

CHAPTER 140**TAXES, TAX POLICY, AND ADMINISTRATION***S.F. 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, canula 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.~~

~~e. 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 wire-less 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 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. 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 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.

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 reve-

nues received under sections 9I.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 1, ~~April 1, or July 1, or October 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 ~~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 suc-

cessful 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 ret-

roactively 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.

Approved June 3, 2005

CHAPTER 141

MOTOR VEHICLE FUEL THEFT — MOTOR VEHICLE OPERATING PRIVILEGES

H.F. 440

AN ACT relating to sanctioning the motor vehicle operating privileges of a person upon a second or subsequent conviction for motor fuel theft from a retail dealer.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.215, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, a temporary restricted license shall not be issued to a person whose license is revoked pursuant to a court order issued under section 901.5, subsection 10, or under section 321.209, subsections 1 through 5 or subsection 7, or to a juvenile whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3, or to a person whose license has been suspended pursuant to a court order under section 714.7D. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 2. Section 321.215, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, subsection 5 or 6; section 321.210; 321.210A; or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a noncommercial driver's license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3; or upon suspension of a driver's license pursuant to a court order under section 714.7D, a person may petition the district court having jurisdiction over the residence of the person for a temporary restricted license to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied: