

APR 26 2005  
WAYS & MEANS CALENDAR

HOUSE FILE 878  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 301)  
(COMPANION TO SF 413)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to sales and use tax changes, excise taxes on  
2 rental of rooms and sleeping quarters, and the sale and use of  
3 construction equipment, and including an effective and  
4 retroactive applicability date provision.

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

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DIVISION I

STREAMLINED SALES AND USE TAX CHANGES

1  
2  
3 Section 1. Section 34A.7, subsection 2, paragraph b, Code  
4 2005, is amended to read as follows:

5 b. A local exchange service provider is not liable for an  
6 uncollected surcharge for which the local exchange service  
7 provider has billed a subscriber but not been paid. The  
8 surcharge shall appear as a single line item on a subscriber's  
9 periodic billing entitled, "E911 emergency telephone service  
10 surcharge". ~~The-E911-service-surcharge-is-not-subject-to~~  
11 ~~sales-or-use-tax.~~

12 Sec. 2. Section 34A.7A, subsection 1, paragraph c,  
13 subparagraph (1), Code 2005, is amended to read as follows:

14 (1) The surcharge shall be collected as part of the  
15 wireless communications service provider's periodic billing to  
16 a subscriber. The surcharge shall appear as a single line  
17 item on a subscriber's periodic billing indicating that the  
18 surcharge is for E911 emergency telephone service. In the  
19 case of prepaid wireless telephone service, this surcharge  
20 shall be remitted based upon the address associated with the  
21 point of purchase, the customer billing address, or the  
22 location associated with the mobile telephone number for each  
23 active prepaid wireless telephone that has a sufficient  
24 positive balance as of the last days of the information, if  
25 that information is available. ~~The-wireless-E911-service~~  
26 ~~surcharge-is-not-subject-to-sales-or-use-tax.~~

27 Sec. 3. Section 423.1, subsection 47, paragraph b,  
28 subparagraph (4), Code 2005, is amended by striking the  
29 subparagraph.

30 Sec. 4. Section 423.1, subsection 47, Code 2005, is  
31 amended by adding the following new paragraph and relettering  
32 the following paragraph:

33 NEW PARAGRAPH. c. The sales price does not include and  
34 the sales tax shall not apply to amounts received for charges  
35 included in paragraph "a", subparagraphs (3) through (7), if

1 they are separately contracted for, separately stated on the  
2 invoice, billing, or similar document given to the purchaser,  
3 and the amounts represent charges which are not the sales  
4 price of a taxable sale or of the furnishing of a taxable  
5 service.

6 Sec. 5. Section 423.2, subsection 6, unnumbered paragraph  
7 1, Code 2005, is amended to read as follows:

8 The sales price of any of the following enumerated services  
9 is subject to the tax imposed by subsection 5: alteration and  
10 garment repair; armored car; vehicle repair; battery, tire,  
11 and allied; investment counseling; service charges of all  
12 financial institutions; barber and beauty; boat repair;  
13 vehicle wash and wax; campgrounds; carpentry; roof, shingle,  
14 and glass repair; dance schools and dance studios; dating  
15 services; dry cleaning, pressing, dyeing, and laundering;  
16 electrical and electronic repair and installation; excavating  
17 and grading; farm implement repair of all kinds; flying  
18 service; furniture, rug, carpet, and upholstery repair and  
19 cleaning; fur storage and repair; golf and country clubs and  
20 all commercial recreation; gun and camera repair; house and  
21 building moving; household appliance, television, and radio  
22 repair; janitorial and building maintenance or cleaning;  
23 jewelry and watch repair; lawn care, landscaping, and tree  
24 trimming and removal; limousine service, including driver;  
25 machine operator; machine repair of all kinds; motor repair;  
26 motorcycle, scooter, and bicycle repair; oilers and  
27 lubricators; office and business machine repair; painting,  
28 papering, and interior decorating; parking facilities; pay  
29 television; pet grooming; pipe fitting and plumbing; wood  
30 preparation; executive search agencies; private employment  
31 agencies, excluding services for placing a person in  
32 employment where the principal place of employment of that  
33 person is to be located outside of the state; reflexology;  
34 security and detective services; sewage services for  
35 nonresidential commercial operations; sewing and stitching;

1 shoe repair and shoeshine; sign construction and installation;  
2 storage of household goods, mini-storage, and warehousing of  
3 raw agricultural products; swimming pool cleaning and  
4 maintenance; tanning beds or salons; taxidermy services;  
5 telephone answering service; test laboratories, including  
6 mobile testing laboratories and field testing by testing  
7 laboratories, and excluding tests on humans or animals;  
8 termite, bug, roach, and pest eradicators; tin and sheet metal  
9 repair; transportation service consisting of the rental of  
10 recreational vehicles or recreational boats, or the rental of  
11 motor vehicles subject to registration which are registered  
12 for a gross weight of thirteen tons or less for a period of  
13 sixty days or less, or the rental of aircraft for a period of  
14 sixty days or less; Turkish baths, massage, and reducing  
15 salons, excluding services provided by massage therapists  
16 licensed under chapter 152C; water conditioning and softening;  
17 weighing; welding; well drilling; wrapping, packing, and  
18 packaging of merchandise other than processed meat, fish,  
19 fowl, and vegetables; wrecking service; wrecker and towing.

20 Sec. 6. Section 423.3, subsection 2, Code 2005, is amended  
21 to read as follows:

22 2. The sales price of sales for resale of tangible  
23 personal property or taxable services, or for resale of  
24 tangible personal property in connection with the furnishing  
25 of taxable services except for sales, other than leases or  
26 rentals, which are sales, of machinery, equipment,  
27 attachments, and replacement parts specifically enumerated in  
28 subsection 37 and used in the manner described in subsection  
29 37 or the purchase of tangible personal property, the leasing  
30 or rental of which is exempted from tax by subsection 49.

31 Sec. 7. Section 423.3, subsection 37, Code 2005, is  
32 amended to read as follows:

33 37. The sales price of services on or connected with new  
34 construction, reconstruction, alteration, expansion,  
35 remodeling, or the services of a general building contractor,

1 architect, or engineer. The exemption in this subsection also  
2 applies to the sales price on the lease or rental of self-  
3 propelled-building-equipment, self-constructed-cranes, pile  
4 drivers, structural-concrete-forms, regular-and-motorized  
5 scaffolding, generators, or attachments customarily drawn or  
6 attached to self-propelled-building-equipment, self-  
7 constructed-cranes, pile-drivers, structural-concrete-forms,  
8 regular-and-motorized-scaffolding, and generators, including  
9 auxiliary attachments all machinery, equipment, and  
10 replacement parts directly and primarily used by owners,  
11 contractors, subcontractors, and builders for new  
12 construction, reconstruction, alteration, expansion, or  
13 remodeling of real property or structures and of all  
14 machinery, equipment, and replacement parts which improve the  
15 performance, safety, operation, or efficiency of the  
16 machinery, equipment, and replacement parts and are directly  
17 and primarily used by contractors, subcontractors, and  
18 builders for new construction, reconstruction, alterations,  
19 expansion, or remodeling of real property or structures so  
20 used.

21 Sec. 8. Section 423.3, subsection 49, Code 2005, is  
22 amended to read as follows:

23 49. The sales price from the sale of carbon dioxide in a  
24 liquid, solid, or gaseous form, electricity, steam, and other  
25 taxable services and the lease or rental of tangible personal  
26 property when used by a manufacturer of food products to  
27 produce marketable food products for human consumption,  
28 including but not limited to treatment of material to change  
29 its form, context, or condition, in order to produce the food  
30 product, maintenance of quality or integrity of the food  
31 product, changing or maintenance of temperature levels  
32 necessary to avoid spoilage or to hold the food product in  
33 marketable condition, maintenance of environmental conditions  
34 necessary for the safe or efficient use of machinery and  
35 material used to produce the food product, sanitation and

1 quality control activities, formation of packaging, placement  
2 into shipping containers, and movement of the material or food  
3 product until shipment from the building of manufacture.

4 Sec. 9. Section 423.3, subsection 60, Code 2005, is  
5 amended to read as follows:

6 60. The sales price from the sale or rental of  
7 prescription drugs ~~or~~, durable medical equipment, mobility  
8 enhancing equipment, prosthetic devices, and other medical  
9 devices intended for human use or consumption.

10 For the purposes of this subsection:

11 a. "Drug" means a compound, substance, or preparation, and  
12 any component of a compound, substance, or preparation, other  
13 than food and food ingredients, dietary supplements, or  
14 alcoholic beverages which is any of the following:

15 (1) Recognized in the official United States  
16 pharmacopoeia, official homeopathic pharmacopoeia of the  
17 United States, or official national formulary, and supplement  
18 to any of them.

19 (2) Intended for use in the diagnosis, cure, mitigation,  
20 treatment, or prevention of disease.

21 (3) Intended to affect the structure or any function of  
22 the body.

23 b. "Durable medical equipment" means equipment, including  
24 repair and replacement parts, but does not include mobility  
25 enhancing equipment, to which all of the following apply:

26 (1) Can withstand repeated use.

27 (2) Is primarily and customarily used to serve a medical  
28 purpose.

29 (3) Generally is not useful to a person in the absence of  
30 illness or injury.

31 (4) Is not worn in or on the body.

32 (5) Is for home use only.

33 (6) Is prescribed by a practitioner.

34 c. "Mobility enhancing equipment" means equipment,  
35 including repair and replacement parts, but does not include

1 durable medical equipment, to which all of the following  
2 apply:

3 (1) Is primarily and customarily used to provide or  
4 increase the ability to move from one place to another and  
5 which is appropriate for use either in a home or a motor  
6 vehicle.

7 (2) Is not generally used by persons with normal mobility.

8 (3) Does not include any motor vehicle or equipment on a  
9 motor vehicle normally provided by a motor vehicle  
10 manufacturer.

11 (4) Is prescribed by a practitioner.

12 b. d. "Medical "Other medical device" means equipment or  
13 a supply, intended to be prescribed by a practitioner,  
14 including orthopedic or orthotic devices. However, "medical  
15 device" also includes prosthetic devices, that is not a drug,  
16 durable medical equipment, mobility enhancing equipment, or  
17 prosthetic device. "Other medical devices" includes, but is  
18 not limited to, ostomy, urological, and tracheostomy equipment  
19 and supplies, and diabetic testing materials, hypodermic  
20 syringes and needles, anesthesia trays, biopsy trays and  
21 biopsy needles, cannula systems, catheter trays and invasive  
22 catheters, dialyzers, drug infusion devices, fistula sets,  
23 hemodialysis devices, insulin infusion devices, intraocular  
24 lenses, irrigation solutions, intravenous administering sets,  
25 solutions and stopcocks, myelogram trays, nebulizers, small  
26 vein infusion kits, spinal puncture trays, transfusion sets,  
27 and venous blood sets, and oxygen equipment, intended to be  
28 dispensed for human use with or without a prescription to an  
29 ultimate user.

30 e. e. "Practitioner" means a practitioner as defined in  
31 section 155A.3, or a person licensed to prescribe drugs.

32 f. "Prescription" means an order, formula, or recipe  
33 issued in any form of oral, written, electronic, or other  
34 means of transmission by a practitioner.

35 d. g. "Prescription drug" means a drug intended to be

1 dispensed to an ultimate user pursuant to a prescription drug  
2 order, formula, or recipe issued in any form of oral, written,  
3 electronic, or other means of transmission by a duly licensed  
4 practitioner, or oxygen or insulin dispensed for human  
5 consumption with or without a prescription drug order or  
6 medication order.

7 e. h. "Prosthetic device" means a replacement,  
8 corrective, or supportive device including repair and  
9 replacement parts for the same worn on or in the body to do  
10 any of the following:

- 11 (1) Artificially replace a missing portion of the body.
- 12 (2) Prevent or correct physical deformity or malfunction.
- 13 (3) Support a weak or deformed portion of the body.

14 "Prosthetic device" includes, but is not limited to,  
15 orthopedic or orthotic devices, ostomy equipment, urological  
16 equipment, tracheostomy equipment, and intraocular lenses.

17 f. i. "Ultimate user" means an individual who has  
18 lawfully obtained and possesses a prescription drug or medical  
19 device for the individual's own use or for the use of a member  
20 of the individual's household, or an individual to whom a  
21 prescription drug or medical device has been lawfully  
22 supplied, administered, dispensed, or prescribed.

23 Sec. 10. Section 423.3, Code 2005, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 69A. The sales price from surcharges paid  
26 for E911 service and wireless E911 service pursuant to chapter  
27 34A.

