistate
12 discussions. For purposes of these discussions, the state
13 shall be represented by no more than four delegates appointed
14 by the director in consultation with the leaders of the
15 general assembly.

16 Sec. 5. NEW SECTION. 421A.5 AUTHORITY TO ENTER
17 AGREEMENT.

18 The director is authorized and directed to enter into the
19 streamlined sales and use tax agreement with one or more
20 states to simplify and modernize sales and use tax
21 administration in order to substantially reduce the burden of
22 tax compliance for all sellers and for all types of commerce.
23 In furtherance of the agreement, the director is authorized to
24 act jointly with other states that are signatories to the
25 agreement to establish standards for certification of a
26 certified service provider and certified automated system and
27 to establish performance standards for multistate sellers.

28 The director is authorized to take other actions reasonably
29 required to implement and administer the provisions set forth
30 in this chapter. Other actions authorized by this section
31 include, but are not limited to, the adoption of rules and the
32 joint procurement, with other signatory states, of goods and
33 services in furtherance of the agreement.

34 The director or the director's designee is authorized to
35 represent this state before the other states that are

1 signatories to the agreement.

2 Sec. 6. NEW SECTION. 421A.6 RELATIONSHIP TO STATE LAW.

3 Any provision of the agreement authorized by this chapter
4 does not, in whole or part, invalidate or amend any provision
5 of the law of this state. Adoption of the agreement by this
6 state does not amend or modify any law of this state.

7 Implementation of any condition of the agreement in this
8 state, whenever adopted, must be by an Act of the general
9 assembly and approved by the governor.

10 Sec. 7. NEW SECTION. 421A.7 AGREEMENT REQUIREMENTS.

11 The director shall not enter into the agreement unless the
12 agreement requires each state to abide by all of the following
13 requirements:

14 1. SIMPLIFIED STATE RATE. The agreement must set
15 restrictions to limit over time the number of state rates.

16 2. UNIFORM STANDARDS. The agreement must establish
17 uniform standards for all of the following:

18 a. The sourcing of transactions to taxing jurisdictions.

19 b. The administration of exempt sales.

20 c. Sales and use tax returns and remittances.

21 3. CENTRAL REGISTRATION. The agreement must provide a
22 central, electronic registration system that allows a seller
23 to register to collect and remit sales and use taxes for all
24 signatory states.

25 4. NO NEXUS ATTRIBUTION. The agreement must provide that
26 registration with the central registration system and the
27 collection of sales and use taxes in the signatory states will
28 not be used as a factor in determining whether the seller has
29 nexus with a state for any tax.

30 5. LOCAL SALES AND USE TAXES. The agreement must provide
31 for reduction of the burdens of complying with local sales and
32 use taxes through the following:

33 a. Restricting variances between the state and local tax
34 bases.

35 b. Requiring states to administer any local sales and use

1 taxes levied by local taxing jurisdictions within the state so
2 that sellers collecting and remitting these taxes will not
3 have to register or file returns with, remit funds to, or be
4 subject to independent audits from local taxing jurisdictions.

5 c. Restricting the frequency of changes in the local sales
6 and use tax rates and setting effective dates for the
7 application of local taxing jurisdictional boundary changes to
8 local sales and use taxes.

9 d. Providing notice of changes in local sales and use tax
10 rates and of changes in the boundaries of local taxing
11 jurisdictions.

12 6. MONETARY ALLOWANCES. The agreement must outline any
13 monetary allowances that are to be provided by the states to
14 sellers or certified service providers. The agreement must
15 allow for a joint public and private sector study of the
16 compliance cost on sellers and certified service providers to
17 collect sales and use taxes for state and local governments
18 under various levels of complexity to be completed by July 1,
19 2002.

20 7. STATE COMPLIANCE. The agreement must require each
21 state to certify compliance with the terms of the agreement
22 prior to joining and to maintain compliance, under the laws of
23 the signatory state, with all provisions of the agreement
24 while a signatory.

25 8. CONSUMER PRIVACY. The agreement must require each
26 state to adopt a uniform policy for certified service
27 providers that protects the privacy of consumers and maintains
28 the confidentiality of tax information.

