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SENATE FILE 413
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1310)

Passed Senate, Date 4-26-05 Passed House, Date 4-29-05
Vote: Ayes 50 Nays 0 Vote: Ayes 85 Nays 13
Re-passed Approved June 3, 2005 *Re-passed*
5-5-05 49-1 5-9-05 87-9

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 c- 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 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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SENATE FILE 413

H-1576

1 Amend the amendment, H-1575, to Senate File 413, as
2 passed by the Senate, as follows:

3 1. Page 1, by inserting after line 30 the
4 following:

5 "Sec. ____ . Section 421.60, subsection 2, paragraph
6 m, subparagraph (1), Code 2005, is amended by striking
7 the subparagraph and inserting in lieu thereof the
8 following:

9 (1) The department shall not maintain a position
10 against a retailer, in the event that the retailer
11 failed to collect the state sales or use tax or local
12 sales and services tax from a purchaser as a result of
13 erroneous written advice issued by an employee of the
14 department specially directed to the retailer by the
15 department that is inconsistent with the erroneous
16 written advice, except on the basis of subsequent
17 written advice sent by the department to that
18 retailer, or a change in state or federal law, a
19 reported court case to the contrary, a contrary rule
20 adopted by the department, a change in material facts
21 or circumstances relating to the retailer, or the
22 retailer's misrepresentation or incomplete or
23 inadequate representation of material facts and
24 circumstances in requesting the written advice. Any
25 tax, interest, or penalty that is assessed by the
26 department which is contrary to the erroneous written
27 advice issued by the department shall be abated upon
28 the retailer presenting a copy of the retailer's
29 request for written advice to the department and a
30 copy of the department's reply. For purposes of this
31 subparagraph, "written advice" includes a notice of
32 assessment issued by the department to the retailer
33 and all related documents, including the department's
34 report setting forth the basis for the assessment."

By J. K. VAN FOSSEN of Scott

H-1576 FILED APRIL 28, 2005

SENATE FILE 413

H-1590

1 Amend the amendment, H-1575, to Senate File 413, as
2 passed by the Senate, as follows:

3 1. Page 10, line 10, by striking the word "ten"
4 and inserting the following: "twenty".

By HOGG of Linn

H-1590 FILED APRIL 28, 2005

SENATE FILE 413

H-1613

- 1 Amend the amendment, H-1575, to Senate File 413, as
- 2 passed by the Senate, as follows:
- 3 1. Page 10, by striking lines 6 through 27.

By SHOULTZ of Black Hawk

H-1613 FILED APRIL 29, 2005

LOST

HOUSE AMENDMENT TO
SENATE FILE 413

S-3218

1 Amend Senate File 413, as passed by the Senate, as
2 follows:

3 1. Page 26, by inserting after line 5 the
4 following:

5 "DIVISION

6 TAX POLICY AND ADMINISTRATION

7 Sec. _____. Section 421.17, subsection 12, Code
8 2005, is amended to read as follows:

9 12. To make ~~a summary~~ an annual report of the tax
10 situation in the state, setting out the amount of
11 moneys raised by both direct and indirect taxation;
12 and also to formulate and recommend legislation for
13 the better administration of the fiscal laws so as to
14 secure just and equal taxation. To recommend such
15 additions to and changes in the present system of
16 taxation that in the director's judgment are for the
17 best interest of the state and will eliminate the
18 necessity of any levy for state purposes. In
19 compiling the annual report, state agencies shall
20 assist the department and the department shall provide
21 the revenues from, but not limited to, all of the
22 following sources:

23 a. Income tax.
24 b. Sales tax.
25 c. Property tax, by category.
26 d. School income tax.
27 e. Local option sales taxes.
28 f. Transfers-in from federal government agencies.
29 g. Fees and other dollars paid to state government
30 agencies.

31 Sec. _____. Section 421.60, subsection 2, paragraph
32 m, subparagraph (1), Code 2005, is amended by striking
33 the subparagraph and inserting in lieu thereof the
34 following:

35 (1) The department shall not maintain a position
36 against a retailer, in the event that the retailer
37 failed to collect the state sales or use tax or local
38 sales and services tax from a purchaser as a result of
39 erroneous written advice issued by an employee of the
40 department specially directed to the retailer by the
41 department that is inconsistent with the erroneous
42 written advice, except on the basis of subsequent
43 written advice sent by the department to that
44 retailer, or a change in state or federal law, a
45 reported court case to the contrary, a contrary rule
46 adopted by the department, a change in material facts
47 or circumstances relating to the retailer, or the
48 retailer's misrepresentation or incomplete or
49 inadequate representation of material facts and
50 circumstances in requesting the written advice. Any

S-3218

1 tax, interest, or penalty that is assessed by the
2 department which is contrary to the erroneous written
3 advice issued by the department shall be abated upon
4 the retailer presenting a copy of the retailer's
5 request for written advice to the department and a
6 copy of the department's reply. For purposes of this
7 subparagraph, "written advice" includes a notice of
8 assessment issued by the department to the retailer
9 and all related documents, including the department's
10 report setting forth the basis for the assessment.

11 Sec. _____. Section 422.9, subsection 1, Code 2005,
12 is amended to read as follows:

13 1. An optional standard deduction, after deduction
14 of federal income tax, equal to one thousand two
15 hundred thirty dollars for a married person who files
16 separately or a single person or equal to three
17 thousand thirty dollars for a husband and wife who
18 file a joint return, a surviving spouse, or an
19 unmarried head of household. The optional standard
20 deduction shall not exceed the amount remaining after
21 deduction of the federal income tax. The amount of
22 federal income tax deducted shall be computed as
23 provided in subsection 2, paragraph "b".

24 Sec. _____. Section 422.9, subsection 2, paragraph
25 b, Code 2005, is amended to read as follows:

26 b. Add the amount of federal income taxes paid or
27 accrued, as the case may be, during the tax year,
28 ~~adjusted by and subtract~~ any federal income tax
29 refunds received during the tax year. ~~Provided,~~
30 ~~however, that where~~ Where married persons, who have
31 filed a joint federal income tax return, file
32 separately, such total shall be divided between them
33 according to the portion ~~thereof~~ of the total paid or
34 accrued, as the case may be, by each. Federal income
35 taxes paid for a tax year in which an Iowa return was
36 not required to be filed shall not be added and
37 federal income tax refunds received from a tax year in
38 which an Iowa return was not required to be filed
39 shall not be subtracted.

40 Sec. _____. Section 422.9, subsection 2, paragraphs
41 g and h, Code 2005, are amended by striking the
42 paragraphs.

43 Sec. _____. Section 422.16, subsection 2, unnumbered
44 paragraph 1, Code 2005, is amended to read as follows:

45 A withholding agent required to deduct and withhold
46 tax under subsections 1 and 12, ~~except those required~~
47 ~~to deposit on a semimonthly basis, shall deposit for~~
48 ~~each calendar quarterly period, shall file a return~~
49 and remit to the department the amount of tax on or
50 before the last day of the month following the close

1 of the quarterly period, ~~on a quarterly deposit form~~
2 ~~as on forms~~ prescribed by the director and shall pay
3 to the department, in the form of remittances made
4 payable to "Treasurer, State of Iowa", the tax
5 required to be withheld, or the tax actually withheld,
6 whichever is greater, under subsections 1 and 12.
7 However, a withholding agent who withholds more than
8 fifty five hundred dollars in any one month, ~~except~~
9 ~~those required to deposit on a semimonthly basis, and~~
10 not more than five thousand dollars in a semimonthly
11 period shall deposit with the department the amount
12 withheld, with a monthly deposit form as prescribed by
13 the director. The monthly deposit form is due on or
14 before the fifteenth day of the month following the
15 month of withholding, except that a deposit is not
16 required for the amount withheld in the third month of
17 the calendar quarter but the total amount of
18 withholding for the quarter shall be computed and the
19 amount by which the deposits for that quarter fail to
20 equal the total quarterly liability is due with the
21 filing of the quarterly deposit form. The quarterly
22 deposit form is due within the month following the end
23 of the quarter. A The total quarterly amount, less
24 the amounts deposited for the first two months of the
25 quarter, is due with the quarterly return due on or
26 before the last day of the month following the close
27 of the quarterly period on forms prescribed by the
28 director. However, a withholding agent who withholds
29 more than eight five thousand dollars in a semimonthly
30 period shall deposit with the department the amount
31 withheld, with a semimonthly deposit form as
32 prescribed by the director. The first semimonthly
33 deposit form for the period from the first of the
34 month through the fifteenth of the month is due on the
35 twenty-fifth day of the month in which the withholding
36 occurs. The second semimonthly deposit form for the
37 period from the sixteenth of the month through the end
38 of the month is due on the tenth day of the month
39 following the month in which the withholding occurs.
40 A withholding agent must also file a quarterly return
41 which reconciles the amount of tax withheld for the
42 quarter with the amount of semimonthly deposits. The
43 quarterly return is due on or before the last day of
44 the month following the close of the quarterly period
45 on forms prescribed by the director.

46 Sec. ____ . Section 422.35, subsection 15, Code
47 2005, is amended by striking the subsection.

48 Sec. ____ . Section 423.1, subsection 50, Code 2005,
49 is amended to read as follows:

50 50. "Services" means all acts or services

1 rendered, furnished, or performed, other than services
2 used in processing of tangible personal property for
3 use in retail sales or services, for an employer, ~~as~~
4 ~~defined in section 422.4, subsection 3, who pays the~~
5 wages of an employee for a valuable consideration by
6 any person engaged in any business or occupation
7 specifically enumerated in section 423.2. The tax
8 shall be due and collectible when the service is
9 rendered, furnished, or performed for the ultimate
10 user of the service.

11 Sec. _____. Section 423.2, Code 2005, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 9A. Any person or that person's
14 affiliate, which is a retailer in this state or a
15 retailer maintaining a business in this state under
16 this chapter, that enters into a contract with an
17 agency of this state must register, collect, and remit
18 Iowa sales tax under this chapter on all sales of
19 tangible personal property and enumerated services.
20 Every bid submitted and each contract executed by a
21 state agency shall contain a certification by the
22 bidder or contractor stating that the bidder or
23 contractor is registered with the department and will
24 collect and remit Iowa sales tax due under this
25 chapter. In the certification, the bidder or
26 contractor shall also acknowledge that the state
27 agency may declare the contract or bid void if the
28 certification is false. Fraudulent certification, by
29 act or omission, may result in the state agency or its
30 representative filing for damages for breach of
31 contract.

32 For the purposes of this subsection, the following
33 definitions apply:

34 a. "Affiliate" means any entity to which any of
35 the following applies:

36 (1) Directly, indirectly, or constructively
37 controls another entity.

38 (2) Is directly, indirectly, or constructively
39 controlled by another entity.

40 (3) Is subject to the control of a common entity.
41 A common entity is one which owns directly or
42 individually more than ten percent of the voting
43 securities of the entity.

44 b. "State agency" means an authority, board,
45 commission, department, instrumentality, or other
46 administrative office or unit of this state, or any
47 other state entity reported in the Iowa comprehensive
48 annual financial report, including public institutions
49 of higher education.

50 c. "Voting security" means a security to which any

1 of the following applies:

2 (1) Confers upon the holder the right to vote for
3 the election of members of the board of directors or
4 similar governing body of the entity.

5 (2) Is convertible into, or entitles the holder to
6 receive upon its exercise, a security that confers
7 such a right to vote.

8 (3) Is a general partnership interest.

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

11 5. a. The sales price of agricultural limestone,
12 herbicide, pesticide, insecticide, including
13 adjuvants, surfactants, and other products directly
14 related to the application enhancement of those
15 products, food, medication, or agricultural drain
16 tile, including installation of agricultural drain
17 tile, any of which are to be used in disease control,
18 weed control, insect control, or health promotion of
19 plants or livestock produced as part of agricultural
20 production for market.

21 b. The following enumerated materials associated
22 with the installation of agricultural drain tile which
23 is exempt pursuant to paragraph "a" shall also be
24 exempt under paragraph "a":

25 (1) Tile intakes.

26 (2) Outlet pipes and guards.

27 (3) Aluminum and gabion structures.

28 (4) Erosion control fabric.

29 (5) Water control structures.

30 (6) Miscellaneous tile fittings.

31 Sec. _____. Section 423.3, subsection 39, Code 2005,
32 is amended by adding the following new unnumbered
33 paragraph:

34 NEW UNNUMBERED PARAGRAPH. The exemption under this
35 subsection does not apply to vehicles subject to
36 registration, aircraft, or commercial or pleasure
37 watercraft or water vessels.

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

40 NEW SUBSECTION. 85. The sales price from services
41 performed on a vessel if all of the following apply:

42 a. The vessel is a licensed vessel under the laws
43 of the United States coast guard.

44 b. The vessel is not moored or tied to a physical
45 location in this state.

46 c. The service is used to repair or restore a
47 defect in the vessel.

48 d. The vessel is engaged in interstate commerce
49 and will continue in interstate commerce once the
50 repairs or restoration is completed.

1 e. The vessel is in navigable water that borders
2 the eastern boundary of this state.

3 Sec. _____. Section 423.5, Code 2005, is amended by
4 adding the following new subsection:

5 NEW SUBSECTION. 8. Any person or that person's
6 affiliate, which is a retailer in this state or a
7 retailer maintaining a business in this state under
8 this chapter, that enters into a contract with an
9 agency of this state must register, collect, and remit
10 Iowa use tax under this chapter on all sales of
11 tangible personal property and enumerated services.
12 Every bid submitted and each contract executed by a
13 state agency shall contain a certification by the
14 bidder or contractor stating that the bidder or
15 contractor is registered with the department and will
16 collect and remit Iowa use tax due under this chapter.
17 In the certification, the bidder or contractor shall
18 also acknowledge that the state agency may declare the
19 contract or bid void if the certification is false.
20 Fraudulent certification, by act or omission, may
21 result in the state agency or its representative
22 filing for damages for breach of contract.

23 For the purposes of this subsection, "affiliate",
24 "state agency", and "voting security" mean the same as
25 defined in section 423.2, subsection 9A.

26 Sec. _____. Section 423A.1, unnumbered paragraph 3,
27 Code 2005, is amended to read as follows:

28 A local hotel and motel tax shall be imposed on
29 January 1, ~~April 1~~, or July 1, ~~or October 1~~, following
30 the notification of the director of revenue. Once
31 imposed, the tax shall remain in effect at the rate
32 imposed for a minimum of one year. A local hotel and
33 motel tax shall terminate only on ~~March 31~~, June 30,
34 ~~September 30~~, or December 31. At least sixty days
35 prior to the tax being effective or prior to a
36 revision in the tax rate, or prior to the repeal of
37 the tax, a city or county shall provide notice by mail
38 of such action to the director of revenue.

39 Sec. _____. Section 423E.4, subsection 3, paragraph
40 a, Code 2005, is amended to read as follows:

41 a. The director of revenue by ~~June 1~~ preceding
42 August 15 of each fiscal year shall compute the
43 guaranteed school infrastructure amount for each
44 school district, each school district's sales tax
45 capacity per student for each county, and the
46 supplemental school infrastructure amount for the
47 coming fiscal year.

48 Sec. _____. Section 424.7, Code 2005, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 5. The director may require by

1 rule that reports and returns be filed by electronic
2 transmission.

3 Sec. _____. Section 424.10, subsection 3, Code 2005,
4 is amended to read as follows:

5 3. If the amount paid is greater than the correct
6 charge, penalty, and interest due, the department
7 shall refund the excess, with interest ~~after sixty~~
8 ~~days from the date of payment at the rate in effect~~
9 ~~under section 421.7~~, pursuant to rules prescribed by
10 the director. However, the director shall not allow a
11 claim for refund that has not been filed with the
12 department within three years after the charge payment
13 upon which a refund is claimed became due, or one year
14 after the charge payment was made, whichever time is
15 later. A determination by the department of the
16 amount of charge, penalty, and interest due, or the
17 amount of refund for any excess amount paid, is final
18 unless the person aggrieved by the determination
19 appeals to the director for a revision of the
20 determination within sixty days from the date of the
21 notice of determination of charge, penalty, and
22 interest due or refund owing. The director shall
23 grant a hearing, and upon hearing the director shall
24 determine the correct charge, penalty, and interest
25 due or refund owing, and notify the appellant of the
26 decision by mail. The decision of the director is
27 final unless the appellant seeks judicial review of
28 the director's decision under section 424.13.

29 Sec. _____. Section 425.1, subsection 4, Code 2005,
30 is amended to read as follows:

31 4. Annually the department of revenue shall
32 ~~estimate the credit not to exceed the actual levy on~~
33 ~~the first four thousand eight hundred fifty dollars of~~
34 ~~actual value of each eligible homestead, and shall~~
35 certify to the county auditor of each county the
36 credit and its amount in dollars. Each county auditor
37 shall then enter the credit against the tax levied on
38 each eligible homestead in each county payable during
39 the ensuing year, designating on the tax lists the
40 credit as being from the homestead credit fund, and
41 credit shall then be given to the several taxing
42 districts in which eligible homesteads are located in
43 an amount equal to the credits allowed on the taxes of
44 the homesteads. The amount of credits shall be
45 apportioned by each county treasurer to the several
46 taxing districts as provided by law, in the same
47 manner as though the amount of the credit had been
48 paid by the owners of the homesteads. However, the
49 several taxing districts shall not draw the funds so
50 credited until after the semiannual allocations have

1 been received by the county treasurer, as provided in
2 this chapter. Each county treasurer shall show on
3 each tax receipt the amount of credit received from
4 the homestead credit fund.

5 Sec. ____ . NEW SECTION. 427.3 ABATEMENT OF TAXES
6 OF CERTAIN EXEMPT ENTITIES.

7 The board of supervisors may abate the taxes levied
8 against property acquired by gift by a person or
9 entity if the property acquired by gift was
10 transferred to the person or entity after the deadline
11 for filing for property tax exemption in the year in
12 which the property was transferred and the property
13 acquired by gift would have been exempt under section
14 427.1, subsection 7, 8, or 9, if the person or entity
15 had been able to file for exemption in a timely
16 manner.

17 Sec. ____ . Section 441.6, unnumbered paragraph 2,
18 Code 2005, is amended to read as follows:

19 Upon receipt of the report of the examining board,
20 the chairperson of the conference board shall by
21 written notice call a meeting of the conference board
22 to appoint an assessor. The meeting shall be held not
23 later than seven days after the receipt of the report
24 of the examining board by the conference board. ~~The~~
25 ~~physical condition, general reputation of the~~
26 ~~applicants, and their fitness for the position as~~
27 ~~determined by the examining board shall be taken into~~
28 ~~consideration in making the appointment.~~ At the
29 meeting, the conference board shall appoint an
30 assessor from the register of eligible candidates.
31 However, if a special examination has not been
32 conducted previously for the same vacancy, the
33 conference board may request the director of revenue
34 to hold a special examination pursuant to section
35 441.7. The chairperson of the conference board shall
36 give written notice to the director of revenue of the
37 appointment and its effective date within ten days of
38 the decision of the board.

39 Sec. ____ . Section 441.8, unnumbered paragraph 1,
40 Code 2005, is amended to read as follows:

41 The term of office of an assessor appointed under
42 this chapter shall be for six years. Appointments for
43 each succeeding term shall be made in the same manner
44 as the original appointment except that not less than
45 ninety days before the expiration of the term of the
46 assessor the conference board shall hold a meeting to
47 determine whether or not it desires to reappoint the
48 incumbent assessor to a new term. If the decision is
49 made not to reappoint the assessor, the assessor shall
50 be notified, in writing, of such decision not less

1 than ninety days prior to the expiration of the
2 assessor's term of office. Failure of the conference
3 board to provide timely notification of the decision
4 not to reappoint the assessor shall result in the
5 assessor being reappointed.

6 Sec. ____ . Section 441.8, unnumbered paragraphs 6
7 and 7, Code 2005, are amended to read as follows:

8 Upon receiving credit equal to one hundred fifty
9 hours of classroom instruction during the assessor's
10 current term of office of which at least ninety of the
11 one hundred fifty hours are from courses requiring an
12 examination upon conclusion of the course, the
13 director of revenue shall certify to the assessor's
14 conference board that the assessor is eligible to be
15 reappointed to the position. For persons appointed to
16 complete an unexpired term, the number of credits
17 required to be certified as eligible for reappointment
18 shall be prorated according to the amount of time
19 remaining in the present term of the assessor. If the
20 person was an assessor in another jurisdiction, the
21 assessor may carry forward any credit hours received
22 in the previous position in excess of the number that
23 would be necessary to be considered current in that
24 position. Upon written request by the person seeking
25 a waiver of the continuing education requirements, the
26 director may waive the continuing education
27 requirements if the director determines good cause
28 exists for the waiver.

29 Within each six-year period following the
30 appointment of a deputy assessor, the deputy assessor
31 shall comply with this section except that upon the
32 successful completion of ninety hours of classroom
33 instruction of which at least sixty of the ninety
34 hours are from courses requiring an examination upon
35 conclusion of the course, the deputy assessor shall be
36 certified by the director of revenue as being eligible
37 to remain in the position. If a deputy assessor fails
38 to comply with this section, the deputy assessor shall
39 be removed from the position until successful
40 completion of the required hours of credit. If a
41 deputy is appointed to the office of assessor, the
42 hours of credit obtained as deputy pursuant to this
43 section shall be credited to that individual as
44 assessor and for the individual to be reappointed at
45 the expiration of the term as assessor, that
46 individual must obtain the credits which are necessary
47 to total the number of hours for reappointment. Upon
48 written request by the person seeking a waiver of the
49 continuing education requirements, the director may
50 wave the continuing education requirements if the

1 director determines good cause exists for the waiver.

2 Sec. _____. Section 441.37, subsection 1, Code 2005,
3 is amended by adding the following new unnumbered
4 paragraph:

5 NEW UNNUMBERED PARAGRAPH. The property owner or
6 aggrieved taxpayer may combine on one form protests of
7 assessment on parcels separately assessed if the same
8 grounds are relied upon as the basis for protesting
9 each separate assessment. If an oral hearing is
10 requested on more than one of such protests, the
11 person making the combined protests may request that
12 the oral hearings be held consecutively.

13 Sec. _____. Section 441.37, subsection 3, Code 2005,
14 is amended to read as follows:

15 3. After the board of review has considered any
16 protest filed by a property owner or aggrieved
17 taxpayer and made final disposition of the protest,
18 the board shall give written notice to the property
19 owner or aggrieved taxpayer who filed the protest of
20 the action taken by the board of review on the
21 protest. The written notice to the property owner or
22 aggrieved taxpayer shall also specify the reasons for
23 the action taken by the board of review on the
24 protest. If protests of assessment on multiple
25 parcels separately assessed were combined, the written
26 notice shall state the action taken, and the reasons
27 for the action, for each assessment protested.

28 Sec. _____. Section 441.38, subsection 2, Code 2005,
29 is amended to read as follows:

30 2. Notice of appeal shall be served as an original
31 notice on the chairperson, presiding officer, or clerk
32 of the board of review ~~after the filing of notice~~
33 ~~under subsection 1 with the clerk of district court~~
34 within twenty days after its adjournment or May 31,
35 whichever is later.

36 Sec. _____. NEW SECTION. 441.40A REIMBURSEMENT OF
37 APPELLANT COSTS.

38 1. Notwithstanding section 441.40, where the court
39 determines the appellant's property was assessed by
40 the assessor for more than one hundred twenty percent
41 of its post-appeal value, the assessor shall pay all
42 reasonable attorney fees and any other reasonably
43 related costs incurred by the appellant. This
44 subsection applies only to appeals relating to
45 assessments on property assessed as residential or
46 agricultural property.

47 2. Notwithstanding section 441.40, where the court
48 determines the appellant's property was assessed by
49 the assessor for more than one hundred twenty percent
50 of its post-appeal value and the court finds that the

1 assessor's position in regard to assessment of the
2 property was not substantially justified, the assessor
3 shall pay all reasonable attorney fees and any other
4 reasonably related costs incurred by the appellant.
5 This subsection applies only to appeals relating to
6 assessments on property assessed as commercial or
7 industrial property.

8 Sec. _____. Section 452A.2, subsection 19,
9 unnumbered paragraph 2, Code 2005, is amended to read
10 as follows:

11 "Motor fuel" does not include special fuel, and
12 does not include liquefied gases which would not exist
13 as liquids at a temperature of sixty degrees
14 Fahrenheit and a pressure of fourteen and seven-tenths
15 pounds per square inch absolute, or naphthas and
16 solvents unless the liquefied gases or naphthas and
17 solvents are used as a component in the manufacture,
18 compounding, or blending of a liquid within paragraph
19 "b", in which event the resulting product shall be
20 deemed to be motor fuel. "Motor fuel" does not
21 include methanol unless blended with other motor fuels
22 for use in an aircraft or for propelling motor
23 vehicles.

24 Sec. _____. Section 452A.2, subsection 25, Code
25 2005, is amended to read as follows:

26 25. "Special fuel" means fuel oils and all
27 combustible gases and liquids suitable for the
28 generation of power for propulsion of motor vehicles
29 or turbine-powered aircraft, and includes any
30 substance used for that purpose, except that it does
31 not include motor fuel. Kerosene shall not be
32 considered to be a special fuel, unless blended with
33 other special fuels for use in a motor vehicle with a
34 diesel engine. Methanol shall not be considered to be
35 a special fuel unless blended with other special fuels
36 for use in a motor vehicle with a diesel engine.

37 Sec. _____. Section 452A.8, subsection 2, paragraph
38 e, unnumbered paragraph 2, Code 2005, is amended to
39 read as follows:

40 The department shall adopt rules governing the
41 dispensing of compressed natural gas and liquefied
42 petroleum gas by licensed dealers and licensed users.
43 The director may require by rule that reports and
44 returns be filed by electronic transmission. For
45 purposes of this paragraph, "dealer" and "user" mean a
46 licensed compressed natural gas or liquefied petroleum
47 gas dealer or user and "fuel" means compressed natural
48 gas or liquefied petroleum gas. The department shall
49 require that all pumps located at dealer locations and
50 user locations through which liquefied petroleum gas

1 can be dispensed shall be metered, inspected, tested
2 for accuracy, and sealed and licensed by the state
3 department of agriculture and land stewardship, and
4 that fuel delivered into the fuel supply tank of any
5 motor vehicle shall be dispensed only through tested
6 metered pumps and may be sold without temperature
7 correction or corrected to a temperature of sixty
8 degrees. If the metered gallonage is to be
9 temperature-corrected, only a temperature-compensated
10 meter shall be used. Natural gas used as fuel shall
11 be delivered into compressing equipment through sealed
12 meters certified for accuracy by the department of
13 agriculture and land stewardship.

14 Sec. _____. Section 452A.8, subsections 3 and 4,
15 Code 2005, are amended to read as follows:

16 3. For the purpose of determining the amount of
17 the tax liability on alcohol blended to produce
18 ethanol blended gasoline or a blend of special fuel
19 products, each licensed blender shall, not later than
20 the last day of each month following the month in
21 which the blending is done, file with the department a
22 monthly return, signed under penalty for false
23 certificate, containing information required by rules
24 adopted by the director. The director may require by
25 rule that reports and returns be filed by electronic
26 transmission.

27 4. A person who possesses fuel or uses fuel in a
28 motor vehicle upon which no tax has been paid by a
29 licensee in this state is subject to reporting and
30 paying the applicable tax. The director may require
31 by rule that reports and returns be filed by
32 electronic transmission.

33 Sec. _____. Section 452A.10, Code 2005, is amended
34 to read as follows:

35 452A.10 REQUIRED RECORDS.

36 A motor fuel or special fuel supplier, restrictive
37 supplier, importer, exporter, blender, dealer, user,
38 common carrier, contract carrier, ~~or~~ terminal, or
39 nonterminal storage facility shall maintain, for a
40 period of three years, records of all transactions by
41 which the supplier, restrictive supplier, or importer
42 withdraws from a terminal or nonterminal storage
43 facility within this state or imports into this state
44 motor fuel or undyed special fuel together with
45 invoices, bills of lading, and other pertinent records
46 and papers as required by the department.

47 If in the normal conduct of a supplier's,
48 restrictive supplier's, importer's, exporter's,
49 blender's, dealer's, user's, common carrier's,
50 contract carrier's, ~~or~~ terminal's, or nonterminal

1 storage facility's business the records are maintained
2 and kept at an office outside this state, the records
3 shall be made available for audit and examination by
4 the department at the office outside this state, but
5 the audit and examination shall be without expense to
6 this state.

7 Each distributor handling motor fuel or special
8 fuel in this state shall maintain for a period of
9 three years records of all motor fuel or undyed
10 special fuel purchased or otherwise acquired by the
11 distributor, together with delivery tickets, invoices,
12 and bills of lading, and any other records required by
13 the department.

14 The department, after an audit and examination of
15 records required to be maintained under this section,
16 may authorize their disposal upon the written request
17 of the supplier, restrictive supplier, importer,
18 exporter, blender, dealer, user, carrier, terminal,
19 nonterminal storage facility, or distributor.

20 Sec. _____. Section 452A.62, subsection 1, paragraph
21 a, Code 2005, is amended to read as follows:

22 a. A distributor, supplier, restrictive supplier,
23 importer, exporter, blender, terminal operator,
24 nonterminal storage facility, common carrier, or
25 contract carrier, pertaining to motor fuel or undyed
26 special fuel withdrawn from a terminal or nonterminal
27 storage facility, or brought into this state.

28 Sec. _____. Section 452A.62, subsection 2,
29 unnumbered paragraph 1, Code 2005, is amended to read
30 as follows:

31 To examine the records, books, papers, receipts,
32 and invoices of any distributor, supplier, restrictive
33 supplier, importer, blender, exporter, terminal
34 operator, nonterminal storage facility, licensed
35 compressed natural gas or liquefied petroleum gas
36 dealer or user, or any other person who possesses fuel
37 upon which the tax has not been paid to determine
38 financial responsibility for the payment of the taxes
39 imposed by this chapter.

40 Sec. _____. Section 452A.85, Code 2005, is amended
41 by adding the following new subsection:

42 NEW SUBSECTION. 4. This section does not apply to
43 an increase in the tax rate of a specified fuel,
44 except for compressed natural gas, unless the increase
45 in the tax rate of that fuel is in excess of one-half
46 cent per gallon.

47 Sec. _____. NEW SECTION. 602.6703 DECLARATORY
48 JUDGMENT TO ADJUDICATE CONSTITUTIONAL NEXUS ISSUES
49 REGARDING TAXATION.

50 1. District courts have original jurisdiction over

1 civil actions seeking declaratory judgment when both
2 of the following apply:

3 a. The party seeking declaratory relief is a
4 business that is any of the following:

5 (1) Organized under the laws of this state.

6 (2) A sole proprietorship owned by a domiciliary
7 of this state.

8 (3) Authorized to do business in this state.

9 b. The responding party is a government official
10 of another state, or political subdivision of another
11 state, who asserts that the business in question is
12 obliged to collect sales or use taxes for such state
13 or political subdivision based upon conduct of the
14 business that occurs wholly or partially within that
15 state or political subdivision.

16 2. A business meeting the requirements and facing
17 the circumstances described in subsection 1 shall be
18 entitled to declaratory relief on the issue of whether
19 the requirement of another state, or political
20 subdivision of another state, that the business
21 collect and remit sales or use taxes to that state, or
22 political subdivision, in the factual circumstances of
23 the business' operations giving rise to the demand,
24 constitutes an undue burden on interstate commerce
25 within the meaning of the Constitution of the United
26 States.

27 Sec. _____. Section 708.3A, subsections 1 through 4,
28 Code 2005, are amended to read as follows:

29 1. A person who commits an assault, as defined in
30 section 708.1, against a peace officer, jailer,
31 correctional staff, member or employee of the board of
32 parole, health care provider, employee of the
33 department of human services, employee of the
34 department of revenue, or fire fighter, whether paid
35 or volunteer, with the knowledge that the person
36 against whom the assault is committed is a peace
37 officer, jailer, correctional staff, member or
38 employee of the board of parole, health care provider,
39 employee of the department of human services, employee
40 of the department of revenue, or fire fighter and with
41 the intent to inflict a serious injury upon the peace
42 officer, jailer, correctional staff, member or
43 employee of the board of parole, health care provider,
44 employee of the department of human services, employee
45 of the department of revenue, or fire fighter, is
46 guilty of a class "D" felony.

47 2. A person who commits an assault, as defined in
48 section 708.1, against a peace officer, jailer,
49 correctional staff, member or employee of the board of
50 parole, health care provider, employee of the

1 department of human services, employee of the
2 department of revenue, or fire fighter, whether paid
3 or volunteer, who knows that the person against whom
4 the assault is committed is a peace officer, jailer,
5 correctional staff, member or employee of the board of
6 parole, health care provider, employee of the
7 department of human services, employee of the
8 department of revenue, or fire fighter and who uses or
9 displays a dangerous weapon in connection with the
10 assault, is guilty of a class "D" felony.

11 3. A person who commits an assault, as defined in
12 section 708.1, against a peace officer, jailer,
13 correctional staff, member or employee of the board of
14 parole, health care provider, employee of the
15 department of human services, employee of the
16 department of revenue, or fire fighter, whether paid
17 or volunteer, who knows that the person against whom
18 the assault is committed is a peace officer, jailer,
19 correctional staff, member or employee of the board of
20 parole, health care provider, employee of the
21 department of human services, employee of the
22 department of revenue, or fire fighter, and who causes
23 bodily injury or mental illness, is guilty of an
24 aggravated misdemeanor.

25 4. Any other assault, as defined in section 708.1,
26 committed against a peace officer, jailer,
27 correctional staff, member or employee of the board of
28 parole, health care provider, employee of the
29 department of human services, employee of the
30 department of revenue, or fire fighter, whether paid
31 or volunteer, by a person who knows that the person
32 against whom the assault is committed is a peace
33 officer, jailer, correctional staff, member or
34 employee of the board of parole, health care provider,
35 employee of the department of human services, employee
36 of the department of revenue, or fire fighter, is a
37 serious misdemeanor.

38 Sec. _____. Section 708.3A, Code 2005, is amended by
39 adding the following new subsection:

40 NEW SUBSECTION. 9. As used in this section,
41 "employee of the department of revenue" means a person
42 who is employed as an auditor, agent, tax collector,
43 or any contractor or representative acting in the same
44 capacity. The employee, contractor, or representative
45 shall maintain current identification indicating that
46 the person is an employee, contractor, or
47 representative of the department.

48 Sec. _____. ABATEMENT OF PROPERTY TAXES.
49 Notwithstanding the requirement for the filing of a
50 claim for property tax exemption by February 1, as

1 provided in section 427.1, subsection 9, the board of
2 supervisors of a county having a population based upon
3 the latest federal decennial census of more than one
4 hundred eighty thousand but not more than two hundred
5 thousand shall abate the property taxes owed, with all
6 interest, fees, and costs, which were due and payable
7 during the fiscal years beginning July 1, 2004, and
8 July 1, 2005, on the land and buildings of an
9 educational institution that received the property by
10 gift and that did not receive a property tax exemption
11 due to the inability or failure to file for the
12 exemption. To receive the abatement provided for in
13 this section, the educational institution shall apply
14 to the county board of supervisors by October 1, 2005,
15 and provide appropriate information establishing that
16 the lands and buildings for which the abatement is
17 sought were used by the educational institution for
18 its appropriate objectives during the fiscal years
19 beginning July 1, 2004, and July 1, 2005. The
20 abatement allowed under this section only applies to
21 property taxes, with all interests, fees, and costs,
22 due and payable in the fiscal years beginning July 1,
23 2004, and July 1, 2005.

24 Sec. _____. REFUNDS. Refunds of taxes, interest, or
25 penalties which arise from claims resulting from the
26 amendment to section 423.3, subsection 5, in this
27 division of this Act, for the sale of agricultural
28 drain tile materials occurring between January 1,
29 1998, and the effective date of the section amending
30 section 423.3, subsection 5, in this division of this
31 Act, shall be limited to twenty-five thousand dollars
32 in the aggregate and shall not be allowed unless
33 refund claims are filed prior to October 1, 2005,
34 notwithstanding any other provision of law. If the
35 amount of claims totals more than twenty-five thousand
36 dollars in the aggregate, the department of revenue
37 shall prorate the twenty-five thousand dollars among
38 all claimants in relation to the amounts of the
39 claimants' valid claims.

40 Sec. _____. RETROACTIVE APPLICABILITY.

41 1. The sections of this division of this Act
42 amending Code sections 422.9 and 422.35 apply
43 retroactively to January 1, 2005, for tax years
44 beginning on or after that date.

45 2. The section of this division of this Act
46 amending Code section 422.16, being deemed of
47 immediate importance, takes effect upon enactment and
48 applies to calendar quarters ending on or after the
49 effective date of this Act for income taxes withheld
50 for tax years beginning on or after January 1, 2005.

S-3218

Page 17

1 3. The section of this division of this Act
2 relating to the abatement of property taxes due and
3 payable in the fiscal years beginning July 1, 2004,
4 and July 1, 2005, and section 427.1, subsection 9,
5 being deemed of immediate importance, takes effect
6 upon enactment, and applies retroactively to property
7 taxes due and payable in the fiscal years beginning
8 July 1, 2004, and July 1, 2005.

9 4. The section of this division of this Act
10 amending section 423.3, subsection 5, being deemed of
11 immediate importance, takes effect upon enactment, and
12 applies retroactively to January 1, 1998.

13 5. The sections of this division of this Act
14 amending section 441.37 apply to protests of
15 assessment filed after January 1, 2006."

16 2. Title page, line 3, by inserting after the
17 word "equipment," the following: "and relating to the
18 policy and administration of other taxes and tax-
19 related matters,".

20 3. Title page, line 3, by striking the word "an".

21 4. Title page, line 4, by striking the word
22 "provision" and inserting the following: "provisions".

RECEIVED FROM THE HOUSE

S-3218 FILED MAY 2, 2005

SENATE FILE 413

S-3226

1 Amend the House amendment, S-3218, to Senate File
2 413, as passed by the Senate, as follows:

3 1. By striking page 10, line 36, through page 11,
4 line 7.

5 2. By striking page 13, line 47, through page 14,
6 line 26.

By MIKE CONNOLLY

S-3226 FILED MAY 3, 2005

SENATE FILE 413

S-3240

1 Amend the House amendment, S-3218, to Senate File
2 413, as passed by the Senate, as follows:

3 1. By striking page 1, line 7, through page 2,
4 line 10.

5 2. By striking page 10, line 36, through page 11,
6 line 7.

By MIKE CONNOLLY
MARK ZIEMAN

S-3240 FILED MAY 3, 2005

**SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 413**

H-1631

- 1 Amend the House amendment, S-3218, to Senate File
2 413, as passed by the Senate, as follows:
3 1. By striking page 1, line 7, through page 2,
4 line 10.
5 2. By striking page 10, line 36, through page 11,
6 line 7.

RECEIVED FROM THE SENATE

H-1631 FILED MAY 5, 2005

McKinley co-chair
Connolly co-chair
Miller
Stewart

Succeeded By
S/ HF 4/3
SSB# 1310
Ways+Means

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CO-CHAIRPERSON ZIEMAN)

Passed Senate, Date _____ Passed House, 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 ~~c. 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 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

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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SENATE FILE 413

AN ACT

RELATING TO SALES AND USE TAX CHANGES, EXCISE TAXES ON RENTAL OF ROOMS AND SLEEPING QUARTERS, AND THE SALE AND USE OF CONSTRUCTION EQUIPMENT, AND RELATING TO THE POLICY AND ADMINISTRATION OF OTHER TAXES AND TAX-RELATED MATTERS, AND INCLUDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

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

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

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

The sales price of any of the following enumerated services is subject to the tax imposed by subsection 5: alteration and garment repair; armored car; vehicle repair; battery, tire, and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; campgrounds; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, carpet, and upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; gun and camera repair; house and building moving; household appliance, television, and radio

repair; janitorial and building maintenance or cleaning; jewelry and watch repair; lawn care, landscaping, and tree trimming and removal; limousine service, including driver; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pay television; pet grooming; pipe fitting and plumbing; wood preparation; executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; reflexology; security and detective services; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; tanning beds or salons; taxidermy services; telephone answering service; test laboratories, including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; transportation service consisting of the rental of recreational vehicles or recreational boats, or the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, or the rental of aircraft for a period of sixty days or less; Turkish baths, massage, and reducing salons, excluding services provided by massage therapists licensed under chapter 152C; water conditioning and softening; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables; wrecking service; wrecker and towing.