28 Sec. 11. Section 423.3, subsection 70, Code 2005, is  
29 amended to read as follows:

30 70. The sales price ~~from the sales, furnishing, or service~~  
31 ~~of transportation service except the rental of recreational~~  
32 ~~vehicles or recreational boats, except the rental of motor~~  
33 ~~vehicles subject to registration which are registered for a~~  
34 ~~gross weight of thirteen tons or less for a period of sixty~~  
35 ~~days or less, and except the rental of aircraft for a period~~

1 ~~of-sixty-days-or-less~~ of delivery charges. This exemption  
2 does not apply to the transportation delivery of electric  
3 energy or natural gas.

4 Sec. 12. Section 423.15, subsection 1, unnumbered  
5 paragraph 1, Code 2005, is amended to read as follows:

6 Sales, excluding leases or rentals ~~ether-than-leases-or~~  
7 ~~rentals-set-out-in-subsection-2~~, of products shall be sourced  
8 as follows:

9 Sec. 13. Section 423.43, subsection 3, Code 2005, is  
10 amended to read as follows:

11 3. All other revenue arising under the operation of ~~this~~  
12 ~~chapter~~ the use tax under subchapter III shall be credited to  
13 the general fund of the state.

14 Sec. 14. Section 423B.5, unnumbered paragraph 1, Code  
15 2005, is amended to read as follows:

16 A local sales and services tax at the rate of not more than  
17 one percent may be imposed by a county on the sales price  
18 taxed by the state under chapter 423, subchapter II. A local  
19 sales and services tax shall be imposed on the same basis as  
20 the state sales and services tax or in the case of the use of  
21 natural gas, natural gas service, electricity, or electric  
22 service on the same basis as the state use tax and shall not  
23 be imposed on the sale of any property or on any service not  
24 taxed by the state, except the tax shall not be imposed on the  
25 sales price from the sale of motor fuel or special fuel as  
26 defined in chapter 452A which is consumed for highway use or  
27 in watercraft or aircraft if the fuel tax is paid on the  
28 transaction and a refund has not or will not be allowed, on  
29 the sales price from the rental of rooms, apartments, or  
30 sleeping quarters which are taxed under chapter 423A during  
31 the period the hotel and motel tax is imposed, on the sales  
32 price from the sale of equipment by the state department of  
33 transportation, on the sales price from the sale of self-  
34 propelled building equipment, pile drivers, motorized  
35 scaffolding, or attachments customarily drawn or attached to

1 self-propelled building equipment, pile drivers, and motorized  
2 scaffolding, including auxiliary attachments which improve the  
3 performance, safety, operation, or efficiency of the equipment  
4 and replacement parts and are directly and primarily used by  
5 contractors, subcontractors, and builders for new  
6 construction, reconstruction, alterations, expansion, or  
7 remodeling of real property or structures, ~~and-on-the-sales~~  
8 ~~price-from-the-sale-of-a-lottery-ticket-or-share-in-a-lottery~~  
9 ~~game-conducted-pursuant-to-chapter-996~~ and except the tax  
10 shall not be imposed on the sales price from the sale or use  
11 of natural gas, natural gas service, electricity, or electric  
12 service in a city or county where the sales price from the  
13 sale of natural gas or electric energy are subject to a  
14 franchise fee or user fee during the period the franchise or  
15 user fee is imposed. A local sales and services tax is  
16 applicable to transactions within those incorporated and  
17 unincorporated areas of the county where it is imposed and  
18 shall be collected by all persons required to collect state  
19 sales taxes. ~~However, a person required to collect state~~  
20 ~~retail-sales-tax-under-chapter-423, subchapter-V-or-VI, is not~~  
21 ~~required to collect local sales and services tax on~~  
22 ~~transactions delivered within the area where the local sales~~  
23 ~~and services tax is imposed unless the person has physical~~  
24 ~~presence in that taxing area.~~ All cities contiguous to each  
25 other shall be treated as part of one incorporated area and  
26 the tax would be imposed in each of those contiguous cities  
27 only if the majority of those voting in the total area covered  
28 by the contiguous cities favors its imposition.

29 Sec. 15. Section 423E.3, subsections 2 and 3, Code 2005,  
30 are amended to read as follows:

31 2. The tax shall be imposed on the same basis as the state  
32 sales and services tax or in the case of the use of natural  
33 gas, natural gas service, electricity, or electric service on  
34 the same basis as the state use tax and shall not be imposed  
35 on the sale of any property or on any service not taxed by the

1 state, except the tax shall not be imposed on the sales price  
2 from the sale of motor fuel or special fuel as defined in  
3 chapter 452A which is consumed for highway use or in  
4 watercraft or aircraft if the fuel tax is paid on the  
5 transaction and a refund has not or will not be allowed, on  
6 the sales price from the rental of rooms, apartments, or  
7 sleeping quarters which are taxed under chapter 423A during  
8 the period the hotel and motel tax is imposed, on the sales  
9 price from the sale of equipment by the state department of  
10 transportation, on the sales price from the sale of self-  
11 propelled building equipment, pile drivers, motorized  
12 scaffolding, or attachments customarily drawn or attached to  
13 self-propelled building equipment, pile drivers, and motorized  
14 scaffolding, including auxiliary attachments which improve the  
15 performance, safety, operation, or efficiency of the  
16 equipment, and replacement parts and are directly and  
17 primarily used by contractors, subcontractors, and builders  
18 for new construction, reconstruction, alterations, expansion,  
19 or remodeling of real property or structures, ~~and-on-the-sales~~  
20 ~~price-from-the-sale-of-a-lottery-ticket-or-share-in-a-lottery~~  
21 ~~game-conducted-pursuant-to-chapter-996~~ and except the tax  
22 shall not be imposed on the sales price from the sale or use  
23 of natural gas, natural gas service, electricity, or electric  
24 service in a city or county where the sales price from the  
25 sale of natural gas or electric energy are subject to a  
26 franchise fee or user fee during the period the franchise or  
27 user fee is imposed.

28 3. The tax is applicable to transactions within the county  
29 where it is imposed and shall be collected by all persons  
30 required to collect state sales or local excise taxes.  
31 ~~However, a person required to collect state sales tax under~~  
32 ~~chapter 423 is not required to collect local sales and~~  
33 ~~services tax on transactions delivered within the area where~~  
34 ~~the local sales and services tax is imposed unless the person~~  
35 ~~has physical presence in that taxing area.~~ The amount of the

1 sale, for purposes of determining the amount of the tax, does  
2 not include the amount of any state sales taxes or excise  
3 taxes or other local option sales or excise taxes. A tax  
4 permit other than the state tax permit required under section  
5 423.36 shall not be required by local authorities.

6 Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.  
7 The sections of this division of this Act amending section  
8 423.3, subsections 2, 37, and 49, section 423B.5, and section  
9 423E.3, being deemed of immediate importance, take effect upon  
10 enactment and apply retroactively to July 1, 2004.

11 DIVISION II

12 EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

13 Sec. 17. Section 331.427, subsection 1, unnumbered  
14 paragraph 1, Code 2005, is amended to read as follows:

15 Except as otherwise provided by state law, county revenues  
16 from taxes and other sources for general county services shall  
17 be credited to the general fund of the county, including  
18 revenues received under sections 9I.11, 101A.3, 101A.7,  
19 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7,  
20 321I.8, section 331.554, subsection 6, sections 341A.20,  
21 364.3, 368.21, ~~423A.2~~ 423A.7, 428A.8, 430A.3, 433.15, 434.19,  
22 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6,  
23 602.8108, 904.908, and 906.17, and the following:

24 Sec. 18. Section 423.2, subsection 1, paragraph a,  
25 subparagraph (5), Code 2005, is amended by striking the  
26 subparagraph.

27 Sec. 19. NEW SECTION. 423A.1 SHORT TITLE.

28 This chapter may be cited as the "Hotel and Motel Tax Act".

29 Sec. 20. NEW SECTION. 423A.2 DEFINITIONS.

30 For the purposes of this chapter, unless the context  
31 otherwise requires:

- 32 1. "Department" means the department of revenue.
- 33 2. "Lessor" means any person engaged in the business of  
34 renting lodging to users.
- 35 3. "Lodging" means rooms, apartments, or sleeping quarters

1 in a hotel, motel, inn, public lodging house, rooming house,  
2 or manufactured or mobile home which is tangible personal  
3 property, or in a tourist court, or in any place where  
4 sleeping accommodations are furnished to transient guests for  
5 rent, whether with or without meals.

6 4. "Person" means the same as the term is defined in  
7 section 423.1.

8 5. "Renting" or "rent" means a transfer of possession or  
9 control of lodging for a fixed or indeterminate term for  
10 consideration and includes any kind of direct or indirect  
11 charge for such lodging or its use.

12 6. "Sales price" means the consideration for renting of  
13 lodging and means the same as the term is defined in section  
14 423.1.

15 7. "User" means a person to whom lodging is rented.

16 All other words and phrases used in this chapter and  
17 defined in section 423.1 have the meaning given them by  
18 section 423.1 for the purposes of this chapter.

19 Sec. 21. NEW SECTION. 423A.3 STATE IMPOSED HOTEL AND  
20 MOTEL TAX.

21 A tax of five percent is imposed upon the sales price for  
22 the rental of any lodging if the rental occurs in this state.  
23 The tax shall be collected by any lessor of lodging from the  
24 user of that lodging. The lessor shall add the tax to the  
25 sales price of the lodging, and the state-imposed tax, when  
26 collected, shall be stated as a distinct item, separate and  
27 apart from the sales price of the lodging and the local tax  
28 imposed, if any, under section 423A.4.

29 Sec. 22. NEW SECTION. 423A.4 LOCALLY IMPOSED HOTEL AND  
30 MOTEL TAX.

31 A city or county may impose by ordinance of the city  
32 council or by resolution of the board of supervisors a hotel  
33 and motel tax, at a rate not to exceed seven percent, which  
34 shall be imposed in increments of one or more full percentage  
35 points upon the sales price from the renting of lodging. The

1 tax when imposed by a city shall apply only within the  
2 corporate boundaries of that city and when imposed by a county  
3 shall apply only outside incorporated areas within that  
4 county.

5 Within ten days of the election at which a majority of  
6 those voting on the question favors the imposition, repeal, or  
7 change in the rate of the hotel and motel tax, the county  
8 auditor shall give written notice by sending a copy of the  
9 abstract of votes from the favorable election to the director  
10 of revenue.

11 A local hotel and motel tax shall be imposed on January 1  
12 or July 1, following the notification of the director of  
13 revenue. Once imposed, the tax shall remain in effect at the  
14 rate imposed for a minimum of one year. A local hotel and  
15 motel tax shall terminate only on June 30 or December 31. At  
16 least forty-five days prior to the tax being effective or  
17 prior to a revision in the tax rate, or prior to the repeal of  
18 the tax, a city or county shall provide notice by mail of such  
19 action to the director of revenue.

20 A city or county shall impose or repeal a hotel and motel  
21 tax or increase or reduce the tax rate only after an election  
22 at which a majority of those voting on the question favors  
23 imposition, repeal, or change in rate. However, a hotel and  
24 motel tax shall not be repealed or reduced in rate if  
25 obligations are outstanding which are payable as provided in  
26 section 423A.7, unless funds sufficient to pay the principal,  
27 interest, and premium, if any, on the outstanding obligations  
28 at and prior to maturity have been properly set aside and  
29 pledged for that purpose. The election shall be held at the  
30 time of the regular city election or the county's general  
31 election or at the time of a special election.

32 Sec. 23. NEW SECTION. 423A.5 EXEMPTIONS.

33 1. There are exempted from the provisions of this chapter  
34 and from the computation of any amount of tax imposed by  
35 section 423A.3 all of the following:

1 a. The sales price from the renting of lodging which is  
2 rented by the same person for a period of more than thirty-one  
3 consecutive days.

4 b. The sales price from the renting of sleeping rooms in  
5 dormitories and in memorial unions at all universities and  
6 colleges located in the state of Iowa.

7 2. There is exempted from the provisions of this chapter  
8 and from the computation of any amount of tax imposed by  
9 section 423A.4 all of the following:

10 a. The sales price from the renting of lodging or rooms  
11 exempt under subsection 1.

12 b. The sales price of lodging furnished to the guests of a  
13 religious institution if the property is exempt under section  
14 427.1, subsection 8, and the purpose of renting is to provide  
15 a place for a religious retreat or function and not a place  
16 for transient guests generally.

17 Sec. 24. NEW SECTION. 423A.6 ADMINISTRATION BY DIRECTOR.

18 The director of revenue shall administer the state and  
19 local hotel and motel tax as nearly as possible in conjunction  
20 with the administration of the state sales tax law, except  
21 that portion of the law which implements the streamlined sales  
22 and use tax agreement. The director shall provide appropriate  
23 forms, or provide on the regular state tax forms, for  
24 reporting state and local hotel and motel tax liability. All  
25 moneys received or refunded one hundred eighty days after the  
26 date on which a city or county terminates its local hotel and  
27 motel tax and all moneys received from the state hotel and  
28 motel tax shall be deposited in or withdrawn from the general  
29 fund of the state.

30 The director, in consultation with local officials, shall  
31 collect and account for a local hotel and motel tax and shall  
32 credit all revenues to the local transient guest tax fund  
33 created in section 423A.7. Local authorities shall not  
34 require any tax permit not required by the director of  
35 revenue.

1 Section 422.25, subsection 4, sections 422.30, 422.67, and  
2 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
3 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
4 sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35,  
5 423.37 to 423.42, and 423.47, consistent with the provisions  
6 of this chapter, apply with respect to the taxes authorized  
7 under this chapter, in the same manner and with the same  
8 effect as if the state and local hotel and motel taxes were  
9 retail sales taxes within the meaning of those statutes.  
10 Notwithstanding this paragraph, the director shall provide for  
11 quarterly filing of returns and for other than quarterly  
12 filing of returns both as prescribed in section 423.31. The  
13 director may require all persons who are engaged in the  
14 business of deriving any sales price subject to tax under this  
15 chapter, to register with the department. All taxes collected  
16 under this chapter by a retailer or any individual are deemed  
17 to be held in trust for the state of Iowa and the local  
18 jurisdictions imposing the taxes.

19 Sec. 25. NEW SECTION. 423A.7 LOCAL TRANSIENT GUEST TAX  
20 FUND.

21 1. A local transient guest tax fund is created in the  
22 department which shall consist of all moneys credited to such  
23 fund under section 423A.6.

24 2. All moneys in the local transient guest tax fund shall  
25 be remitted at least quarterly by the department, pursuant to  
26 rules of the director of revenue, to each city in the amount  
27 collected from businesses in that city and to each county in  
28 the amount collected from businesses in the unincorporated  
29 areas of the county.

30 3. Moneys received by the city from this fund shall be  
31 credited to the general fund of the city, subject to the  
32 provisions of subsection 4.

33 4. The revenue derived from any local hotel and motel tax  
34 authorized by section 423A.4 shall be used as follows:

35 a. Each county or city which levies the tax shall spend at

1 least fifty percent of the revenues derived therefrom for the  
2 acquisition of sites for, or constructing, improving,  
3 enlarging, equipping, repairing, operating, or maintaining of  
4 recreation, convention, cultural, or entertainment facilities  
5 including but not limited to memorial buildings, halls and  
6 monuments, civic center convention buildings, auditoriums,  
7 coliseums, and parking areas or facilities located at those  
8 recreation, convention, cultural, or entertainment facilities  
9 or the payment of principal and interest, when due, on bonds  
10 or other evidence of indebtedness issued by the county or city  
11 for those recreation, convention, cultural, or entertainment  
12 facilities; or for the promotion and encouragement of tourist  
13 and convention business in the city or county and surrounding  
14 areas.

15 b. The remaining revenues may be spent by the city or  
16 county which levies the tax for any city or county operations  
17 authorized by law as a proper purpose for the expenditure  
18 within statutory limitations of city or county revenues  
19 derived from ad valorem taxes.

20 c. Any city or county which levies and collects the local  
21 hotel and motel tax authorized by section 423A.4 may pledge  
22 irrevocably an amount of the revenues derived therefrom for  
23 each of the years the bonds remain outstanding to the payment  
24 of bonds which the city or county may issue for one or more of  
25 the purposes set forth in paragraph "a". Any revenue pledged  
26 to the payment of such bonds may be credited to the spending  
27 requirement of paragraph "a".

28 d. The provisions of chapter 384, division III, relating  
29 to the issuance of corporate purpose bonds, apply to the  
30 issuance by a city of bonds payable as provided in this  
31 section and the provisions of chapter 331, division IV, part  
32 3, relating to the issuance of county purpose bonds, apply to  
33 the issuance by a county of bonds payable as provided in this  
34 section. The provisions of chapter 76 apply to the bonds  
35 payable as provided in this section except that the mandatory

1 levy to be assessed pursuant to section 76.2 shall be at a  
2 rate to generate an amount which together with the receipts  
3 from the pledged portion of the local hotel and motel tax is  
4 sufficient to pay the interest and principal on the bonds.  
5 All amounts collected as a result of the levy assessed  
6 pursuant to section 76.2 and paid out in the first instance  
7 for bond principal and interest shall be repaid to the city or  
8 county which levied the tax from the first available local  
9 hotel and motel tax collections received in excess of the  
10 requirement for the payment of the principal and interest of  
11 the bonds and when repaid shall be applied in reduction of  
12 property taxes.

13 The amount of bonds which may be issued under section 76.3  
14 shall be the amount which could be retired from the actual  
15 collections of the local hotel and motel tax for the last four  
16 calendar quarters, as certified by the director of revenue.  
17 The amount of tax revenues pledged jointly by other cities or  
18 counties may be considered for the purpose of determining the  
19 amount of bonds which may be issued. If the local hotel and  
20 motel tax has been in effect for less than four calendar  
21 quarters, the tax collected within the shorter period may be  
22 adjusted to project the collections for the full year for the  
23 purpose of determining the amount of the bonds which may be  
24 issued.

25 e. A city or county, jointly with one or more other cities  
26 or counties as provided in chapter 28E, may pledge irrevocably  
27 any amount derived from the revenues of the local hotel and  
28 motel tax to the support or payment of bonds issued for a  
29 project within the purposes set forth in paragraph "a" and  
30 located within one or more of the participatory cities or  
31 counties or may apply the proceeds of its bonds to the support  
32 of any such project. Revenue so pledged or applied shall be  
33 credited to the spending requirement of paragraph "a".

34 f. A city or county acting on behalf of an unincorporated  
35 area may, in lieu of calling an election, institute

1 proceedings for the issuance of bonds under this section by  
2 causing a notice of the proposal to issue the bonds, including  
3 a statement of the amount and purpose of the bonds, together  
4 with the maximum rate of interest which the bonds are to bear,  
5 and the right to petition for an election, to be published at  
6 least once in a newspaper of general circulation within the  
7 city or unincorporated area at least ten days prior to the  
8 meeting at which it is proposed to take action for the  
9 issuance of the bonds.

10 If at any time before the date fixed for taking action for  
11 the issuance of the bonds a petition signed by eligible  
12 electors residing in the city or the unincorporated area equal  
13 in number to at least three percent of the registered voters  
14 of the city or unincorporated area is filed, asking that the  
15 question of issuing the bonds be submitted to the registered  
16 voters of the city or unincorporated area, the council or  
17 board of supervisors acting on behalf of an unincorporated  
18 area shall either by resolution declare the proposal to issue  
19 the bonds to have been abandoned or shall direct the county  
20 commissioner of elections to call a special election upon the  
21 question of issuing the bonds.

22 The proposition of issuing bonds under this section is not  
23 approved unless the vote in favor of the proposition is equal  
24 to a majority of the vote cast.

25 If no petition is filed, or if a petition is filed and the  
26 proposition of issuing the bonds is approved at an election,  
27 the council or board of supervisors acting on behalf of an  
28 unincorporated area may proceed with the authorization and  
29 issuance of the bonds.

30 Bonds may be issued for the purpose of refunding  
31 outstanding and previously issued bonds under this section  
32 without otherwise complying with this paragraph.

33 Sec. 26. Section 423B.5, unnumbered paragraph 1, Code  
34 2005, is amended to read as follows:

35 A local sales and services tax at the rate of not more than

1 one percent may be imposed by a county on the sales price  
2 taxed by the state under chapter 423, subchapter II. A local  
3 sales and services tax shall be imposed on the same basis as  
4 the state sales and services tax or in the case of the use of  
5 natural gas, natural gas service, electricity, or electric  
6 service on the same basis as the state use tax and shall not  
7 be imposed on the sale of any property or on any service not  
8 taxed by the state, except the tax shall not be imposed on the  
9 sales price from the sale of motor fuel or special fuel as  
10 defined in chapter 452A which is consumed for highway use or  
11 in watercraft or aircraft if the fuel tax is paid on the  
12 transaction and a refund has not or will not be allowed, on  
13 ~~the sales price from the rental of rooms, apartments, or~~  
14 ~~sleeping quarters which are taxed under chapter 423A during~~  
15 ~~the period the hotel and motel tax is imposed,~~ on the sales  
16 price from the sale of equipment by the state department of  
17 transportation, on the sales price from the sale of self-  
18 propelled building equipment, pile drivers, motorized  
19 scaffolding, or attachments customarily drawn or attached to  
20 self-propelled building equipment, pile drivers, and motorized  
21 scaffolding, including auxiliary attachments which improve the  
22 performance, safety, operation, or efficiency of the equipment  
23 and replacement parts and are directly and primarily used by  
24 contractors, subcontractors, and builders for new  
25 construction, reconstruction, alterations, expansion, or  
26 remodeling of real property or structures, and on the sales  
27 price from the sale of a lottery ticket or share in a lottery  
28 game conducted pursuant to chapter 99G and except the tax  
29 shall not be imposed on the sales price from the sale or use  
30 of natural gas, natural gas service, electricity, or electric  
31 service in a city or county where the sales price from the  
32 sale of natural gas or electric energy are subject to a  
33 franchise fee or user fee during the period the franchise or  
34 user fee is imposed. A local sales and services tax is  
35 applicable to transactions within those incorporated and

1 unincorporated areas of the county where it is imposed and  
2 shall be collected by all persons required to collect state  
3 sales taxes. However, a person required to collect state  
4 retail sales tax under chapter 423, subchapter V or VI, is not  
5 required to collect local sales and services tax on  
6 transactions delivered within the area where the local sales  
7 and services tax is imposed unless the person has physical  
8 presence in that taxing area. All cities contiguous to each  
9 other shall be treated as part of one incorporated area and  
10 the tax would be imposed in each of those contiguous cities  
11 only if the majority of those voting in the total area covered  
12 by the contiguous cities favors its imposition.

13 Sec. 27. Section 423E.3, subsection 2, Code 2005, is  
14 amended to read as follows:

15 2. The tax shall be imposed on the same basis as the state  
16 sales and services tax or in the case of the use of natural  
17 gas, natural gas service, electricity, or electric service on  
18 the same basis as the state use tax and shall not be imposed  
19 on the sale of any property or on any service not taxed by the  
20 state, except the tax shall not be imposed on the sales price  
21 from the sale of motor fuel or special fuel as defined in  
22 chapter 452A which is consumed for highway use or in  
23 watercraft or aircraft if the fuel tax is paid on the  
24 transaction and a refund has not or will not be allowed, on  
25 ~~the sales price from the rental of rooms, apartments, or~~  
26 ~~sleeping quarters which are taxed under chapter 423A during~~  
27 ~~the period the hotel and motel tax is imposed,~~ on the sales  
28 price from the sale of equipment by the state department of  
29 transportation, on the sales price from the sale of self-  
30 propelled building equipment, pile drivers, motorized  
31 scaffolding, or attachments customarily drawn or attached to  
32 self-propelled building equipment, pile drivers, and motorized  
33 scaffolding, including auxiliary attachments which improve the  
34 performance, safety, operation, or efficiency of the  
35 equipment, and replacement parts and are directly and

1 primarily used by contractors, subcontractors, and builders  
2 for new construction, reconstruction, alterations, expansion,  
3 or remodeling of real property or structures, and on the sales  
4 price from the sale of a lottery ticket or share in a lottery  
5 game conducted pursuant to chapter 99G and except the tax  
6 shall not be imposed on the sales price from the sale or use  
7 of natural gas, natural gas service, electricity, or electric  
8 service in a city or county where the sales price from the  
9 sale of natural gas or electric energy are subject to a  
10 franchise fee or user fee during the period the franchise or  
11 user fee is imposed.

12 Sec. 28. Chapter 423A, Code 2005, is repealed.

13 Sec. 29. TRANSITION. A hotel and motel tax imposed by a  
14 city or county under chapter 423A prior to the effective date  
15 of this division of this Act shall continue to be imposed and  
16 shall be considered a locally imposed hotel and motel tax  
17 under chapter 423A, as enacted by this division of this Act.

