

PROOF

STATE OF IOWA

House Journal

TUESDAY, JUNE 3, 2003

Printed daily by the State of Iowa during the sessions of the General Assembly.
An official corrected copy is available for reference in the office of the Chief Clerk.
(The official bound copy will be available after a reasonable time upon adjournment.)

JOURNAL OF THE HOUSE

Sixth Calendar Day - Fourth Session Day

Hall of the House of Representatives
Des Moines, Iowa, Tuesday, June 3, 2003

The House met pursuant to adjournment at 6:30 p.m., Speaker Rants in the chair.

Prayer was offered by the Honorable Dwayne Alons, state representative from Sioux County.

The Journal of Monday, June 2, 2003 was approved.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Speaker Rants.

LEAVE OF ABSENCE

Leave of absence was granted as follows:

Boggess of Page on request of Gipp of Winneshiek; Foege of Linn and Smith of Marshall on request of Bukta of Clinton.

The House stood at ease at 6:34 p.m., until the fall of the gavel.

The House resumed session at 8:11 p.m., Speaker Rants in the chair.

PRESENTATION TO MINORITY LEADER MYERS

Speaker Rants and Majority Leader Gipp invited to the well of the House, Minority Leader Dick Myers whom is retiring and presented him with a plaque commemorating his service and dedication to the House of Representatives from 1994 through 2003. Serving as the Minority Whip from 1999 – 2000 and as the Minority Leader from 2001 – 2003.

The House rose and expressed it appreciation.

The House stood at ease at 8:14 p.m., until the fall of the gavel.

The House resumed session at 9:33 p.m., Speaker Rants in the chair.

SENATE AMENDMENT CONSIDERED

Hoffman of Crawford called up for consideration [House File 683](#), a bill for an act relating to economic development by creating an Iowa values board and Iowa values fund, providing for the issuance of tax-exempt bonds, modifying the value-added agricultural products and processes financial assistance program, providing endow Iowa seed grants and endow Iowa tax credits, providing funding and tax credits for economic development regions, creating workforce training and economic development funds for community colleges, establishing a school financing program for school infrastructure purposes, creating a cultural and entertainment district certification program, increasing the availability of rehabilitation project tax credits, eliminating a small business advisory council, providing for a streamlined sales and use tax law, making appropriations, and including effective date and retroactive applicability provisions, amended by the Senate, and moved that the House concur in the following Senate amendment [H-1616](#):

H-1616

1 Amend [House File 683](#), as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "DIVISION I
6 STATE EMPLOYEE SALARIES
7 Section 1. 2003 Iowa Acts, [Senate File 458](#),
8 section 48, unnumbered paragraphs 1 and 2, if enacted,
9 are amended to read as follows:
10 There is appropriated from the general fund of the
11 state to the salary adjustment fund for distribution
12 by the department of management to the various state
13 departments, boards, commissions, councils, and
14 agencies, and to the state board of regents for those
15 persons employed at the state school for the deaf and
16 the Iowa braille and sight saving school, for the
17 fiscal year beginning July 1, 2003, and ending June
18 30, 2004, the amount of ~~\$28,000,000~~ \$30,000,000, or so
19 much thereof as may be necessary, to fully fund annual
20 pay adjustments, expense reimbursements, and related
21 benefits implemented pursuant to the following:
22 Of the amount appropriated in this section,

23 ~~\$2,668,000~~ \$2,818,000 shall be allocated to the
 24 judicial branch for the purpose of funding annual pay
 25 adjustments, expense reimbursements, and related
 26 benefits implemented for judicial branch employees.
 27 In distributing the remainder of the amount
 28 appropriated in this section, the department of
 29 management, in order to address essential public
 30 protection functions and recognizing the availability
 31 of funds appropriated in other Acts of the general
 32 assembly and other sources, shall give priority, in
 33 descending order, to the department of corrections,
 34 department of human services, and department of public
 35 safety, and then to the remaining state departments,
 36 boards, commissions, councils, and agencies to which
 37 the appropriation is applicable.

38 Sec. 2. STATE COURTS – JUSTICES, JUDGES, AND
 39 MAGISTRATES.

40 1. Of the amount allocated for the judicial branch
 41 in 2003 Iowa Acts, [Senate File 458](#), section 48, if
 42 enacted, \$150,000 is allocated to fund the changes in
 43 this section to the salaries of justices, judges, and
 44 magistrates.

45 2. The following annual salary rates shall be paid
 46 to the persons holding the judicial positions
 47 indicated during the fiscal year beginning July 1,
 48 2003, effective with the pay period beginning December
 49 5, 2003, and for subsequent pay periods:

50 a. Chief justice of the supreme court:

Page 2

1	.....	\$ 127,040
2	b. Each justice of the supreme court:	
3	.....	\$ 122,500
4	c. Chief judge of the court of appeals:	
5	.....	\$ 122,380
6	d. Each associate judge of the court of appeals:	
7	.....	\$ 117,850
8	e. Each chief judge of a judicial district:	
9	.....	\$ 116,760
10	f. Each district judge except the chief judge of a	
11	judicial district:	
12	.....	\$ 112,010
13	g. Each district associate judge:	
14	.....	\$ 97,610
15	h. Each associate juvenile judge:	
16	.....	\$ 97,610
17	i. Each associate probate judge:	
18	.....	\$ 97,610
19	j. Each judicial magistrate:	
20	.....	\$ 29,100
21	k. Each senior judge:	

22 \$ 6,500
 23 3. Persons receiving the salary rates established
 24 under subsection 2 shall not receive any additional
 25 salary adjustments provided by 2003 Iowa Acts, Senate
 26 File 458, division V.
 27 DIVISION II
 28 APPROPRIATIONS AND APPROPRIATIONS REVISIONS
 29 INSURANCE DIVISION
 30 Sec. 3. INSURANCE STUDY. There is appropriated
 31 from the general fund of the state to the department
 32 of commerce for the fiscal year beginning July 1,
 33 2003, and ending June 30, 2004, the following amount,
 34 or so much thereof as is necessary, to be used for the
 35 purpose designated:
 36 For the insurance division to implement the school
 37 health insurance reform team study in accordance with
 38 2003 Iowa Acts, [Senate File 386](#):
 39 \$ 15,000
 40 DEPARTMENT OF MANAGEMENT
 41 Sec. 4. LOCAL GOVERNMENT INNOVATION FUND
 42 APPROPRIATION. There is appropriated from the general
 43 fund of the state to the department of management for
 44 the fiscal year beginning July 1, 2003, and ending
 45 June 30, 2004, the following amount, or so much
 46 thereof as is necessary, to be used for the purpose
 47 designated:
 48 For deposit in the local government innovation fund
 49 created in section 8.64:
 50 \$ 1,000,000

Page 3

1 Notwithstanding section 8.64, subsection 4, if
 2 enacted by 2003 Iowa Acts, [Senate File 453](#), section
 3 27, the local government innovation fund committee may
 4 provide up to 20 percent of the amount appropriated in
 5 this section in the form of forgivable loans or as
 6 grants for those projects that propose a new and
 7 innovative sharing initiative that would serve as an
 8 important model for cities and counties.
 9 DEPARTMENT OF CORRECTIONS
 10 Sec. 5. There is appropriated from the rebuild
 11 Iowa infrastructure fund to the department of
 12 corrections for the fiscal year beginning July 1,
 13 2003, and ending June 30, 2004, the following amounts,
 14 or so much thereof as is necessary, to be used for the
 15 purposes designated:
 16 1. For expansion of the Luster Heights facility
 17 into a community-based corrections facility and an
 18 institutional work and substance abuse treatment
 19 center:
 20 \$ 92,000

21 2. For conversion of the Clarinda lodge into
 22 minimum security bed space:
 23 \$ 730,400

24 Sec. 6. 2003 Iowa Acts, [Senate File 439](#), section
 25 4, subsection 1, paragraphs b and g, as enacted, are
 26 amended to read as follows:

27 b. For the operation of the Anamosa correctional
 28 facility, including salaries, support, maintenance,
 29 employment of correctional officers and a part-time
 30 chaplain to provide religious counseling to inmates of
 31 a minority race, miscellaneous purposes, and for not
 32 more than the following full-time equivalent
 33 positions:
 34 \$ ~~24,531,917~~
 35 25,196,085
 36FTEs ~~375.75~~
 37 385.25

38 Moneys are provided within this appropriation for
 39 one full-time substance abuse counselor for the Luster
 40 Heights facility, for the purpose of certification of
 41 a substance abuse program at that facility. Of the
 42 funds appropriated in this paragraph "b". \$664,168 is
 43 allocated for implementation costs associated with
 44 expansion of the Luster Heights facility.

45 g. For the operation of the Clarinda correctional
 46 facility, including salaries, support, maintenance,
 47 employment of correctional officers, miscellaneous
 48 purposes, and for not more than the following full-
 49 time equivalent positions:
 50 \$ ~~18,505,788~~

Page 4

1 19,389,220
 2FTEs ~~291.76~~
 3 304.58

4 Moneys received by the department of corrections as
 5 reimbursement for services provided to the Clarinda
 6 youth corporation are appropriated to the department
 7 and shall be used for the purpose of operating the
 8 Clarinda correctional facility.
 9 Of the funds appropriated in this paragraph "g".
 10 \$793,432 is allocated for implementation costs
 11 associated with expansion of the conversion of the
 12 Clarinda lodge, with \$277,500 of the allocation for
 13 one-time costs and \$515,932 for ongoing costs.

14 PUBLIC TRANSIT

15 Sec. 7. 2003 Iowa Acts, [Senate File 458](#), section
 16 8, if enacted, is amended to read as follows:
 17 SEC. 8. PUBLIC TRANSIT ASSISTANCE APPROPRIATION.
 18 Notwithstanding section 312.2, subsection 14, the
 19 amount appropriated from the general fund of the state

20 under section 312.2, subsection 14, to the state
 21 department of transportation for public transit
 22 assistance under chapter 324a for the fiscal year
 23 beginning July 1, 2003, and ending June 30, 2004, is
 24 reduced by the following amount:

25 \$ ~~1,298,675~~
 26 2,582,800

27 OFFICE OF THE GOVERNOR

28 Sec. 8. 2003 Iowa Acts, [House File 655](#), section 5,
 29 subsection 1, if enacted, is amended to read as
 30 follows:

31 1. GENERAL OFFICE

32 For salaries, support, maintenance, and
 33 miscellaneous purposes for the general office of the
 34 governor and the general office of the lieutenant
 35 governor, and for not more than the following full-
 36 time equivalent positions:

37 \$ ~~1,243,643~~
 38 1,493,643
 39FTEs ~~47.25~~
 40 19.25

41 Of the amount appropriated in this section,
 42 \$250,000 is allocated for two full-time equivalent
 43 positions in the office of the governor that were
 44 previously funded by other state departments and
 45 agencies.

46 DEPARTMENT OF REVENUE

47 Sec. 9. 2003 Iowa Acts, [House File 655](#), section
 48 31, if enacted, is amended to read as follows:

49 SEC. 31. DEPARTMENT OF REVENUE. There is
 50 appropriated from the general fund of the state to the

Page 5

1 department of revenue for the fiscal year beginning
 2 July 1, 2003, and ending June 30, 2004, the following
 3 amounts, or so much thereof as is necessary, to be
 4 used for the purposes designated, and for not more
 5 than the following full-time equivalent positions used
 6 for the purposes designated in subsection 1:

7FTEs ~~378.87~~
 8 380.87

9 Of the full-time equivalent positions authorized in
 10 this section, two full-time equivalent positions are
 11 allocated for new positions to assist in preparation
 12 of information for the revenue estimating conference
 13 and in improving the turnaround time for processing
 14 corporate tax filings.

15 1. COMPLIANCE – INTERNAL RESOURCES MANAGEMENT –
 16 STATE FINANCIAL MANAGEMENT – STATEWIDE PROPERTY TAX
 17 ADMINISTRATION

18 For salaries, support, maintenance, and

19 miscellaneous purposes:
 20 \$ ~~23,259,111~~
 21 23,359,111

22 Of the funds appropriated pursuant to this
 23 subsection, \$400,000 shall be used to pay the direct
 24 costs of compliance related to the collection and
 25 distribution of local sales and services taxes imposed
 26 pursuant to chapters 422B and 422E.

27 The director of revenue shall prepare and issue a
 28 state appraisal manual and the revisions to the state
 29 appraisal manual as provided in section 421.17,
 30 subsection 18, without cost to a city or county.

31 2. COLLECTION COSTS AND FEES

32 For payment of collection costs and fees pursuant
 33 to section 422.26:

34 \$ 28,166

35 DEPARTMENT OF PUBLIC HEALTH

36 Sec. 10. 2003 Iowa Acts, [House File 667](#), section
 37 2, subsection 8, as enacted, is amended to read as
 38 follows:

39 8. INFECTIOUS DISEASES

40 For reducing the incidence and prevalence of
 41 communicable diseases, and for not more than the
 42 following full-time equivalent positions:

43 \$ 977,340

44 1,074,888

45FTEs 36.90

46 DIVISION III

47 MISCELLANEOUS PROVISIONS

48 Sec. 11. GOVERNMENT OVERSIGHT COMMITTEE – REVIEW
 49 OF CONTINUING CARE RETIREMENT COMMUNITIES – ASSISTED
 50 LIVING PROGRAM APPLICABILITY. The government

Page 6

1 oversight committees shall review the application of
 2 chapter 231C, relating to assisted living programs, to
 3 continuing care retirement communities, as defined in
 4 section 523D.1. The committees shall submit
 5 recommendations for any legislation deemed necessary
 6 for consideration during the 2004 regular legislative
 7 session.

8 Sec. 12. Section 15E.193B, subsection 4, Code
 9 2003, as amended by 2003 Iowa Acts, [Senate File 458](#),
 10 section 100, if enacted, is amended to read as
 11 follows:

12 4. The eligible housing business shall complete
 13 its building or rehabilitation within two years from
 14 the time the business begins construction on the
 15 single-family homes and dwelling units. The failure
 16 to complete construction or rehabilitation within two
 17 years shall result in the eligible housing business

18 becoming ineligible and subject to the repayment
19 requirements and penalties enumerated in subsection 7.
20 The department may extend the prescribed two-year
21 completion period for any current or future project
22 which has not been completed if the department
23 determines that completion within the two-year period
24 is impossible or impractical as a result of a
25 substantial loss caused by flood, fire, earthquake,
26 storm, or other catastrophe. For purposes of this
27 subsection, "substantial loss" means damage or
28 destruction in an amount in excess of thirty percent
29 of the project's expected eligible basis as set forth
30 in the eligible housing business's application.
31 Sec. 13. Section 215.14, Code 2003, is amended to
32 read as follows:
33 215.14 APPROVAL BY DEPARTMENT.
34 a commercial weighing and measuring device shall
35 not be installed in this state unless approved by the
36 department. ~~All livestock scales and~~
37 1. A pit type scales scale or any other scale
38 installed in a pit, regardless of capacity, that is
39 installed on or after July 1, 1990, shall have a
40 clearance of not less than four feet from the finished
41 floor line of the scale to the bottom of the "I" beam
42 of the scale bridge. Livestock shall not be weighed
43 on any scale other than a livestock scale or pit type
44 scale.
45 2. An electronic pitless scale shall be placed on
46 concrete footings with concrete floor. The concrete
47 floor shall allow for adequate drainage away from the
48 scale as required by the department. There shall be a
49 clearance of not less than eight inches between the
50 weigh bridge and the concrete floor to facilitate

Page 7

1 inspection and cleaning.
2 3. After approval by the department, the
3 specifications for a commercial weighing and measuring
4 device shall be furnished to the purchaser of the
5 device by the manufacturer. The approval shall be
6 based upon the recommendation of the United States
7 national institute of standards and technology.
8 Sec. 14. Section 231C.17, subsection 4, if enacted
9 by 2003 Iowa Acts, [House File 675](#), section 24, is
10 amended by striking the subsection and inserting in
11 lieu thereof the following:
12 4. A continuing care retirement community, as
13 defined in section 523D.1, may provide limited
14 personal care services and emergency response services
15 to its independent living tenants if all of the
16 following conditions are met:

17 a. The provision of such personal care services or
18 emergency response services does not result in
19 inadequate staff coverage to meet the service needs of
20 all tenants of the continuing care retirement
21 community.

22 b. The staff providing the personal care or
23 emergency response services is trained or qualified to
24 the extent necessary to provide such services.

25 c. The continuing care retirement community
26 documents the date, time, and nature of the personal
27 care or emergency response services provided.

28 d. Emergency response services are only provided
29 in situations which constitute an urgent need for
30 immediate action or assistance due to unforeseen
31 circumstances.

32 This subsection shall not be construed to prohibit
33 an independent living tenant of a continuing care
34 retirement community from contracting with a third
35 party for personal care or emergency response
36 services.

37 Sec. 15. NEW SECTION. 237A.25 CONSUMER
38 INFORMATION.

39 1. The department shall develop consumer
40 information material to assist parents in selecting a
41 child care provider. In developing the material, the
42 department shall consult with department of human
43 services staff, department of education staff, the
44 state child care advisory council, the Iowa
45 empowerment board, and child care resource and
46 referral services. In addition, the department may
47 consult with other entities at the local, state, and
48 national level.

49 2. The consumer information material developed by
50 the department for parents and other consumers of

Page 8

1 child care services shall include but is not limited
2 to all of the following:

3 a. A pamphlet or other printed material containing
4 consumer-oriented information on locating a quality
5 child care provider.

6 b. Information explaining important considerations
7 a consumer should take into account in selecting a
8 licensed or registered child care provider.

9 c. Information explaining how a consumer can
10 identify quality services, including what questions to
11 ask of providers and what a consumer might expect or
12 demand to know before selecting a provider.

13 d. An explanation of the applicable laws and
14 regulations written in layperson's terms.

15 e. An explanation of what it means for a provider

16 to be licensed, registered, or unregistered.
17 f. An explanation of the information considered in
18 registry and record background checks.
19 g. Other information deemed relevant to consumers.
20 3. The department shall implement and publicize an
21 internet page or site that provides all of the
22 following:
23 a. The written information developed pursuant to
24 subsections 1 and 2.
25 b. Regular informational updates, including when a
26 child care provider was last subject to a state
27 quality review or inspection and, based upon a final
28 score or review, the results indicating whether the
29 provider passed or failed the review or inspection.
30 c. Capability for a consumer to be able to access
31 information concerning child care providers, such as
32 informational updates, identification of provider
33 location, name, and capacity, and identification of
34 providers participating in the state child care
35 assistance program and those participating in the
36 child care food program, by sorting the information or
37 employing other means that provide the information in
38 a manner that is useful to the consumer. Information
39 regarding provider location shall identify providers
40 located in the vicinity of an address selected by a
41 consumer and provide contact information without
42 listing the specific addresses of the providers.
43 d. Other information deemed appropriate by the
44 department.
45 Sec. 16. Section 384.84, Code 2003, is amended by
46 adding the following new subsection:
47 NEW SUBSECTION. 9. Notwithstanding subsection 3,
48 a lien shall not be filed against the land if the
49 premises are located on leased land. If the premises
50 are located on leased land, a lien may be filed

Page 9

1 against the premises only.
2 Sec. 17. Section 422E.3A, subsection 2, paragraph
3 a, if enacted by 2003 Iowa Acts, [Senate File 445](#),
4 section 8, is amended to read as follows:
5 a. A school district that is located in whole or
6 in part in a county that voted on and approved prior
7 to April 1, 2003, the local sales and services tax for
8 school infrastructure purposes and that has a sales
9 tax capacity per student above the guaranteed school
10 infrastructure amount shall receive for the remainder
11 of the term of the tax an amount equal to its pro rata
12 share of the local sales and services tax receipts as
13 provided in section 422E.3, subsection 5, paragraph
14 "d", unless the school board passes a resolution by

15 October 1, 2003, agreeing to receive a distribution
 16 pursuant to paragraph "b", subparagraph (1).
 17 Sec. 18. Section 422E.3A, subsection 2, paragraph
 18 b, subparagraph (1), if enacted by 2003 Iowa Acts,
 19 [Senate File 445](#), section 8, is amended to read as
 20 follows:
 21 (1) a school district that is located in whole or
 22 in part in a county that voted on and approved prior
 23 to April 1, 2003, the local sales and services tax for
 24 school infrastructure purposes and that has a sales
 25 tax capacity per student below its guaranteed school
 26 infrastructure amount shall receive for the remainder
 27 of the term of the tax an amount equal to its pro rata
 28 share of the local sales and services tax receipts as
 29 provided in section 422E.3, subsection 5, paragraph
 30 "d", plus an amount equal to its supplemental school
 31 infrastructure amount, unless the school district
 32 passes a resolution by October 1, 2003, agreeing to
 33 receive only an amount equal to its pro rata share as
 34 provided in section 422E.3, subsection 5, paragraph
 35 "d", in all subsequent years.
 36 Sec. 19. Section 435.26A, subsection 5, as enacted
 37 by 2003 Iowa Acts, [Senate File 134](#), section 7, and as
 38 amended by 2003 Iowa Acts, [Senate File 458](#), section
 39 128, if enacted, is amended to read as follows:
 40 5. An owner of a manufactured home who has
 41 surrendered a certificate of title under this section
 42 and requires another certificate of title for the
 43 manufactured home is required to apply for a
 44 certificate of title under ~~section 321.42~~ chapter 321.
 45 If supporting documents for the reissuance of a title
 46 are not available or sufficient, the procedure for the
 47 reissuance of a title specified in the rules of the
 48 department of transportation shall be used.
 49 Sec. 20. Section 459.315, Code 2003, as amended by
 50 2003 Iowa Acts, [House File 644](#), if enacted, is amended

Page 10

1 by adding the following new subsection:
 2 NEW SUBSECTION. 4A. This section shall not
 3 require a person to be certified as a confinement site
 4 manure applicator if the person applies manure which
 5 originates from a manure storage structure which is
 6 part of a small animal feeding operation.
 7 Sec. 21. Section 508.31A, subsection 2, paragraph
 8 a, subparagraph (4), as enacted by 2003 Iowa Acts,
 9 [House File 647](#), section 7, is amended to read as
 10 follows:
 11 (4) a person other than a natural person for the
 12 purpose of providing collateral security for
 13 securities ~~issued by such person and~~ registered with

14 the federal securities and exchange commission.
15 Sec. 22. 2003 Iowa Acts, [Senate File 401](#), section
16 5, subsection 1, is amended to read as follows:
17 1. Notwithstanding any provision of law to the
18 contrary, the section of this Act creating section
19 453A.2, subsection 5A, is applicable to violations
20 pending on the effective date of this Act for which a
21 penalty has not been assessed under section 453A.22,
22 subsection 2. Notwithstanding this subsection,
23 however, if a county health department, a city health
24 department, or a city assesses a penalty under section
25 453A.22, subsection 2, on or after April 11, 2003 but
26 prior to June 30, 2003, for a violation of section
27 453A.2, subsection 1, which was pending on April 11,
28 2003, the county health department, city health
29 department or city assessing the penalty shall be
30 deemed to have jurisdiction to assess the penalty and
31 the penalty assessed is deemed valid.
32 Sec. 23. 2003 Iowa Acts, [Senate File 453](#), section
33 31, subsection 1, if enacted, is amended to read as
34 follows:
35 1. In lieu of applying a charge for capital assets
36 to the institutions under the control of the state
37 board of regents as otherwise provided in this
38 division for executive branch agencies, the
39 appropriations made from the general fund of the state
40 to the state board of regents for the ~~general~~
41 ~~university~~ operating budgets at the state university
42 of Iowa, Iowa state university of science and
43 technology, and university of northern Iowa, in 2003
44 Iowa Acts, [House File 662](#), section 9, subsections 2,
45 3, and 4, are reduced by \$17,880,000. ~~The state board~~
46 ~~of regents shall apply the reduction as follows: state~~
47 ~~university of Iowa, 46.7 percent, Iowa state~~
48 ~~university of science and technology, 36.8 percent,~~
49 ~~and university of northern Iowa, 16.5 percent.~~
50 Sec. 24. 2003 Iowa Acts, [Senate File 458](#), section

Page 11

1 21, unnumbered paragraph 3, if enacted, is amended to
2 read as follows:
3 Of the funds appropriated in this section, up to
4 \$10,000 is transferred to the ~~Iowa~~ department of
5 ~~public health~~ human services for allocation to
6 community mental health centers to provide counseling
7 services to persons who are members of the national
8 guard and reservists activated but as yet not sent to
9 combat zones and to the persons' family members. The
10 sessions shall be provided on a first come, first
11 served basis and shall be limited to three visits per
12 family.

13 Sec. 25. 2003 Iowa Acts, [Senate File 458](#), section
 14 149, if enacted, is amended to read as follows:
 15 SEC. 149. SUPPLEMENTAL PAYMENT ADJUSTMENTS FOR
 16 PHYSICIAN SERVICES. To the extent that, pursuant to
 17 law enacted by the Eightieth General Assembly, 2003
 18 Session, supplemental payment adjustments are
 19 implemented for physician services provided to medical
 20 assistance program participants at publicly owned
 21 acute care hospitals, the department of human services
 22 shall not, directly or indirectly, recoup the
 23 supplemental payment adjustments for any reason,
 24 unless an amount equivalent to the amount of
 25 adjustment funds ~~that were~~ is first transferred to the
 26 ~~department by the state~~ university of Iowa college of
 27 ~~medicine is transferred~~ by the department ~~to the~~
 28 ~~qualifying physicians.~~ Any such amount transferred
 29 and identified as a supplemental payment under this
 30 section shall then be refunded to the department of
 31 human services, per the agreement executed for this
 32 purpose between the department and the university of
 33 Iowa.