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

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

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

37. The sales price of services on or connected with new construction, reconstruction, alteration, expansion, remodeling, or the services of a general building contractor, architect, or engineer. The exemption in this subsection also applies to the sales price on the lease or rental of ~~self-propelled-building-equipment, self-constructed-cranes, pile drivers, structural-concrete-forms, regular-and-motorized scaffolding, generators, or attachments customarily drawn or attached to self-propelled-building-equipment, self-constructed-cranes, pile-drivers, structural-concrete-forms, regular-and-motorized-scaffolding, and generators, including auxiliary-attachments~~ all machinery, equipment, and replacement parts directly and primarily used by owners, contractors, subcontractors, and builders for new construction, reconstruction, alteration, expansion, or remodeling of real property or structures and of all machinery, equipment, and replacement parts which improve the performance, safety, operation, or efficiency of the machinery, equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures so used.

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

49. The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services and the lease or rental of tangible personal property when used by a manufacturer of food products to produce marketable food products for human consumption, including but not limited to treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture.

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

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

For the purposes of this subsection:

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

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

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

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

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

(1) Can withstand repeated use.

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

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

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

(5) Is for home use only.

(6) Is prescribed by a practitioner.

c. "Mobility enhancing equipment" means equipment, including repair and replacement parts, but does not include durable medical equipment, to which all of the following apply:

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

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

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

(4) Is prescribed by a practitioner.

~~b. d. "Medical "Other medical device" means equipment or a supply, intended to be prescribed by a practitioner, including orthopedic or orthotic devices. However, "medical device" also includes prosthetic devices, that is not a drug, durable medical equipment, mobility enhancing equipment, or prosthetic device. "Other medical devices" includes, but is not limited to, ostomy, urological, and tracheostomy equipment and supplies, and diabetic testing materials, hypodermic syringes and needles, anesthesia trays, biopsy trays and~~

biopsy needles, cannula systems, catheter trays and invasive catheters, ~~dialyzers, drug-infusion-devices, fistula sets, hemodialysis-devices, insulin-infusion-devices, intraocular lenses,~~ irrigation solutions, intravenous administering sets, solutions and stopcocks, myelogram trays, ~~nebulizers,~~ small vein infusion kits, spinal puncture trays, ~~transfusion-sets,~~ and venous blood sets, ~~and oxygen-equipment,~~ intended to be dispensed for human use with or without a prescription to an ultimate user.

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

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

~~d.~~ g. "Prescription drug" means a drug intended to be dispensed to an ultimate user pursuant to a prescription drug order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner, or oxygen or insulin dispensed for human consumption with or without a prescription drug order or medication order.

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

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

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

~~f.~~ i. "Ultimate user" means an individual who has lawfully obtained and possesses a prescription drug or medical device for the individual's own use or for the use of a member of the individual's household, or an individual to whom a

prescription drug or medical device has been lawfully supplied, administered, dispensed, or prescribed.

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

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

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

70. The sales price ~~from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less of delivery charges.~~ This exemption does not apply to the transportation delivery of electric energy or natural gas.

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

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

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

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

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

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of

natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, ~~and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 996~~ and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. However, ~~a person required to collect state retail sales tax under chapter 423, subchapter V or VI, is not~~

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

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

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, ~~and on the sales price from the sale of a lottery ticket or share in a lottery~~

game-conducted-pursuant-to-chapter-998 and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state sales or local excise taxes. ~~However, a person required to collect state sales tax under chapter 423 is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area.~~ The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state sales taxes or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section 423.36 shall not be required by local authorities.

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

DIVISION II

EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

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

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 91.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 321I.8, section 331.554, subsection 6, sections 341A.20,

364.3, 368.21, ~~423A.2~~ 423A.7, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6, 602.8108, 904.908, and 906.17, and the following:

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

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

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

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

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

1. "Department" means the department of revenue.
 2. "Lessor" means any person engaged in the business of renting lodging to users.
 3. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.
 4. "Person" means the same as the term is defined in section 423.1.
 5. "Renting" or "rent" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.
 6. "Sales price" means the consideration for renting of lodging and means the same as the term is defined in section 423.1.
 7. "User" means a person to whom lodging is rented.
- All other words and phrases used in this chapter and defined in section 423.1 have the meaning given them by section 423.1 for the purposes of this chapter.

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

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

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

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county.

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

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

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

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

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

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

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

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

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

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

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

The director of revenue shall administer the state and local hotel and motel tax as nearly as possible in conjunction

with the administration of the state sales tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting state and local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax and all moneys received from the state hotel and motel tax shall be deposited in or withdrawn from the general fund of the state.

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

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

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

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

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

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

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

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

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

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

d. The provisions of chapter 384, division III, relating to the issuance of corporate purpose bonds, apply to the issuance by a city of bonds payable as provided in this section and the provisions of chapter 331, division IV, part 3, relating to the issuance of county purpose bonds, apply to the issuance by a county of bonds payable as provided in this section. The provisions of chapter 76 apply to the bonds payable as provided in this section except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged portion of the local hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available local hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the local hotel and motel tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local hotel and

motel tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections for the full year for the purpose of determining the amount of the bonds which may be issued.

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

f. A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under this section by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

If at any time before the date fixed for taking action for the issuance of the bonds a petition signed by eligible electors residing in the city or the unincorporated area equal in number to at least three percent of the registered voters of the city or unincorporated area is filed, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county

commissioner of elections to call a special election upon the question of issuing the bonds.

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

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

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

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

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

self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. However, a person required to collect state retail sales tax under chapter 423, subchapter V or VI, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition.

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

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

state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, ~~on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed,~~ on the sales price from the sale of equipment by the state department of transportation, on the sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

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

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

DIVISION III

SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

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

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

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

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

~~self-propelled-building-equipment, pile-drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures,~~ and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. However, a person required to collect state retail sales tax under chapter 423, subchapter V or VI, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition.

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

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

state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, ~~on the sales price from the sale of self-propelled-building-equipment, pile-drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled-building-equipment, pile-drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures,~~ and on the sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

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

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

1. "Construction" means new construction, reconstruction, alterations, expansion, or remodeling of real property or structures.
2. "Contractor" includes contractors, subcontractors, and builders, but not owners.

3. "Department" means the department of revenue.

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

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

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

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

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

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

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

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

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

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

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

DIVISION IV

TAX POLICY AND ADMINISTRATION

Sec. 37. Section 422.9, subsection 1, Code 2005, is amended to read as follows:

1. An optional standard deduction, after deduction of federal income tax, equal to one thousand two hundred thirty dollars for a married person who files separately or a single person or equal to three thousand thirty dollars for a husband and wife who file a joint return, a surviving spouse, or an unmarried head of household. The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax. The amount of federal income tax deducted shall be computed as provided in subsection 2, paragraph "b".

Sec. 38. Section 422.9, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Add the amount of federal income taxes paid or accrued, as the case may be, during the tax year, ~~adjusted by and subtract~~ any federal income tax refunds received during the tax year. ~~Provided, however, that where~~ Where married persons, who have filed a joint federal income tax return, file separately, such total shall be divided between them according to the portion thereof of the total paid or accrued, as the case may be, by each. Federal income taxes paid for a tax year in which an Iowa return was not required to be filed shall not be added and federal income tax refunds received from a tax year in which an Iowa return was not required to be filed shall not be subtracted.

Sec. 39. Section 422.9, subsection 2, paragraphs g and h, Code 2005, are amended by striking the paragraphs.

Sec. 40. Section 422.16, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A withholding agent required to deduct and withhold tax under subsections 1 and 12, ~~except those required to deposit on a semimonthly basis, shall deposit for each calendar quarterly period,~~ shall file a return and remit to the department the amount of tax on or before the last day of the month following the close of the quarterly period, on a quarterly deposit form as on forms prescribed by the director ~~and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12.~~ However, a withholding agent who withholds more than fifty five hundred dollars in any one month, ~~except those required to deposit on a semimonthly basis,~~ and not more than five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the

~~amount withheld in the third month of the calendar quarter but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter.~~ A The total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly return due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director. However, a withholding agent who withholds more than eight five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a semimonthly deposit form as prescribed by the director. The first semimonthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semimonthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs. A withholding agent must also file a quarterly return which reconciles the amount of tax withheld for the quarter with the amount of semimonthly deposits. The quarterly return is due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director.

Sec. 41. Section 422.35, subsection 15, Code 2005, is amended by striking the subsection.