18 DIVISION III

19 SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

20 Sec. 30. Section 423.3, Code 2005, is amended by adding  
21 the following new subsection:

22 NEW SUBSECTION. 85. The sales price from the sale of the  
23 following items: self-propelled building equipment, pile  
24 drivers, motorized scaffolding, or attachments customarily  
25 drawn or attached to self-propelled building equipment, pile  
26 drivers, and motorized scaffolding, including auxiliary  
27 attachments which improve the performance, safety, operation,  
28 or efficiency of the equipment, and replacement parts and are  
29 directly and primarily used by contractors, subcontractors,  
30 and builders for new construction, reconstruction,  
31 alterations, expansion, or remodeling of real property or  
32 structures.

33 Sec. 31. Section 423B.5, unnumbered paragraph 1, Code  
34 2005, is amended to read as follows:

35 A local sales and services tax at the rate of not more than

1 one percent may be imposed by a county on the sales price  
2 taxed by the state under chapter 423, subchapter II. A local  
3 sales and services tax shall be imposed on the same basis as  
4 the state sales and services tax or in the case of the use of  
5 natural gas, natural gas service, electricity, or electric  
6 service on the same basis as the state use tax and shall not  
7 be imposed on the sale of any property or on any service not  
8 taxed by the state, except the tax shall not be imposed on the  
9 sales price from the sale of motor fuel or special fuel as  
10 defined in chapter 452A which is consumed for highway use or  
11 in watercraft or aircraft if the fuel tax is paid on the  
12 transaction and a refund has not or will not be allowed, on  
13 the sales price from the rental of rooms, apartments, or  
14 sleeping quarters which are taxed under chapter 423A during  
15 the period the hotel and motel tax is imposed, on the sales  
16 price from the sale of equipment by the state department of  
17 transportation, ~~on-the-sales-price-from-the-sale-of-self-~~  
18 ~~propelled-building-equipment, pile-drivers, motorized~~  
19 ~~scaffolding, or attachments customarily drawn or attached to~~  
20 ~~self-propelled-building-equipment, pile-drivers, and motorized~~  
21 ~~scaffolding, including auxiliary attachments which improve the~~  
22 ~~performance, safety, operation, or efficiency of the equipment~~  
23 ~~and replacement parts and are directly and primarily used by~~  
24 ~~contractors, subcontractors, and builders for new~~  
25 ~~construction, reconstruction, alterations, expansion, or~~  
26 ~~remodeling of real property or structures,~~ and on the sales  
27 price from the sale of a lottery ticket or share in a lottery  
28 game conducted pursuant to chapter 99G and except the tax  
29 shall not be imposed on the sales price from the sale or use  
30 of natural gas, natural gas service, electricity, or electric  
31 service in a city or county where the sales price from the  
32 sale of natural gas or electric energy are subject to a  
33 franchise fee or user fee during the period the franchise or  
34 user fee is imposed. A local sales and services tax is  
35 applicable to transactions within those incorporated and

1 unincorporated areas of the county where it is imposed and  
2 shall be collected by all persons required to collect state  
3 sales taxes. However, a person required to collect state  
4 retail sales tax under chapter 423, subchapter V or VI, is not  
5 required to collect local sales and services tax on  
6 transactions delivered within the area where the local sales  
7 and services tax is imposed unless the person has physical  
8 presence in that taxing area. All cities contiguous to each  
9 other shall be treated as part of one incorporated area and  
10 the tax would be imposed in each of those contiguous cities  
11 only if the majority of those voting in the total area covered  
12 by the contiguous cities favors its imposition.

13 Sec. 32. Section 423E.3, subsection 2, Code 2005, is  
14 amended to read as follows:

15 2. The tax shall be imposed on the same basis as the state  
16 sales and services tax or in the case of the use of natural  
17 gas, natural gas service, electricity, or electric service on  
18 the same basis as the state use tax and shall not be imposed  
19 on the sale of any property or on any service not taxed by the  
20 state, except the tax shall not be imposed on the sales price  
21 from the sale of motor fuel or special fuel as defined in  
22 chapter 452A which is consumed for highway use or in  
23 watercraft or aircraft if the fuel tax is paid on the  
24 transaction and a refund has not or will not be allowed, on  
25 the sales price from the rental of rooms, apartments, or  
26 sleeping quarters which are taxed under chapter 423A during  
27 the period the hotel and motel tax is imposed, on the sales  
28 price from the sale of equipment by the state department of  
29 transportation, ~~on-the-sales-price-from-the-sale-of-self-~~  
30 ~~propelled-building-equipment,-pile-drivers,-motorized~~  
31 ~~scaffolding,-or-attachments-customarily-drawn-or-attached-to~~  
32 ~~self-propelled-building-equipment,-pile-drivers,-and-motorized~~  
33 ~~scaffolding,-including-auxiliary-attachments-which-improve-the~~  
34 ~~performance,-safety,-operation,-or-efficiency-of-the~~  
35 ~~equipment,-and-replacement-parts-and-are-directly-and~~

1 primarily-used-by-contractors, subcontractors, and builders  
2 for new construction, reconstruction, alterations, expansion,  
3 or remodeling of real property or structures, and on the sales  
4 price from the sale of a lottery ticket or share in a lottery  
5 game conducted pursuant to chapter 99G and except the tax  
6 shall not be imposed on the sales price from the sale or use  
7 of natural gas, natural gas service, electricity, or electric  
8 service in a city or county where the sales price from the  
9 sale of natural gas or electric energy are subject to a  
10 franchise fee or user fee during the period the franchise or  
11 user fee is imposed.

12 Sec. 33. NEW SECTION. 423D.1 DEFINITIONS.

13 For the purposes of this chapter, unless the context  
14 otherwise requires:

15 1. "Construction" means new construction, reconstruction,  
16 alterations, expansion, or remodeling of real property or  
17 structures.

18 2. "Contractor" includes contractors, subcontractors, and  
19 builders, but not owners.

20 3. "Department" means the department of revenue.

21 4. "Equipment" means self-propelled building equipment,  
22 pile drivers, and motorized scaffolding, including auxiliary  
23 attachments which improve the performance, safety, operation,  
24 or efficiency of the equipment, and replacement parts and are  
25 directly and primarily used by contractors, subcontractors,  
26 and builders for new construction, reconstruction,  
27 alterations, expansion, or remodeling of real property or  
28 structures.

29 5. "Sales price" or "purchase price" means the same as the  
30 term is defined in section 423.1.

31 All other words and phrases used in this chapter and  
32 defined in section 423.1 have the meaning given them by  
33 section 423.1 for the purposes of this chapter.

34 Sec. 34. NEW SECTION. 423D.2 TAX IMPOSED.

35 A tax of five percent is imposed on the sales price or

1 purchase price of all equipment sold or used in the state of  
2 Iowa. This tax shall be collected and paid over to the  
3 department by any retailer, retailer maintaining a place of  
4 business in this state, or user who would be responsible for  
5 collection and payment of the tax if it were a sales or use  
6 tax imposed under chapter 423.

7 Sec. 35. NEW SECTION. 423D.3 EXEMPTION.

8 The sales price on the lease or rental of equipment to  
9 contractors for direct and primary use in construction is  
10 exempt from the tax imposed by this chapter.

11 Sec. 36. NEW SECTION. 423D.4 ADMINISTRATION BY DIRECTOR.

12 The director of revenue shall administer the excise tax on  
13 the sale and use of equipment as nearly as possible in  
14 conjunction with the administration of the state sales and use  
15 tax law, except that portion of the law which implements the  
16 streamlined sales and use tax agreement. The director shall  
17 provide appropriate forms, or provide on the regular state tax  
18 forms, for reporting the sale and use of equipment excise tax  
19 liability. All moneys received and all refunds shall be  
20 deposited in or withdrawn from the general fund of the state.

21 The director may require all persons who are engaged in the  
22 business of deriving any sales price or purchase price subject  
23 to tax under this chapter to register with the department.

24 The director may also require a tax permit applicable only to  
25 this chapter for any retailer not collecting, or any user not  
26 paying, taxes under chapter 423.

27 Section 422.25, subsection 4, sections 422.30, 422.67, and  
28 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
29 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
30 sections 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to  
31 423.42, and 423.47, consistent with the provisions of this  
32 chapter, apply with respect to the tax authorized under this  
33 chapter, in the same manner and with the same effect as if the  
34 excise taxes on equipment sales or use were retail sales taxes  
35 within the meaning of those statutes. Notwithstanding this

1 paragraph, the director shall provide for quarterly filing of  
2 returns and for other than quarterly filing of returns both as  
3 prescribed in section 423.31. All taxes collected under this  
4 chapter by a retailer or any user are deemed to be held in  
5 trust for the state of Iowa.

6 EXPLANATION

7 This bill makes changes to the streamlined sales and use  
8 tax law, provides a separate excise tax on hotel and motel  
9 room rentals, and imposes a separate excise tax on certain  
10 construction equipment.

11 Division I -- STREAMLINED SALES AND USE TAX LAW CHANGES --  
12 Code sections 34A.7(2) and 34A.7A(1) are amended to move the  
13 exemption for E911 surcharges and wireless E911 surcharges to  
14 the sales tax exemption section. Code section 423.3 is  
15 amended by adding new subsection 69A to specify those  
16 exemptions.

17 Code section 423.1(47) is amended to specify when certain  
18 service charges related to a sale may be excluded from the  
19 definition of sales price.

20 Code section 423.2(6) is amended to add certain  
21 transportation services to the list of taxable services.  
22 Currently, these services are taxed but are listed as  
23 exceptions to the exemption. The exemption in Code section  
24 423.3(70) is amended to eliminate reference to these  
25 transportation services and to limit the exemption to delivery  
26 charges.

27 Code section 423.3(2) is amended to create an exemption for  
28 the purchase of tangible personal property used for leasing or  
29 rental to food manufacturers. The purchase of the tangible  
30 personal property would otherwise be subject to the tax. This  
31 amendment is retroactively applicable to July 1, 2004.

32 Code section 423.3(37) amends the exemption for services on  
33 or connected with new construction, reconstruction,  
34 alteration, expansion, remodeling, or the services of a  
35 building contractor, architect, or engineer to expand the

1 exemption to include lease or rental of all machinery,  
2 equipment, and replacement parts that are directly and  
3 primarily used in construction of buildings and structures.  
4 The purchase of the machinery, equipment, and replacement  
5 parts would be subject to the tax. This amendment is  
6 retroactively applicable to July 1, 2004.

7 Code section 423.3(49) is amended to include leasing or  
8 rental of tangible personal property as part of the food  
9 manufacturer exemption. The purchase of the tangible personal  
10 property would be subject to the tax. This amendment is  
11 retroactively applicable to July 1, 2004.

12 Code section 423.3(60) is amended by exempting "durable  
13 medical equipment", "mobility enhancing equipment", and  
14 "prosthetic devices" separately from "medical devices", and  
15 defining those terms as they are defined in the streamlined  
16 sales tax agreement. The term "medical devices" thus becomes  
17 a catchall phrase for medical exemptions not defined by the  
18 streamlined sales tax agreement.

19 Code section 423.15(1) is amended by removing certain  
20 superfluous language relating to leases and rentals from the  
21 general sourcing rules on sales.

22 Code section 423.43(3) is amended by correcting a reference  
23 to the revenue that is to be deposited into the state general  
24 fund. The amendment makes the reference to the use tax  
25 imposed under subchapter III rather than the revenue arising  
26 under the entire chapter.

27 Code sections 423B.5 and 423E.3(2) and (3) are amended by  
28 deleting the requirement in the local option sales tax of  
29 cities, counties, and school districts that there must be a  
30 physical presence in the taxing jurisdiction, and by deleting  
31 the exemption for the sale of lottery tickets. These  
32 amendments are retroactively applicable to July 1, 2004.

33 Division II -- EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS  
34 -- This division removes the taxation of hotel and motel room  
35 rentals from the state sales tax and includes it with the

1 local hotel and motel tax in new Code chapter 423A. The state  
2 and local hotel and motel tax is imposed on the same basis and  
3 with the same exemptions as existing under current law.

4 Code section 423.2(1) is amended to remove the rental of  
5 rooms from the state sales tax.

6 Code chapter 423A is repealed and new sections are added to  
7 impose an excise tax on lodging in its place. Existing local  
8 hotel and motel taxes are not affected by this change and  
9 shall continue to be imposed.

10 Code sections 423B.5 and 423E.3 are amended to eliminate  
11 the exemption of lodging rentals from the regular local option  
12 tax or school local option tax because the lodging rentals are  
13 no longer subject to sales tax.

14 Division III -- SPECIFIC CONSTRUCTION MACHINERY AND  
15 EQUIPMENT -- Code section 423.3 is amended by adding a new  
16 exemption for specifically listed construction equipment that  
17 includes self-propelled building equipment, pile drivers,  
18 motorized scaffolding, and attachments to these that are used  
19 to improve performance and safety of equipment in various  
20 construction activities. Code chapter 423D is enacted by  
21 imposing an excise tax on the sale of the equipment exempt  
22 from the sales tax. In connection with this change, Code  
23 sections 423B.5 and 423E.3, relating to the specific  
24 exemptions in favor of sales of that equipment set out in the  
25 regular local option and school infrastructure sales taxes,  
26 are stricken because the specific construction equipment is no  
27 longer subject to the state sales tax.

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

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Van Fossen, J.K., chair  
Kaufmann  
Shomshor

HSB 301

WAYS AND MEANS

Succ  
SF ( ) 878

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 \_\_\_\_\_

**A BILL FOR**

1 An Act relating to sales and use tax changes, excise taxes on  
2 rental of rooms and sleeping quarters, and the sale and use of  
3 construction equipment, and including an effective and  
4 retroactive applicability date provision.

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

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DIVISION I

STREAMLINED SALES AND USE TAX CHANGES

Section 1. Section 34A.7, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A local exchange service provider is not liable for an uncollected surcharge for which the local exchange service provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency telephone service surcharge". ~~The E911 service surcharge is not subject to sales or use tax.~~

Sec. 2. Section 34A.7A, subsection 1, paragraph c, subparagraph (1), Code 2005, is amended to read as follows:

(1) The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. ~~The wireless E911 service surcharge is not subject to sales or use tax.~~

Sec. 3. Section 423.1, subsection 47, paragraph b, subparagraph (4), Code 2005, is amended by striking the subparagraph.

Sec. 4. Section 423.1, subsection 47, Code 2005, is amended by adding the following new paragraph and relettering the following paragraph:

NEW PARAGRAPH. c. The sales price does not include and the sales tax shall not apply to amounts received for charges included in paragraph "a", subparagraphs (3) through (7), if

1 they are separately contracted for, separately stated on the  
2 invoice, billing, or similar document given to the purchaser,  
3 and the amounts represent charges which are not the sales  
4 price of a taxable sale or of the furnishing of a taxable  
5 service.

6 Sec. 5. Section 423.2, subsection 6, unnumbered paragraph  
7 1, Code 2005, is amended to read as follows:

8 The sales price of any of the following enumerated services  
9 is subject to the tax imposed by subsection 5: alteration and  
10 garment repair; armored car; vehicle repair; battery, tire,  
11 and allied; investment counseling; service charges of all  
12 financial institutions; barber and beauty; boat repair;  
13 vehicle wash and wax; campgrounds; carpentry; roof, shingle,  
14 and glass repair; dance schools and dance studios; dating  
15 services; dry cleaning, pressing, dyeing, and laundering;  
16 electrical and electronic repair and installation; excavating  
17 and grading; farm implement repair of all kinds; flying  
18 service; furniture, rug, carpet, and upholstery repair and  
19 cleaning; fur storage and repair; golf and country clubs and  
20 all commercial recreation; gun and camera repair; house and  
21 building moving; household appliance, television, and radio  
22 repair; janitorial and building maintenance or cleaning;  
23 jewelry and watch repair; lawn care, landscaping, and tree  
24 trimming and removal; limousine service, including driver;  
25 machine operator; machine repair of all kinds; motor repair;  
26 motorcycle, scooter, and bicycle repair; oilers and  
27 lubricators; office and business machine repair; painting,  
28 papering, and interior decorating; parking facilities; pay  
29 television; pet grooming; pipe fitting and plumbing; wood  
30 preparation; executive search agencies; private employment  
31 agencies, excluding services for placing a person in  
32 employment where the principal place of employment of that  
33 person is to be located outside of the state; reflexology;  
34 security and detective services; sewage services for  
35 nonresidential commercial operations; sewing and stitching;

1 shoe repair and shoeshine; sign construction and installation;  
2 storage of household goods, mini-storage, and warehousing of  
3 raw agricultural products; swimming pool cleaning and  
4 maintenance; tanning beds or salons; taxidermy services;  
5 telephone answering service; test laboratories, including  
6 mobile testing laboratories and field testing by testing  
7 laboratories, and excluding tests on humans or animals;  
8 termite, bug, roach, and pest eradicators; tin and sheet metal  
9 repair; transportation service consisting of the rental of  
10 recreational vehicles or recreational boats, or the rental of  
11 motor vehicles subject to registration which are registered  
12 for a gross weight of thirteen tons or less for a period of  
13 sixty days or less, or the rental of aircraft for a period of  
14 sixty days or less; Turkish baths, massage, and reducing  
15 salons, excluding services provided by massage therapists  
16 licensed under chapter 152C; water conditioning and softening;  
17 weighing; welding; well drilling; wrapping, packing, and  
18 packaging of merchandise other than processed meat, fish,  
19 fowl, and vegetables; wrecking service; wrecker and towing.

20 Sec. 6. Section 423.3, subsection 2, Code 2005, is amended  
21 to read as follows:

22 2. The sales price of sales for resale of tangible  
23 personal property or taxable services, or for resale of  
24 tangible personal property in connection with the furnishing  
25 of taxable services except for sales, other than leases or  
26 rentals, which are sales, of machinery, equipment,  
27 attachments, and replacement parts specifically enumerated in  
28 subsection 37 and used in the manner described in subsection  
29 37 or the purchase of tangible personal property, the leasing  
30 or rental of which is exempted from tax by subsection 49.

31 Sec. 7. Section 423.3, subsection 37, Code 2005, is  
32 amended to read as follows:

33 37. The sales price of services on or connected with new  
34 construction, reconstruction, alteration, expansion,  
35 remodeling, or the services of a general building contractor,

1 architect, or engineer. The exemption in this subsection also  
2 applies to the sales price on the lease or rental of self-  
3 propelled-building-equipment, self-constructed-cranes, pile  
4 drivers, structural-concrete-forms, regular-and-motorized  
5 scaffolding, generators, or attachments customarily drawn or  
6 attached to self-propelled-building-equipment, self-  
7 constructed-cranes, pile-drivers, structural-concrete-forms,  
8 regular-and-motorized-scaffolding, and generators, including  
9 auxiliary-attachments all machinery, equipment, and  
10 replacement parts directly and primarily used by owners,  
11 contractors, subcontractors, and builders for new  
12 construction, reconstruction, alteration, expansion, or  
13 remodeling of real property or structures and of all  
14 machinery, equipment, and replacement parts which improve the  
15 performance, safety, operation, or efficiency of the  
16 machinery, equipment, and replacement parts and are directly  
17 and primarily used by contractors, subcontractors, and  
18 builders for new construction, reconstruction, alterations,  
19 expansion, or remodeling of real property or structures so  
20 used.

21 Sec. 8. Section 423.3, subsection 49, Code 2005, is  
22 amended to read as follows:

23 49. The sales price from the sale of carbon dioxide in a  
24 liquid, solid, or gaseous form, electricity, steam, and other  
25 taxable services and the lease or rental of tangible personal  
26 property when used by a manufacturer of food products to  
27 produce marketable food products for human consumption,  
28 including but not limited to treatment of material to change  
29 its form, context, or condition, in order to produce the food  
30 product, maintenance of quality or integrity of the food  
31 product, changing or maintenance of temperature levels  
32 necessary to avoid spoilage or to hold the food product in  
33 marketable condition, maintenance of environmental conditions  
34 necessary for the safe or efficient use of machinery and  
35 material used to produce the food product, sanitation and

1 quality control activities, formation of packaging, placement  
2 into shipping containers, and movement of the material or food  
3 product until shipment from the building of manufacture.

4 Sec. 9. Section 423.3, subsection 60, Code 2005, is  
5 amended to read as follows:

6 60. The sales price from the sale or rental of  
7 prescription drugs or, durable medical equipment, mobility  
8 enhancing equipment, prosthetic devices, and other medical  
9 devices intended for human use or consumption.

10 For the purposes of this subsection:

11 a. "Drug" means a compound, substance, or preparation, and  
12 any component of a compound, substance, or preparation, other  
13 than food and food ingredients, dietary supplements, or  
14 alcoholic beverages which is any of the following:

15 (1) Recognized in the official United States  
16 pharmacopoeia, official homeopathic pharmacopoeia of the  
17 United States, or official national formulary, and supplement  
18 to any of them.

19 (2) Intended for use in the diagnosis, cure, mitigation,  
20 treatment, or prevention of disease.

21 (3) Intended to affect the structure or any function of  
22 the body.

23 b. "Durable medical equipment" means equipment, including  
24 repair and replacement parts, but does not include mobility  
25 enhancing equipment, to which all of the following apply:

26 (1) Can withstand repeated use.

27 (2) Is primarily and customarily used to serve a medical  
28 purpose.

29 (3) Generally is not useful to a person in the absence of  
30 illness or injury.

31 (4) Is not worn in or on the body.

32 (5) Is for home use only.

33 (6) Is prescribed by a practitioner.

34 c. "Mobility enhancing equipment" means equipment,  
35 including repair and replacement parts, but does not include

1 durable medical equipment, to which all of the following  
2 apply:

3 (1) Is primarily and customarily used to provide or  
4 increase the ability to move from one place to another and  
5 which is appropriate for use either in a home or a motor  
6 vehicle.

7 (2) Is not generally used by persons with normal mobility.

8 (3) Does not include any motor vehicle or equipment on a  
9 motor vehicle normally provided by a motor vehicle  
10 manufacturer.

11 (4) Is prescribed by a practitioner.

12 b. d. "Medical "Other medical device" means equipment or  
13 a supply, intended to be prescribed by a practitioner,  
14 including orthopedic or orthotic devices. However, "medical  
15 device" also includes prosthetic devices, that is not a drug,  
16 durable medical equipment, mobility enhancing equipment, or  
17 prosthetic device. "Other medical devices" includes, but is  
18 not limited to, ostomy, urological, and tracheostomy equipment  
19 and supplies, and diabetic testing materials, hypodermic  
20 syringes and needles, anesthesia trays, biopsy trays and  
21 biopsy needles, cannula systems, catheter trays and invasive  
22 catheters, dialyzers, drug infusion devices, fistula sets,  
23 hemodialysis devices, insulin infusion devices, intraocular  
24 lenses, irrigation solutions, intravenous administering sets,  
25 solutions and stopcocks, myelogram trays, nebulizers, small  
26 vein infusion kits, spinal puncture trays, transfusion sets,  
27 and venous blood sets, and oxygen equipment, intended to be  
28 dispensed for human use with or without a prescription to an  
29 ultimate user.

30 e. e. "Practitioner" means a practitioner as defined in  
31 section 155A.3, or a person licensed to prescribe drugs.

32 f. "Prescription" means an order, formula, or recipe  
33 issued in any form of oral, written, electronic, or other  
34 means of transmission by a practitioner.

35 d. g. "Prescription drug" means a drug intended to be

1 dispensed to an ultimate user pursuant to a prescription drug  
2 order, formula, or recipe issued in any form of oral, written,  
3 electronic, or other means of transmission by a duly licensed  
4 practitioner, or oxygen or insulin dispensed for human  
5 consumption with or without a prescription drug order or  
6 medication order.

7 e- h. "Prosthetic device" means a replacement,  
8 corrective, or supportive device including repair and  
9 replacement parts for the same worn on or in the body to do  
10 any of the following:

- 11 (1) Artificially replace a missing portion of the body.
- 12 (2) Prevent or correct physical deformity or malfunction.
- 13 (3) Support a weak or deformed portion of the body.

14 "Prosthetic device" includes, but is not limited to,  
15 orthopedic or orthotic devices, ostomy equipment, urological  
16 equipment, tracheostomy equipment, and intraocular lenses.

17 f- i. "Ultimate user" means an individual who has  
18 lawfully obtained and possesses a prescription drug or medical  
19 device for the individual's own use or for the use of a member  
20 of the individual's household, or an individual to whom a  
21 prescription drug or medical device has been lawfully  
22 supplied, administered, dispensed, or prescribed.

23 Sec. 10. Section 423.3, Code 2005, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 69A. The sales price from surcharges paid  
26 for E911 service and wireless E911 service pursuant to chapter  
27 34A.