34 Sec. 26. 2003 Iowa Acts, [Senate File 458](#), section
 35 171, subsection 1, if enacted, is amended to read as
 36 follows:
 37 1. PURPOSE. The general assembly finds that the
 38 Iowa communications network is a valuable state asset
 39 that has served the people of the state well, but
 40 which requires significant ongoing financial support
 41 from the state in the form of annual appropriations.
 42 The operation of a telecommunications network is a
 43 function that can be and generally is conducted by
 44 private enterprise. It is in the public interest to
 45 sell the Iowa communications network to a qualified
 46 private business enterprise that will commit to
 47 provide the same secure low-cost high-quality service
 48 ~~to state and federal public and private agencies and~~
 49 ~~military installations, as defined in chapter 8D, now~~
 50 provided by the network. Through such a sale, the

Page 12

1 state would eliminate the need for ongoing annual
 2 appropriations while preserving the key benefits
 3 enjoyed by the state under the present state ownership
 4 of the network. The state also expects to obtain
 5 sufficient proceeds from such a sale to cover existing
 6 obligations and to realize additional proceeds above
 7 the level of such obligations. Given the current
 8 depressed state of the telecommunications industry,
 9 the state can reasonably be expected to maximize sales
 10 proceeds by allowing a purchaser a period of time in
 11 which to assemble financing for its purchase. During

12 the interim between enactment of this division of this
13 Act and completion of a sale, the services of a
14 private-enterprise manager with experience operating
15 telecommunications networks can reasonably be expected
16 to reduce the costs of operating the Iowa
17 communications network, thereby lowering annual
18 appropriations.

19 Sec. 27. 2003 Iowa Acts, [Senate File 458](#), section
20 172, subsection 2, paragraph b, if enacted, is amended
21 to read as follows:

22 b. Select a manager and enter into a management
23 contract with the manager by October 1, 2004. The
24 management contract shall provide for the continuation
25 of all services currently being provided to ~~state and~~
26 ~~federal public and private~~ agencies ~~and military~~
27 ~~installations~~ pursuant to chapter 8D, at the rates
28 specified therein, for the duration of the contract.
29 The contract shall also specify the manager's
30 authority in relation to the duties of the commission
31 during the period between execution of the management
32 contract and closing of the sale of the network. The
33 commission shall establish a dispute resolution
34 process regarding rate increases, quality of service
35 issues, and other areas of dispute involving network
36 subscribers. The commission shall also make
37 recommendations regarding imposition of an ongoing
38 dispute resolution and appeals process commencing with
39 the closing of the sale of the network.

40 Sec. 28. 2003 Iowa Acts, [Senate File 458](#), section
41 173, subsection 1, if enacted, is amended to read as
42 follows:

43 1. The ~~principal place of business of the~~
44 purchaser and any parent of the purchaser shall be
45 ~~located~~ operating in the state of Iowa.

46 Sec. 29. 2003 Iowa Acts, [Senate File 458](#), section
47 174, subsection 4, if enacted, is amended to read as
48 follows:

49 4. Agree to continue all services currently being
50 provided to ~~state and federal~~ public and private

Page 13

1 ~~agencies and military installations, as defined in~~
2 ~~chapter 8D~~, for the next ten years, with any annual
3 rate increase not to exceed five percent per year,
4 provided that the purchaser shall not be required to
5 supply at such restricted prices a quantity or quality
6 of service greater than that provided by the network
7 as of execution of the contract for sale of the
8 network.

9 Sec. 30. 2003 Iowa Acts, [House File 667](#), section
10 27, subsection 1, unnumbered paragraph 2, is amended

11 to read as follows:

12 For costs associated with the commitment and
13 treatment of sexually violent predators in the unit
14 located at the state mental health institute at
15 Cherokee, including costs of legal services and other
16 associated costs, including salaries, support,
17 maintenance, and miscellaneous purposes and for not
18 more than the following full-time equivalent
19 positions:

20	\$ 2,675,179
21	FTEs 46.00
22	<u>57.00</u>

23 Sec. 31. EFFECTIVE DATE – RETROACTIVE
24 APPLICABILITY.

25 1. The section of this division of this Act
26 amending section 231C.17, being deemed of immediate
27 importance, takes effect upon enactment.