Sec. 42. Section 423.1, subsection 50, Code 2005, is amended to read as follows:

50. "Services" means all acts or services rendered, furnished, or performed, other than services used in processing of tangible personal property for use in retail sales or services, for an employer, ~~as defined in section 422.4, subsection 3,~~ who pays the wages of an employee for a

valuable consideration by any person engaged in any business or occupation specifically enumerated in section 423.2. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user of the service.

Sec. 43. Section 423.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Any person or that person's affiliate, which is a retailer in this state or a retailer maintaining a business in this state under this chapter, that enters into a contract with an agency of this state must register, collect, and remit Iowa sales tax under this chapter on all sales of tangible personal property and enumerated services. Every bid submitted and each contract executed by a state agency shall contain a certification by the bidder or contractor stating that the bidder or contractor is registered with the department and will collect and remit Iowa sales tax due under this chapter. In the certification, the bidder or contractor shall also acknowledge that the state agency may declare the contract or bid void if the certification is false. Fraudulent certification, by act or omission, may result in the state agency or its representative filing for damages for breach of contract.

For the purposes of this subsection, the following definitions apply:

a. "Affiliate" means any entity to which any of the following applies:

- (1) Directly, indirectly, or constructively controls another entity.
- (2) Is directly, indirectly, or constructively controlled by another entity.
- (3) Is subject to the control of a common entity. A common entity is one which owns directly or individually more than ten percent of the voting securities of the entity.

b. "State agency" means an authority, board, commission, department, instrumentality, or other administrative office or

unit of this state, or any other state entity reported in the Iowa comprehensive annual financial report, including public institutions of higher education.

c. "Voting security" means a security to which any of the following applies:

- (1) Confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the entity.
- (2) Is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote.
- (3) Is a general partnership interest.

Sec. 44. Section 423.3, subsection 5, Code 2005, is amended to read as follows:

5. a. The sales price of agricultural limestone, herbicide, pesticide, insecticide, including adjuvants, surfactants, and other products directly related to the application enhancement of those products, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market.

b. The following enumerated materials associated with the installation of agricultural drain tile which is exempt pursuant to paragraph "a" shall also be exempt under paragraph "a":

- (1) Tile intakes.
- (2) Outlet pipes and guards.
- (3) Aluminum and gabion structures.
- (4) Erosion control fabric.
- (5) Water control structures.
- (6) Miscellaneous tile fittings.

Sec. 45. Section 423.3, subsection 39, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The exemption under this subsection does not apply to vehicles subject to registration, aircraft, or commercial or pleasure watercraft or water vessels.

Sec. 46. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. The sales price from services performed on a vessel if all of the following apply:

- a. The vessel is a licensed vessel under the laws of the United States coast guard.
- b. The vessel is not moored or tied to a physical location in this state.
- c. The service is used to repair or restore a defect in the vessel.
- d. The vessel is engaged in interstate commerce and will continue in interstate commerce once the repairs or restoration is completed.
- e. The vessel is in navigable water that borders the eastern boundary of this state.

Sec. 47. Section 423.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Any person or that person's affiliate, which is a retailer in this state or a retailer maintaining a business in this state under this chapter, that enters into a contract with an agency of this state must register, collect, and remit Iowa use tax under this chapter on all sales of tangible personal property and enumerated services. Every bid submitted and each contract executed by a state agency shall contain a certification by the bidder or contractor stating that the bidder or contractor is registered with the department and will collect and remit Iowa use tax due under this chapter. In the certification, the bidder or contractor shall also acknowledge that the state agency may declare the contract or bid void if the certification is false. Fraudulent certification, by act or omission, may result in

the state agency or its representative filing for damages for breach of contract.

For the purposes of this subsection, "affiliate", "state agency", and "voting security" mean the same as defined in section 423.2, subsection 9A.

Sec. 48. Section 423A.1, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A local hotel and motel tax shall be imposed on January 17 ~~April 17~~ or July 17 ~~or October 17~~ following the notification of the director of revenue. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on ~~March 31~~ June 30 ~~September 30~~ or December 31. At least sixty days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue.

Sec. 49. Section 423E.4, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The director of revenue by ~~June 1~~ preceding August 15 of each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district's sales tax capacity per student for each county, and the supplemental school infrastructure amount for the coming fiscal year.

Sec. 50. Section 424.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 51. Section 424.10, subsection 3, Code 2005, is amended to read as follows:

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest ~~after sixty days from the date of payment at the rate in effect under section 421.7~~, pursuant to

rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within three years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 52. Section 425.1, subsection 4, Code 2005, is amended to read as follows:

4. Annually the department of revenue shall ~~estimate the credit not to exceed the actual levy on the first four thousand eight hundred fifty dollars of actual value of each eligible homestead, and shall~~ certify to the county auditor of each county the credit and its amount in dollars. Each county auditor shall then enter the credit against the tax levied on each eligible homestead in each county payable during the ensuing year, designating on the tax lists the credit as being from the homestead credit fund, and credit shall then be given to the several taxing districts in which eligible homesteads are located in an amount equal to the credits allowed on the taxes of the homesteads. The amount of credits shall be apportioned by each county treasurer to the several taxing districts as provided by law, in the same manner as though the amount of the credit had been paid by the owners of the homesteads. However, the several taxing districts shall not

draw the funds so credited until after the semiannual allocations have been received by the county treasurer, as provided in this chapter. Each county treasurer shall show on each tax receipt the amount of credit received from the homestead credit fund.

Sec. 53. NEW SECTION. 427.3 ABATEMENT OF TAXES OF CERTAIN EXEMPT ENTITIES.

The board of supervisors may abate the taxes levied against property acquired by gift by a person or entity if the property acquired by gift was transferred to the person or entity after the deadline for filing for property tax exemption in the year in which the property was transferred and the property acquired by gift would have been exempt under section 427.1, subsection 7, 8, or 9, if the person or entity had been able to file for exemption in a timely manner.

Sec. 54. Section 441.6, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Upon receipt of the report of the examining board, the chairperson of the conference board shall by written notice call a meeting of the conference board to appoint an assessor. The meeting shall be held not later than seven days after the receipt of the report of the examining board by the conference board. ~~The physical condition, general reputation of the applicants, and their fitness for the position as determined by the examining board shall be taken into consideration in making the appointment.~~ At the meeting, the conference board shall appoint an assessor from the register of eligible candidates. However, if a special examination has not been conducted previously for the same vacancy, the conference board may request the director of revenue to hold a special examination pursuant to section 441.7. The chairperson of the conference board shall give written notice to the director of revenue of the appointment and its effective date within ten days of the decision of the board.

Sec. 55. Section 441.8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The term of office of an assessor appointed under this chapter shall be for six years. Appointments for each succeeding term shall be made in the same manner as the original appointment except that not less than ninety days before the expiration of the term of the assessor the conference board shall hold a meeting to determine whether or not it desires to reappoint the incumbent assessor to a new term. If the decision is made not to reappoint the assessor, the assessor shall be notified, in writing, of such decision not less than ninety days prior to the expiration of the assessor's term of office. Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed.

Sec. 56. Section 441.8, unnumbered paragraphs 6 and 7, Code 2005, are amended to read as follows:

Upon receiving credit equal to one hundred fifty hours of classroom instruction during the assessor's current term of office of which at least ninety of the one hundred fifty hours are from courses requiring an examination upon conclusion of the course, the director of revenue shall certify to the assessor's conference board that the assessor is eligible to be reappointed to the position. For persons appointed to complete an unexpired term, the number of credits required to be certified as eligible for reappointment shall be prorated according to the amount of time remaining in the present term of the assessor. If the person was an assessor in another jurisdiction, the assessor may carry forward any credit hours received in the previous position in excess of the number that would be necessary to be considered current in that position. Upon written request by the person seeking a waiver of the continuing education requirements, the director may waive the continuing education requirements if the director determines good cause exists for the waiver.

Within each six-year period following the appointment of a deputy assessor, the deputy assessor shall comply with this section except that upon the successful completion of ninety hours of classroom instruction of which at least sixty of the ninety hours are from courses requiring an examination upon conclusion of the course, the deputy assessor shall be certified by the director of revenue as being eligible to remain in the position. If a deputy assessor fails to comply with this section, the deputy assessor shall be removed from the position until successful completion of the required hours of credit. If a deputy is appointed to the office of assessor, the hours of credit obtained as deputy pursuant to this section shall be credited to that individual as assessor and for the individual to be reappointed at the expiration of the term as assessor, that individual must obtain the credits which are necessary to total the number of hours for reappointment. Upon written request by the person seeking a waiver of the continuing education requirements, the director may waive the continuing education requirements if the director determines good cause exists for the waiver.