28 Sec. 11. Section 423.3, subsection 70, Code 2005, is  
29 amended to read as follows:

30 70. The sales price ~~from-the-sales,-furnishing,-or-service~~  
31 ~~of-transportation-service-except-the-rental-of-recreational~~  
32 ~~vehicles-or-recreational-boats,-except-the-rental-of-motor~~  
33 ~~vehicles-subject-to-registration-which-are-registered-for-a~~  
34 ~~gross-weight-of-thirteen-tons-or-less-for-a-period-of-sixty~~  
35 ~~days-or-less,-and-except-the-rental-of-aircraft-for-a-period~~

1 ~~of sixty days or less~~ of delivery charges. This exemption  
2 does not apply to the transportation delivery of electric  
3 energy or natural gas.

4 Sec. 12. Section 423.15, subsection 1, unnumbered  
5 paragraph 1, Code 2005, is amended to read as follows:

6 Sales, excluding leases or rentals ~~other than leases or~~  
7 ~~rentals set out in subsection 2~~, of products shall be sourced  
8 as follows:

9 Sec. 13. Section 423.43, subsection 3, Code 2005, is  
10 amended to read as follows:

11 3. All other revenue arising under the operation of this  
12 ~~chapter~~ the use tax under subchapter III shall be credited to  
13 the general fund of the state.

14 Sec. 14. Section 423B.5, unnumbered paragraph 1, Code  
15 2005, is amended to read as follows:

16 A local sales and services tax at the rate of not more than  
17 one percent may be imposed by a county on the sales price  
18 taxed by the state under chapter 423, subchapter II. A local  
19 sales and services tax shall be imposed on the same basis as  
20 the state sales and services tax or in the case of the use of  
21 natural gas, natural gas service, electricity, or electric  
22 service on the same basis as the state use tax and shall not  
23 be imposed on the sale of any property or on any service not  
24 taxed by the state, except the tax shall not be imposed on the  
25 sales price from the sale of motor fuel or special fuel as  
26 defined in chapter 452A which is consumed for highway use or  
27 in watercraft or aircraft if the fuel tax is paid on the  
28 transaction and a refund has not or will not be allowed, on  
29 the sales price from the rental of rooms, apartments, or  
30 sleeping quarters which are taxed under chapter 423A during  
31 the period the hotel and motel tax is imposed, on the sales  
32 price from the sale of equipment by the state department of  
33 transportation, on the sales price from the sale of self-  
34 propelled building equipment, pile drivers, motorized  
35 scaffolding, or attachments customarily drawn or attached to

1 self-propelled building equipment, pile drivers, and motorized  
2 scaffolding, including auxiliary attachments which improve the  
3 performance, safety, operation, or efficiency of the equipment  
4 and replacement parts and are directly and primarily used by  
5 contractors, subcontractors, and builders for new  
6 construction, reconstruction, alterations, expansion, or  
7 remodeling of real property or structures, ~~and-on-the-sales~~  
8 ~~price-from-the-sale-of-a-lottery-ticket-or-share-in-a-lottery~~  
9 ~~game-conducted-pursuant-to-chapter-996~~ and except the tax  
10 shall not be imposed on the sales price from the sale or use  
11 of natural gas, natural gas service, electricity, or electric  
12 service in a city or county where the sales price from the  
13 sale of natural gas or electric energy are subject to a  
14 franchise fee or user fee during the period the franchise or  
15 user fee is imposed. A local sales and services tax is  
16 applicable to transactions within those incorporated and  
17 unincorporated areas of the county where it is imposed and  
18 shall be collected by all persons required to collect state  
19 sales taxes. ~~However, a person required to collect state~~  
20 ~~retail-sales-tax-under-chapter-423, subchapter-V-or-VI, is not~~  
21 ~~required to collect local sales and services tax on~~  
22 ~~transactions delivered within the area where the local sales~~  
23 ~~and services tax is imposed unless the person has physical~~  
24 ~~presence in that taxing area.~~ All cities contiguous to each  
25 other shall be treated as part of one incorporated area and  
26 the tax would be imposed in each of those contiguous cities  
27 only if the majority of those voting in the total area covered  
28 by the contiguous cities favors its imposition.

29 Sec. 15. Section 423E.3, subsections 2 and 3, Code 2005,  
30 are amended to read as follows:

31 2. The tax shall be imposed on the same basis as the state  
32 sales and services tax or in the case of the use of natural  
33 gas, natural gas service, electricity, or electric service on  
34 the same basis as the state use tax and shall not be imposed  
35 on the sale of any property or on any service not taxed by the

1 state, except the tax shall not be imposed on the sales price  
2 from the sale of motor fuel or special fuel as defined in  
3 chapter 452A which is consumed for highway use or in  
4 watercraft or aircraft if the fuel tax is paid on the  
5 transaction and a refund has not or will not be allowed, on  
6 the sales price from the rental of rooms, apartments, or  
7 sleeping quarters which are taxed under chapter 423A during  
8 the period the hotel and motel tax is imposed, on the sales  
9 price from the sale of equipment by the state department of  
10 transportation, on the sales price from the sale of self-  
11 propelled building equipment, pile drivers, motorized  
12 scaffolding, or attachments customarily drawn or attached to  
13 self-propelled building equipment, pile drivers, and motorized  
14 scaffolding, including auxiliary attachments which improve the  
15 performance, safety, operation, or efficiency of the  
16 equipment, and replacement parts and are directly and  
17 primarily used by contractors, subcontractors, and builders  
18 for new construction, reconstruction, alterations, expansion,  
19 or remodeling of real property or structures, ~~and-on-the-sales~~  
20 ~~price-from-the-sale-of-a-lottery-ticket-or-share-in-a-lottery~~  
21 ~~game-conducted-pursuant-to-chapter-996~~ and except the tax  
22 shall not be imposed on the sales price from the sale or use  
23 of natural gas, natural gas service, electricity, or electric  
24 service in a city or county where the sales price from the  
25 sale of natural gas or electric energy are subject to a  
26 franchise fee or user fee during the period the franchise or  
27 user fee is imposed.

28 3. The tax is applicable to transactions within the county  
29 where it is imposed and shall be collected by all persons  
30 required to collect state sales or local excise taxes.  
31 ~~However, a person required to collect state sales tax under~~  
32 ~~chapter 423 is not required to collect local sales and~~  
33 ~~services tax on transactions delivered within the area where~~  
34 ~~the local sales and services tax is imposed unless the person~~  
35 ~~has physical presence in that taxing area.~~ The amount of the

1 sale, for purposes of determining the amount of the tax, does  
2 not include the amount of any state sales taxes or excise  
3 taxes or other local option sales or excise taxes. A tax  
4 permit other than the state tax permit required under section  
5 423.36 shall not be required by local authorities.

6 Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.

7 The sections of this division of this Act amending section  
8 423.3, subsections 2, 37, and 49, section 423B.5, and section  
9 423E.3, being deemed of immediate importance, take effect upon  
10 enactment and apply retroactively to July 1, 2004.

11 DIVISION II

12 EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

13 Sec. 17. Section 331.427, subsection 1, unnumbered  
14 paragraph 1, Code 2005, is amended to read as follows:

15 Except as otherwise provided by state law, county revenues  
16 from taxes and other sources for general county services shall  
17 be credited to the general fund of the county, including  
18 revenues received under sections 91.11, 101A.3, 101A.7,  
19 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7,  
20 321I.8, section 331.554, subsection 6, sections 341A.20,  
21 364.3, 368.21, ~~423A.2~~ 423A.7, 428A.8, 430A.3, 433.15, 434.19,  
22 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6,  
23 602.8108, 904.908, and 906.17, and the following:

24 Sec. 18. Section 423.2, subsection 1, paragraph a,  
25 subparagraph (5), Code 2005, is amended by striking the  
26 subparagraph.

27 Sec. 19. NEW SECTION. 423A.1 SHORT TITLE.

28 This chapter may be cited as the "Hotel and Motel Tax Act".

29 Sec. 20. NEW SECTION. 423A.2 DEFINITIONS.

30 For the purposes of this chapter, unless the context  
31 otherwise requires:

32 1. "Department" means the department of revenue.

33 2. "Lessor" means any person engaged in the business of  
34 renting lodging to users.

35 3. "Lodging" means rooms, apartments, or sleeping quarters

1 in a hotel, motel, inn, public lodging house, rooming house,  
2 or manufactured or mobile home which is tangible personal  
3 property, or in a tourist court, or in any place where  
4 sleeping accommodations are furnished to transient guests for  
5 rent, whether with or without meals.

6 4. "Person" means the same as the term is defined in  
7 section 423.1.

8 5. "Renting" or "rent" means a transfer of possession or  
9 control of lodging for a fixed or indeterminate term for  
10 consideration and includes any kind of direct or indirect  
11 charge for such lodging or its use.

12 6. "Sales price" means the consideration for renting of  
13 lodging and means the same as the term is defined in section  
14 423.1.

15 7. "User" means a person to whom lodging is rented.

16 All other words and phrases used in this chapter and  
17 defined in section 423.1 have the meaning given them by  
18 section 423.1 for the purposes of this chapter.

19 Sec. 21. NEW SECTION. 423A.3 STATE IMPOSED HOTEL AND  
20 MOTEL TAX.

21 A tax of five percent is imposed upon the sales price for  
22 the rental of any lodging if the rental occurs in this state.  
23 The tax shall be collected by any lessor of lodging from the  
24 user of that lodging. The lessor shall add the tax to the  
25 sales price of the lodging, and the state-imposed tax, when  
26 collected, shall be stated as a distinct item, separate and  
27 apart from the sales price of the lodging and the local tax  
28 imposed, if any, under section 423A.4.

29 Sec. 22. NEW SECTION. 423A.4 LOCALLY IMPOSED HOTEL AND  
30 MOTEL TAX.

31 A city or county may impose by ordinance of the city  
32 council or by resolution of the board of supervisors a hotel  
33 and motel tax, at a rate not to exceed seven percent, which  
34 shall be imposed in increments of one or more full percentage  
35 points upon the sales price from the renting of lodging. The

1 tax when imposed by a city shall apply only within the  
2 corporate boundaries of that city and when imposed by a county  
3 shall apply only outside incorporated areas within that  
4 county.

5 Within ten days of the election at which a majority of  
6 those voting on the question favors the imposition, repeal, or  
7 change in the rate of the hotel and motel tax, the county  
8 auditor shall give written notice by sending a copy of the  
9 abstract of votes from the favorable election to the director  
10 of revenue.

11 A local hotel and motel tax shall be imposed on January 1  
12 or July 1, following the notification of the director of  
13 revenue. Once imposed, the tax shall remain in effect at the  
14 rate imposed for a minimum of one year. A local hotel and  
15 motel tax shall terminate only on June 30 or December 31. At  
16 least forty-five days prior to the tax being effective or  
17 prior to a revision in the tax rate, or prior to the repeal of  
18 the tax, a city or county shall provide notice by mail of such  
19 action to the director of revenue.

20 A city or county shall impose or repeal a hotel and motel  
21 tax or increase or reduce the tax rate only after an election  
22 at which a majority of those voting on the question favors  
23 imposition, repeal, or change in rate. However, a hotel and  
24 motel tax shall not be repealed or reduced in rate if  
25 obligations are outstanding which are payable as provided in  
26 section 423A.7, unless funds sufficient to pay the principal,  
27 interest, and premium, if any, on the outstanding obligations  
28 at and prior to maturity have been properly set aside and  
29 pledged for that purpose. The election shall be held at the  
30 time of the regular city election or the county's general  
31 election or at the time of a special election.

32 Sec. 23. NEW SECTION. 423A.5 EXEMPTIONS.

33 1. There are exempted from the provisions of this chapter  
34 and from the computation of any amount of tax imposed by  
35 section 423A.3 all of the following:

1 a. The sales price from the renting of lodging which is  
2 rented by the same person for a period of more than thirty-one  
3 consecutive days.

4 b. The sales price from the renting of sleeping rooms in  
5 dormitories and in memorial unions at all universities and  
6 colleges located in the state of Iowa.

7 2. There is exempted from the provisions of this chapter  
8 and from the computation of any amount of tax imposed by  
9 section 423A.4 all of the following:

10 a. The sales price from the renting of lodging or rooms  
11 exempt under subsection 1.

12 b. The sales price of lodging furnished to the guests of a  
13 religious institution if the property is exempt under section  
14 427.1, subsection 8, and the purpose of renting is to provide  
15 a place for a religious retreat or function and not a place  
16 for transient guests generally.

17 Sec. 24. NEW SECTION. 423A.6 ADMINISTRATION BY DIRECTOR.

18 The director of revenue shall administer the state and  
19 local hotel and motel tax as nearly as possible in conjunction  
20 with the administration of the state sales tax law, except  
21 that portion of the law which implements the streamlined sales  
22 and use tax agreement. The director shall provide appropriate  
23 forms, or provide on the regular state tax forms, for  
24 reporting state and local hotel and motel tax liability. All  
25 moneys received or refunded one hundred eighty days after the  
26 date on which a city or county terminates its local hotel and  
27 motel tax and all moneys received from the state hotel and  
28 motel tax shall be deposited in or withdrawn from the general  
29 fund of the state.

30 The director, in consultation with local officials, shall  
31 collect and account for a local hotel and motel tax and shall  
32 credit all revenues to the local transient guest tax fund  
33 created in section 423A.7. Local authorities shall not  
34 require any tax permit not required by the director of  
35 revenue.

1 Section 422.25, subsection 4, sections 422.30, 422.67, and  
2 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
3 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
4 sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35,  
5 423.37 to 423.42, and 423.47, consistent with the provisions  
6 of this chapter, apply with respect to the taxes authorized  
7 under this chapter, in the same manner and with the same  
8 effect as if the state and local hotel and motel taxes were  
9 retail sales taxes within the meaning of those statutes.  
10 Notwithstanding this paragraph, the director shall provide for  
11 quarterly filing of returns and for other than quarterly  
12 filing of returns both as prescribed in section 423.31. The  
13 director may require all persons who are engaged in the  
14 business of deriving any sales price subject to tax under this  
15 chapter, to register with the department. All taxes collected  
16 under this chapter by a retailer or any individual are deemed  
17 to be held in trust for the state of Iowa and the local  
18 jurisdictions imposing the taxes.

19 Sec. 25. NEW SECTION. 423A.7 LOCAL TRANSIENT GUEST TAX  
20 FUND.

21 1. A local transient guest tax fund is created in the  
22 department which shall consist of all moneys credited to such  
23 fund under section 423A.6.

24 2. All moneys in the local transient guest tax fund shall  
25 be remitted at least quarterly by the department, pursuant to  
26 rules of the director of revenue, to each city in the amount  
27 collected from businesses in that city and to each county in  
28 the amount collected from businesses in the unincorporated  
29 areas of the county.

30 3. Moneys received by the city from this fund shall be  
31 credited to the general fund of the city, subject to the  
32 provisions of subsection 4.

33 4. The revenue derived from any local hotel and motel tax  
34 authorized by section 423A.4 shall be used as follows:

35 a. Each county or city which levies the tax shall spend at

1 least fifty percent of the revenues derived therefrom for the  
2 acquisition of sites for, or constructing, improving,  
3 enlarging, equipping, repairing, operating, or maintaining of  
4 recreation, convention, cultural, or entertainment facilities  
5 including but not limited to memorial buildings, halls and  
6 monuments, civic center convention buildings, auditoriums,  
7 coliseums, and parking areas or facilities located at those  
8 recreation, convention, cultural, or entertainment facilities  
9 or the payment of principal and interest, when due, on bonds  
10 or other evidence of indebtedness issued by the county or city  
11 for those recreation, convention, cultural, or entertainment  
12 facilities; or for the promotion and encouragement of tourist  
13 and convention business in the city or county and surrounding  
14 areas.

15 b. The remaining revenues may be spent by the city or  
16 county which levies the tax for any city or county operations  
17 authorized by law as a proper purpose for the expenditure  
18 within statutory limitations of city or county revenues  
19 derived from ad valorem taxes.

20 c. Any city or county which levies and collects the local  
21 hotel and motel tax authorized by section 423A.4 may pledge  
22 irrevocably an amount of the revenues derived therefrom for  
23 each of the years the bonds remain outstanding to the payment  
24 of bonds which the city or county may issue for one or more of  
25 the purposes set forth in paragraph "a". Any revenue pledged  
26 to the payment of such bonds may be credited to the spending  
27 requirement of paragraph "a".

28 d. The provisions of chapter 384, division III, relating  
29 to the issuance of corporate purpose bonds, apply to the  
30 issuance by a city of bonds payable as provided in this  
31 section and the provisions of chapter 331, division IV, part  
32 3, relating to the issuance of county purpose bonds, apply to  
33 the issuance by a county of bonds payable as provided in this  
34 section. The provisions of chapter 76 apply to the bonds  
35 payable as provided in this section except that the mandatory

1 levy to be assessed pursuant to section 76.2 shall be at a  
2 rate to generate an amount which together with the receipts  
3 from the pledged portion of the local hotel and motel tax is  
4 sufficient to pay the interest and principal on the bonds.  
5 All amounts collected as a result of the levy assessed  
6 pursuant to section 76.2 and paid out in the first instance  
7 for bond principal and interest shall be repaid to the city or  
8 county which levied the tax from the first available local  
9 hotel and motel tax collections received in excess of the  
10 requirement for the payment of the principal and interest of  
11 the bonds and when repaid shall be applied in reduction of  
12 property taxes.

13 The amount of bonds which may be issued under section 76.3  
14 shall be the amount which could be retired from the actual  
15 collections of the local hotel and motel tax for the last four  
16 calendar quarters, as certified by the director of revenue.  
17 The amount of tax revenues pledged jointly by other cities or  
18 counties may be considered for the purpose of determining the  
19 amount of bonds which may be issued. If the local hotel and  
20 motel tax has been in effect for less than four calendar  
21 quarters, the tax collected within the shorter period may be  
22 adjusted to project the collections for the full year for the  
23 purpose of determining the amount of the bonds which may be  
24 issued.

25 e. A city or county, jointly with one or more other cities  
26 or counties as provided in chapter 28E, may pledge irrevocably  
27 any amount derived from the revenues of the local hotel and  
28 motel tax to the support or payment of bonds issued for a  
29 project within the purposes set forth in paragraph "a" and  
30 located within one or more of the participatory cities or  
31 counties or may apply the proceeds of its bonds to the support  
32 of any such project. Revenue so pledged or applied shall be  
33 credited to the spending requirement of paragraph "a".

34 f. A city or county acting on behalf of an unincorporated  
35 area may, in lieu of calling an election, institute

1 proceedings for the issuance of bonds under this section by  
2 causing a notice of the proposal to issue the bonds, including  
3 a statement of the amount and purpose of the bonds, together  
4 with the maximum rate of interest which the bonds are to bear,  
5 and the right to petition for an election, to be published at  
6 least once in a newspaper of general circulation within the  
7 city or unincorporated area at least ten days prior to the  
8 meeting at which it is proposed to take action for the  
9 issuance of the bonds.

10 If at any time before the date fixed for taking action for  
11 the issuance of the bonds a petition signed by eligible  
12 electors residing in the city or the unincorporated area equal  
13 in number to at least three percent of the registered voters  
14 of the city or unincorporated area is filed, asking that the  
15 question of issuing the bonds be submitted to the registered  
16 voters of the city or unincorporated area, the council or  
17 board of supervisors acting on behalf of an unincorporated  
18 area shall either by resolution declare the proposal to issue  
19 the bonds to have been abandoned or shall direct the county  
20 commissioner of elections to call a special election upon the  
21 question of issuing the bonds.

22 The proposition of issuing bonds under this section is not  
23 approved unless the vote in favor of the proposition is equal  
24 to a majority of the vote cast.

25 If no petition is filed, or if a petition is filed and the  
26 proposition of issuing the bonds is approved at an election,  
27 the council or board of supervisors acting on behalf of an  
28 unincorporated area may proceed with the authorization and  
29 issuance of the bonds.

30 Bonds may be issued for the purpose of refunding  
31 outstanding and previously issued bonds under this section  
32 without otherwise complying with this paragraph.

33 Sec. 26. Section 423B.5, unnumbered paragraph 1, Code  
34 2005, is amended to read as follows:

35 A local sales and services tax at the rate of not more than

1 one percent may be imposed by a county on the sales price  
2 taxed by the state under chapter 423, subchapter II. A local  
3 sales and services tax shall be imposed on the same basis as  
4 the state sales and services tax or in the case of the use of  
5 natural gas, natural gas service, electricity, or electric  
6 service on the same basis as the state use tax and shall not  
7 be imposed on the sale of any property or on any service not  
8 taxed by the state, except the tax shall not be imposed on the  
9 sales price from the sale of motor fuel or special fuel as  
10 defined in chapter 452A which is consumed for highway use or  
11 in watercraft or aircraft if the fuel tax is paid on the  
12 transaction and a refund has not or will not be allowed, on  
13 ~~the sales price from the rental of rooms, apartments, or~~  
14 ~~sleeping quarters which are taxed under chapter 423A during~~  
15 ~~the period the hotel and motel tax is imposed,~~ on the sales  
16 price from the sale of equipment by the state department of  
17 transportation, on the sales price from the sale of self-  
18 propelled building equipment, pile drivers, motorized  
19 scaffolding, or attachments customarily drawn or attached to  
20 self-propelled building equipment, pile drivers, and motorized  
21 scaffolding, including auxiliary attachments which improve the  
22 performance, safety, operation, or efficiency of the equipment  
23 and replacement parts and are directly and primarily used by  
24 contractors, subcontractors, and builders for new  
25 construction, reconstruction, alterations, expansion, or  
26 remodeling of real property or structures, and on the sales  
27 price from the sale of a lottery ticket or share in a lottery  
28 game conducted pursuant to chapter 99G and except the tax  
29 shall not be imposed on the sales price from the sale or use  
30 of natural gas, natural gas service, electricity, or electric  
31 service in a city or county where the sales price from the  
32 sale of natural gas or electric energy are subject to a  
33 franchise fee or user fee during the period the franchise or  
34 user fee is imposed. A local sales and services tax is  
35 applicable to transactions within those incorporated and

1 unincorporated areas of the county where it is imposed and  
2 shall be collected by all persons required to collect state  
3 sales taxes. However, a person required to collect state  
4 retail sales tax under chapter 423, subchapter V or VI, is not  
5 required to collect local sales and services tax on  
6 transactions delivered within the area where the local sales  
7 and services tax is imposed unless the person has physical  
8 presence in that taxing area. All cities contiguous to each  
9 other shall be treated as part of one incorporated area and  
10 the tax would be imposed in each of those contiguous cities  
11 only if the majority of those voting in the total area covered  
12 by the contiguous cities favors its imposition.

13 Sec. 27. Section 423E.3, subsection 2, Code 2005, is  
14 amended to read as follows:

15 2. The tax shall be imposed on the same basis as the state  
16 sales and services tax or in the case of the use of natural  
17 gas, natural gas service, electricity, or electric service on  
18 the same basis as the state use tax and shall not be imposed  
19 on the sale of any property or on any service not taxed by the  
20 state, except the tax shall not be imposed on the sales price  
21 from the sale of motor fuel or special fuel as defined in  
22 chapter 452A which is consumed for highway use or in  
23 watercraft or aircraft if the fuel tax is paid on the  
24 transaction and a refund has not or will not be allowed, ~~on~~  
25 ~~the-sales-price-from-the-rental-of-rooms, apartments, or~~  
26 ~~sleeping-quarters-which-are-taxed-under-chapter-423A-during~~  
27 ~~the-period-the-hotel-and-motel-tax-is-imposed,~~ on the sales  
28 price from the sale of equipment by the state department of  
29 transportation, on the sales price from the sale of self-  
30 propelled building equipment, pile drivers, motorized  
31 scaffolding, or attachments customarily drawn or attached to  
32 self-propelled building equipment, pile drivers, and motorized  
33 scaffolding, including auxiliary attachments which improve the  
34 performance, safety, operation, or efficiency of the  
35 equipment, and replacement parts and are directly and

1 primarily used by contractors, subcontractors, and builders  
2 for new construction, reconstruction, alterations, expansion,  
3 or remodeling of real property or structures, and on the sales  
4 price from the sale of a lottery ticket or share in a lottery  
5 game conducted pursuant to chapter 99G and except the tax  
6 shall not be imposed on the sales price from the sale or use  
7 of natural gas, natural gas service, electricity, or electric  
8 service in a city or county where the sales price from the  
9 sale of natural gas or electric energy are subject to a  
10 franchise fee or user fee during the period the franchise or  
11 user fee is imposed.

12 Sec. 28. Chapter 423A, Code 2005, is repealed.

13 DIVISION III

14 SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

15 Sec. 29. Section 423.3, Code 2005, is amended by adding  
16 the following new subsection:

17 NEW SUBSECTION. 85. The sales price from the sale of the  
18 following items: self-propelled building equipment, pile  
19 drivers, motorized scaffolding, or attachments customarily  
20 drawn or attached to self-propelled building equipment, pile  
21 drivers, and motorized scaffolding, including auxiliary  
22 attachments which improve the performance, safety, operation,  
23 or efficiency of the equipment, and replacement parts and are  
24 directly and primarily used by contractors, subcontractors,  
25 and builders for new construction, reconstruction,  
26 alterations, expansion, or remodeling of real property or  
27 structures.