29 9. ADVISORY COUNCILS. The agreement must provide for the
30 appointment of an advisory council of private sector
31 representatives and an advisory council of nonsignatory state
32 representatives to consult with in the administration of the
33 agreement.

34 Sec. 8. NEW SECTION. 421A.8 COOPERATING SOVEREIGNS.
35 The agreement authorized by this chapter is an accord among

1 individual cooperating sovereigns in furtherance of their
2 governmental functions. The agreement provides a mechanism
3 among the signatory states to establish and maintain a
4 cooperative, simplified system for the application and
5 administration of sales and use taxes under the duly adopted
6 law of each signatory state.

7 Sec. 9. NEW SECTION. 421A.9 LIMITED BINDING AND
8 BENEFICIAL EFFECT.

9 1. The agreement authorized by this chapter binds and
10 inures only to the benefit of this state and the other
11 signatory states. No person, other than a signatory state, is
12 an intended beneficiary of the agreement. Any benefit to a
13 person other than a state must be established by the law of
14 this state and the other signatory states and not by the terms
15 of the agreement.

16 2. Consistent with subsection 1, a person shall not have
17 any cause of action or defense under the agreement or by
18 virtue of this state's approval of the agreement. A person
19 shall not challenge, in any action brought under any provision
20 of law, any action or inaction by any department, agency, or
21 other instrumentality of this state, or by any political
22 subdivision of this state, on the ground that the action or
23 inaction is inconsistent with the agreement.

24 3. A law of this state, or the application of the law,
25 shall not be declared invalid as to any person or circumstance
26 on the ground that the law or application of the law is
27 inconsistent with the agreement.

28 Sec. 10. NEW SECTION. 421A.10 SELLER AND THIRD-PARTY
29 LIABILITY.

30 1. A certified service provider is the agent of a seller,
31 with whom the certified service provider has contracted, for
32 the collection and remittance of sales and use taxes. As the
33 seller's agent, the certified service provider is liable for
34 sales and use taxes due each signatory state on all sales
35 transactions the certified service provider processes for the

1 seller except as set out in this section.

2 A seller that contracts with a certified service provider
3 is not liable to the state for sales or use taxes due on
4 transactions processed by the certified service provider
5 unless the seller misrepresented the type of items the seller
6 sells or committed fraud. In the absence of probable cause to
7 believe that the seller has committed fraud or made a material
8 misrepresentation, the seller is not subject to audit on the
9 transactions processed by the certified service provider. A
10 seller is subject to audit for transactions not processed by
11 the certified service provider. The signatory states acting
12 jointly may perform a system check of the seller and review
13 the seller's procedures to determine if the certified service
14 provider's system is functioning properly and the extent to
15 which the seller's transactions are being properly processed
16 by the certified service provider.

17 2. A person that provides a certified automated system is
18 responsible for the proper functioning of the system and is
19 liable to the state for underpayments of tax attributable to
20 errors in the functioning of the certified automated system.
21 A seller that uses a certified automated system remains
22 responsible and is liable to the state for reporting and
23 remitting tax.

24 3. A seller that has a proprietary system for determining
25 the amount of tax due on transactions and has signed an
26 agreement establishing a performance standard for the system
27 is liable for the failure of the system to meet the
28 performance standard.

29 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

31 EXPLANATION

32 This bill enables Iowa to negotiate with other states with
33 the aim of entering into an agreement to simplify and
34 modernize its sales and use tax laws. The purpose of this
35 simplification and modernization is to substantially reduce

1 the burden of tax compliance for all sellers and all types of
2 commerce. The bill requires that any agreement contain
3 uniformity of standards in the areas of sourcing transactions,
4 administration of exempt sales, and of sales and use tax
5 returns and remittances. The bill also provides that any
6 agreement provide for central registering as a seller and for
7 a reduction of local option sales and use tax burdens. The
8 bill also provides that the use by the seller of the central
9 registration system will not be used in determining whether
10 the seller has nexus with a state for any tax. The bill takes
11 effect upon enactment.

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