Sec. 57. Section 441.37, subsection 1, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The property owner or aggrieved taxpayer may combine on one form protests of assessment on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of such protests, the person making the combined protests may request that the oral hearings be held consecutively.

Sec. 58. Section 441.37, subsection 3, Code 2005, is amended to read as follows:

3. After the board of review has considered any protest filed by a property owner or aggrieved taxpayer and made final disposition of the protest, the board shall give written notice to the property owner or aggrieved taxpayer who filed

the protest of the action taken by the board of review on the protest. The written notice to the property owner or aggrieved taxpayer shall also specify the reasons for the action taken by the board of review on the protest. If protests of assessment on multiple parcels separately assessed were combined, the written notice shall state the action taken, and the reasons for the action, for each assessment protested.

Sec. 59. Section 441.38, subsection 2, Code 2005, is amended to read as follows:

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review ~~after the filing of notice under subsection 1 with the clerk of district court within twenty days after its adjournment or May 31, whichever is later.~~

Sec. 60. Section 452A.2, subsection 19, unnumbered paragraph 2, Code 2005, is amended to read as follows:

"Motor fuel" does not include special fuel, and does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph "b", in which event the resulting product shall be deemed to be motor fuel. "Motor fuel" does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

Sec. 61. Section 452A.2, subsection 25, Code 2005, is amended to read as follows:

25. "Special fuel" means fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel. Kerosene shall not be considered

to be a special fuel, unless blended with other special fuels for use in a motor vehicle with a diesel engine. Methanol shall not be considered to be a special fuel unless blended with other special fuels for use in a motor vehicle with a diesel engine.

Sec. 62. Section 452A.8, subsection 2, paragraph e, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. The director may require by rule that reports and returns be filed by electronic transmission. For purposes of this paragraph, "dealer" and "user" mean a licensed compressed natural gas or liquefied petroleum gas dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed shall be metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

Sec. 63. Section 452A.8, subsections 3 and 4, Code 2005, are amended to read as follows:

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline or a blend of special fuel products, each licensed

blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly return, signed under penalty for false certificate, containing information required by rules adopted by the director. The director may require by rule that reports and returns be filed by electronic transmission.

4. A person who possesses fuel or uses fuel in a motor vehicle upon which no tax has been paid by a licensee in this state is subject to reporting and paying the applicable tax. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 64. Section 452A.10, Code 2005, is amended to read as follows:

452A.10 REQUIRED RECORDS.

A motor fuel or special fuel supplier, restrictive supplier, importer, exporter, blender, dealer, user, common carrier, contract carrier, or terminal, or nonterminal storage facility shall maintain, for a period of three years, records of all transactions by which the supplier, restrictive supplier, or importer withdraws from a terminal or nonterminal storage facility within this state or imports into this state motor fuel or undyed special fuel together with invoices, bills of lading, and other pertinent records and papers as required by the department.

If in the normal conduct of a supplier's, restrictive supplier's, importer's, exporter's, blender's, dealer's, user's, common carrier's, contract carrier's, or terminal's, or nonterminal storage facility's business the records are maintained and kept at an office outside this state, the records shall be made available for audit and examination by the department at the office outside this state, but the audit and examination shall be without expense to this state.

Each distributor handling motor fuel or special fuel in this state shall maintain for a period of three years records of all motor fuel or undyed special fuel purchased or

otherwise acquired by the distributor, together with delivery tickets, invoices, and bills of lading, and any other records required by the department.

The department, after an audit and examination of records required to be maintained under this section, may authorize their disposal upon the written request of the supplier, restrictive supplier, importer, exporter, blender, dealer, user, carrier, terminal, nonterminal storage facility, or distributor.

Sec. 65. Section 452A.62, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A distributor, supplier, restrictive supplier, importer, exporter, blender, terminal operator, nonterminal storage facility, common carrier, or contract carrier, pertaining to motor fuel or undyed special fuel withdrawn from a terminal or nonterminal storage facility, or brought into this state.

Sec. 66. Section 452A.62, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To examine the records, books, papers, receipts, and invoices of any distributor, supplier, restrictive supplier, importer, blender, exporter, terminal operator, nonterminal storage facility, licensed compressed natural gas or liquefied petroleum gas dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

Sec. 67. Section 452A.85, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section does not apply to an increase in the tax rate of a specified fuel, except for compressed natural gas, unless the increase in the tax rate of that fuel is in excess of one-half cent per gallon.

Sec. 68. **NEW SECTION.** 602.6703 DECLARATORY JUDGMENT TO ADJUDICATE CONSTITUTIONAL NEXUS ISSUES REGARDING TAXATION.

1. District courts have original jurisdiction over civil actions seeking declaratory judgment when both of the following apply:

a. The party seeking declaratory relief is a business that is any of the following:

- (1) Organized under the laws of this state.
- (2) A sole proprietorship owned by a domiciliary of this state.
- (3) Authorized to do business in this state.

b. The responding party is a government official of another state, or political subdivision of another state, who asserts that the business in question is obliged to collect sales or use taxes for such state or political subdivision based upon conduct of the business that occurs wholly or partially within that state or political subdivision.

2. A business meeting the requirements and facing the circumstances described in subsection 1 shall be entitled to declaratory relief on the issue of whether the requirement of another state, or political subdivision of another state, that the business collect and remit sales or use taxes to that state, or political subdivision, in the factual circumstances of the business' operations giving rise to the demand, constitutes an undue burden on interstate commerce within the meaning of the Constitution of the United States.

Sec. 69. Section 708.3A, subsections 1 through 4, Code 2005, are amended to read as follows:

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of

human services, employee of the department of revenue, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services,

employee of the department of revenue, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, is a serious misdemeanor.

Sec. 70. Section 708.3A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. As used in this section, "employee of the department of revenue" means a person who is employed as an auditor, agent, tax collector, or any contractor or representative acting in the same capacity. The employee, contractor, or representative shall maintain current identification indicating that the person is an employee, contractor, or representative of the department.

Sec. 71. **ABATEMENT OF PROPERTY TAXES.** Notwithstanding the requirement for the filing of a claim for property tax exemption by February 1, as provided in section 427.1, subsection 9, the board of supervisors of a county having a population based upon the latest federal decennial census of more than one hundred eighty thousand but not more than two hundred thousand shall abate the property taxes owed, with all interest, fees, and costs, which were due and payable during the fiscal years beginning July 1, 2004, and July 1, 2005, on the land and buildings of an educational institution that received the property by gift and that did not receive a property tax exemption due to the inability or failure to file for the exemption. To receive the abatement provided for in this section, the educational institution shall apply to the county board of supervisors by October 1, 2005, and provide appropriate information establishing that the lands and buildings for which the abatement is sought were used by the educational institution for its appropriate objectives during the fiscal years beginning July 1, 2004, and July 1, 2005.

The abatement allowed under this section only applies to property taxes, with all interests, fees, and costs, due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005.

Sec. 72. **REFUNDS.** Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 423.3, subsection 5, in this division of this Act, for the sale of agricultural drain tile materials occurring between January 1, 1998, and the effective date of the section amending section 423.3, subsection 5, in this division of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2005, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 73. **RETROACTIVE APPLICABILITY.**

1. The sections of this division of this Act amending Code sections 422.9 and 422.35 apply retroactively to January 1, 2005, for tax years beginning on or after that date.

2. The section of this division of this Act amending Code section 422.16, being deemed of immediate importance, takes effect upon enactment and applies to calendar quarters ending on or after the effective date of this Act for income taxes withheld for tax years beginning on or after January 1, 2005.

3. The section of this division of this Act relating to the abatement of property taxes due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005, and section 427.1, subsection 9, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to property taxes due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005.

4. The section of this division of this Act amending section 423.3, subsection 5, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 1998.

5. The sections of this division of this Act amending section 441.37 apply to protests of assessment filed after January 1, 2006.

JOHN P. KIBBIE
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 413, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2005

THOMAS J. VILSACK
Governor