28 Sec. 30. Section 423B.5, unnumbered paragraph 1, Code  
29 2005, 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 sales price  
32 taxed by the state under chapter 423, subchapter II. A local  
33 sales and services tax shall be imposed on the same basis as  
34 the state sales and services tax or in the case of the use of  
35 natural gas, natural gas service, electricity, or electric

1 service on the same basis as the state use tax and shall not  
2 be imposed on the sale of any property or on any service not  
3 taxed by the state, except the tax shall not be imposed on the  
4 sales price from the sale of motor fuel or special fuel as  
5 defined in chapter 452A which is consumed for highway use or  
6 in watercraft or aircraft if the fuel tax is paid on the  
7 transaction and a refund has not or will not be allowed, on  
8 the sales price from the rental of rooms, apartments, or  
9 sleeping quarters which are taxed under chapter 423A during  
10 the period the hotel and motel tax is imposed, on the sales  
11 price from the sale of equipment by the state department of  
12 transportation, ~~on-the-sales-price-from-the-sale-of-self-~~  
13 ~~propelled-building-equipment, pile-drivers, motorized~~  
14 ~~scaffolding, or attachments customarily drawn or attached to~~  
15 ~~self-propelled-building-equipment, pile-drivers, and motorized~~  
16 ~~scaffolding, including auxiliary attachments which improve the~~  
17 ~~performance, safety, operation, or efficiency of the equipment~~  
18 ~~and replacement parts and are directly and primarily used by~~  
19 ~~contractors, subcontractors, and builders for new~~  
20 ~~construction, reconstruction, alterations, expansion, or~~  
21 ~~remodeling of real property or structures,~~ and on the sales  
22 price from the sale of a lottery ticket or share in a lottery  
23 game conducted pursuant to chapter 99G and except the tax  
24 shall not be imposed on the sales price from the sale or use  
25 of natural gas, natural gas service, electricity, or electric  
26 service in a city or county where the sales price from the  
27 sale of natural gas or electric energy are subject to a  
28 franchise fee or user fee during the period the franchise or  
29 user fee is imposed. A local sales and services tax is  
30 applicable to transactions within those incorporated and  
31 unincorporated areas of the county where it is imposed and  
32 shall be collected by all persons required to collect state  
33 sales taxes. However, a person required to collect state  
34 retail sales tax under chapter 423, subchapter V or VI, is not  
35 required to collect local sales and services tax on

1 transactions delivered within the area where the local sales  
2 and services tax is imposed unless the person has physical  
3 presence in that taxing area. All cities contiguous to each  
4 other shall be treated as part of one incorporated area and  
5 the tax would be imposed in each of those contiguous cities  
6 only if the majority of those voting in the total area covered  
7 by the contiguous cities favors its imposition.

8 Sec. 31. Section 423E.3, subsection 2, Code 2005, is  
9 amended to read as follows:

10 2. The tax shall be imposed on the same basis as the state  
11 sales and services tax or in the case of the use of natural  
12 gas, natural gas service, electricity, or electric service on  
13 the same basis as the state use tax and shall not be imposed  
14 on the sale of any property or on any service not taxed by the  
15 state, except the tax shall not be imposed on the sales price  
16 from the sale of motor fuel or special fuel as defined in  
17 chapter 452A which is consumed for highway use or in  
18 watercraft or aircraft if the fuel tax is paid on the  
19 transaction and a refund has not or will not be allowed, on  
20 the sales price from the rental of rooms, apartments, or  
21 sleeping quarters which are taxed under chapter 423A during  
22 the period the hotel and motel tax is imposed, on the sales  
23 price from the sale of equipment by the state department of  
24 transportation, ~~on-the-sales-price-from-the-sale-of-self-~~  
25 ~~propelled-building-equipment, pile-drivers, motorized~~  
26 ~~scaffolding, or attachments customarily drawn or attached to~~  
27 ~~self-propelled-building-equipment, pile-drivers, and motorized~~  
28 ~~scaffolding, including auxiliary attachments which improve the~~  
29 ~~performance, safety, operation, or efficiency of the~~  
30 ~~equipment, and replacement parts and are directly and~~  
31 ~~primarily used by contractors, subcontractors, and builders~~  
32 ~~for new construction, reconstruction, alterations, expansion,~~  
33 ~~or remodeling of real property or structures,~~ and on the sales  
34 price from the sale of a lottery ticket or share in a lottery  
35 game conducted pursuant to chapter 99G and except the tax

1 shall not be imposed on the sales price from the sale or use  
2 of natural gas, natural gas service, electricity, or electric  
3 service in a city or county where the sales price from the  
4 sale of natural gas or electric energy are subject to a  
5 franchise fee or user fee during the period the franchise or  
6 user fee is imposed.

7 Sec. 32. NEW SECTION. 423D.1 DEFINITIONS.

8 For the purposes of this chapter, unless the context  
9 otherwise requires:

10 1. "Construction" means new construction, reconstruction,  
11 alterations, expansion, or remodeling of real property or  
12 structures.

13 2. "Contractor" includes contractors, subcontractors, and  
14 builders, but not owners.

15 3. "Department" means the department of revenue.

16 4. "Equipment" means self-propelled building equipment,  
17 pile drivers, and motorized scaffolding, including auxiliary  
18 attachments which improve the performance, safety, operation,  
19 or efficiency of the equipment, and replacement parts and are  
20 directly and primarily used by contractors, subcontractors,  
21 and builders for new construction, reconstruction,  
22 alterations, expansion, or remodeling of real property or  
23 structures.

24 5. "Sales price" or "purchase price" means the same as the  
25 term is defined in section 423.1.

26 All other words and phrases used in this chapter and  
27 defined in section 423.1 have the meaning given them by  
28 section 423.1 for the purposes of this chapter.

29 Sec. 33. NEW SECTION. 423D.2 TAX IMPOSED.

30 A tax of five percent is imposed on the sales price or  
31 purchase price of all equipment sold or used in the state of  
32 Iowa. This tax shall be collected and paid over to the  
33 department by any retailer, retailer maintaining a place of  
34 business in this state, or user who would be responsible for  
35 collection and payment of the tax if it were a sales or use

1 tax imposed under chapter 423.

2 Sec. 34. NEW SECTION. 423D.3 EXEMPTION.

3 The sales price on the lease or rental of equipment to  
4 contractors for direct and primary use in construction is  
5 exempt from the tax imposed by this chapter.

6 Sec. 35. NEW SECTION. 423D.4 ADMINISTRATION BY DIRECTOR.

7 The director of revenue shall administer the excise tax on  
8 the sale and use of equipment as nearly as possible in  
9 conjunction with the administration of the state sales and use  
10 tax law, except that portion of the law which implements the  
11 streamlined sales and use tax agreement. The director shall  
12 provide appropriate forms, or provide on the regular state tax  
13 forms, for reporting the sale and use of equipment excise tax  
14 liability. All moneys received and all refunds shall be  
15 deposited in or withdrawn from the general fund of the state.

16 The director may require all persons who are engaged in the  
17 business of deriving any sales price or purchase price subject  
18 to tax under this chapter to register with the department.  
19 The director may also require a tax permit applicable only to  
20 this chapter for any retailer not collecting, or any user not  
21 paying, taxes under chapter 423.

22 Section 422.25, subsection 4, sections 422.30, 422.67, and  
23 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
24 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
25 sections 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to  
26 423.42, and 423.47, consistent with the provisions of this  
27 chapter, apply with respect to the tax authorized under this  
28 chapter, in the same manner and with the same effect as if the  
29 excise taxes on equipment sales or use were retail sales taxes  
30 within the meaning of those statutes. Notwithstanding this  
31 paragraph, the director shall provide for quarterly filing of  
32 returns and for other than quarterly filing of returns both as  
33 prescribed in section 423.31. All taxes collected under this  
34 chapter by a retailer or any user are deemed to be held in  
35 trust for the state of Iowa.

## 1 EXPLANATION

2 This bill makes changes to the streamlined sales and use  
3 tax law, provides a separate excise tax on hotel and motel  
4 room rentals, and imposes a separate excise tax on certain  
5 construction equipment.

6 Division I -- STREAMLINED SALES AND USE TAX LAW CHANGES --  
7 Code sections 34A.7(2) and 34A.7A(1) are amended to move the  
8 exemption for E911 surcharges and wireless E911 surcharges to  
9 the sales tax exemption section. Code section 423.3 is  
10 amended by adding new subsection 69A to specify those  
11 exemptions.

12 Code section 423.1(47) is amended to specify when certain  
13 service charges related to a sale may be excluded from the  
14 definition of sales price.

15 Code section 423.2(6) is amended to add certain  
16 transportation services to the list of taxable services.  
17 Currently, these services are taxed but are listed as  
18 exceptions to the exemption. The exemption in Code section  
19 423.3(70) is amended to eliminate reference to these  
20 transportation services and to limit the exemption to delivery  
21 charges.

22 Code section 423.3(2) is amended to create an exemption for  
23 the purchase of tangible personal property used for leasing or  
24 rental to food manufacturers. The purchase of the tangible  
25 personal property would otherwise be subject to the tax. This  
26 amendment is retroactively applicable to July 1, 2004.

27 Code section 423.3(37) amends the exemption for services on  
28 or connected with new construction, reconstruction,  
29 alteration, expansion, remodeling, or the services of a  
30 building contractor, architect, or engineer to expand the  
31 exemption to include lease or rental of all machinery,  
32 equipment, and replacement parts that are directly and  
33 primarily used in construction of buildings and structures.  
34 The purchase of the machinery, equipment, and replacement  
35 parts would be subject to the tax. This amendment is

1 retroactively applicable to July 1, 2004.

2 Code section 423.3(49) is amended to include leasing or  
3 rental of tangible personal property as part of the food  
4 manufacturer exemption. The purchase of the tangible personal  
5 property would be subject to the tax. This amendment is  
6 retroactively applicable to July 1, 2004.

7 Code section 423.3(60) is amended by exempting "durable  
8 medical equipment", "mobility enhancing equipment", and  
9 "prosthetic devices" separately from "medical devices", and  
10 defining those terms as they are defined in the streamlined  
11 sales tax agreement. The term "medical devices" thus becomes  
12 a catchall phrase for medical exemptions not defined by the  
13 streamlined sales tax agreement.

14 Code section 423.15(1) is amended by removing certain  
15 superfluous language relating to leases and rentals from the  
16 general sourcing rules on sales.

17 Code section 423.43(3) is amended by correcting a reference  
18 to the revenue that is to be deposited into the state general  
19 fund. The amendment makes the reference to the use tax  
20 imposed under subchapter III rather than the revenue arising  
21 under the entire chapter.

22 Code sections 423B.5 and 423E.3(2) and (3) are amended by  
23 deleting the requirement in the local option sales tax of  
24 cities, counties, and school districts that there must be a  
25 physical presence in the taxing jurisdiction, and by deleting  
26 the exemption for the sale of lottery tickets. These  
27 amendments are retroactively applicable to July 1, 2004.

28 Division II -- EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS  
29 -- This division removes the taxation of hotel and motel room  
30 rentals from the state sales tax and includes it with the  
31 local hotel and motel tax in new Code chapter 423A. The state  
32 and local hotel and motel tax is imposed on the same basis and  
33 with the same exemptions as existing under current law.

34 Code section 423.3(1) is amended to remove the rental of  
35 rooms from the state sales tax.

1 Code chapter 423A is repealed and new sections are added to  
2 impose an excise tax on lodging in its place.

3 Code sections 423B.5 and 423E.3 are amended to eliminate  
4 the exemption of lodging rentals from the regular local option  
5 tax or school local option tax because the lodging rentals are  
6 no longer subject to sales tax.

7 Division III -- SPECIFIC CONSTRUCTION MACHINERY AND  
8 EQUIPMENT -- Code section 423.3 is amended by adding a new  
9 exemption for specifically listed construction equipment that  
10 includes self-propelled building equipment, pile drivers,  
11 motorized scaffolding, and attachments to these that are used  
12 to improve performance and safety of equipment in various  
13 construction activities. Code chapter 423D is enacted by  
14 imposing an excise tax on the sale of the equipment exempt  
15 from the sales tax. In connection with this change, Code  
16 sections 423B.5 and 423E.3, relating to the specific  
17 exemptions in favor of sales of that equipment set out in the  
18 regular local option and school infrastructure sales taxes,  
19 are stricken because the specific construction equipment is no  
20 longer subject to the state sales tax.

21 The bill includes effective and retroactive applicability  
22 date provisions.

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