28 2. The section of this division of this Act
29 amending 2003 Iowa Acts, [Senate File 401](#), being deemed
30 of immediate importance, takes effect upon enactment
31 and is retroactively applicable to April 11, 2003.

32 DIVISION IV

33 CORRECTIVE PROVISIONS

34 Sec. 32. Section 8A.505, as enacted by 2003 Iowa
35 Acts, [House File 534](#), section 87, is amended by adding
36 the following new unnumbered paragraph:
37 NEW UNNUMBERED PARAGRAPH. There is appropriated
38 annually from the increase in indirect cost
39 reimbursements over the amount of indirect cost
40 reimbursements received during the fiscal year
41 beginning July 1, 2002, to the office of grants
42 enterprise management of the department of management
43 the sum of up to one hundred twenty-five thousand
44 dollars. The director shall transfer the funds
45 appropriated to the department of management as
46 provided in this paragraph and shall make the funds
47 resulting from the increase in reimbursements
48 available during the fiscal year to the department of
49 management on a monthly basis. If the amount of the
50 increase in indirect cost reimbursements is

Page 14

1 insufficient to pay the maximum appropriation provided
2 for in this paragraph, the amount appropriated is
3 equal to the amount of such increase.

4 Sec. 33. Section 12C.4, Code 2003, as amended by
5 2003 Iowa Acts, [House File 289](#), section 2, is amended
6 to read as follows:

7 12C.4 LOCATION OF DEPOSITORYES.

8 Deposits by the treasurer of state shall be in
9 depositories located in this state; by a county

10 officer or county public hospital officer or merged
11 area hospital officer, in depositories located in the
12 county or in an adjoining county within this state; by
13 a memorial hospital treasurer, in a depository located
14 within this state which shall be selected by the
15 memorial hospital treasurer and approved by the
16 memorial hospital commission; by a city treasurer or
17 other city financial officer, in depositories located
18 in the county in which the city is located or in an
19 adjoining county, but if there is no depository in the
20 county in which the city is located or in an adjoining
21 county then in any other depository located in this
22 state which shall be selected as a depository by the
23 city council; by a school treasurer or by a school
24 secretary in a depository within this state which
25 shall be selected by the board of directors or the
26 trustees of the school district; by a township clerk
27 in a depository located within this state which shall
28 be selected by the township clerk and approved by the
29 trustees of the township. However, deposits may be
30 made in depositories outside of Iowa for the purpose
31 of paying principal and interest on bonded
32 indebtedness of any municipality when the deposit is
33 made not more than ten days before the date the
34 principal or interest becomes due. Further, the
35 treasurer of state may maintain an account or accounts
36 outside the state of Iowa for the purpose of providing
37 custodial services for the state and state retirement
38 fund accounts. Deposits made for the purpose of
39 completing an electronic financial transaction
40 pursuant to section ~~44B.203~~ 8A.222 or 331.427 may be
41 made in any depository located in this state.
42 Sec. 34. Section 29A.28, subsection 3, as enacted
43 by 2003 Iowa Acts, [House File 674](#), section 3, is
44 amended to read as follows:
45 3. Upon returning from a leave of absence under
46 this section, an employee shall be entitled to return
47 to the same position and classification held by the
48 employee at the time of entry ~~onto~~ into state active
49 duty, active state service, or federal service or to
50 the position and classification that the employee

Page 15

1 would have been entitled to if the continuous civil
2 service of the employee had not been interrupted by
3 state active duty, active state service, or federal
4 service. Under this subsection, "position" includes
5 the geographical location of the position.
6 Sec. 35. Section 70A.39, subsection 1, paragraph
7 b, as enacted by 2003 Iowa Acts, [House File 381](#),
8 section 1, is amended to read as follows:

9 b. ~~"Vascularized"~~ "Vascular organ" means a heart,
 10 lung, liver, pancreas, kidney, intestine, or other
 11 organ that requires the continuous circulation of
 12 blood to remain useful for purposes of
 13 transplantation.

14 Sec. 36. Section 99B.7, subsection 1, paragraph 1,
 15 subparagraph (1), Code 2003, as amended by 2003 Iowa
 16 Acts, [Senate File 453](#), section 104, if enacted, is
 17 amended to read as follows:

18 (1) No other gambling is engaged in at the same
 19 location, except that lottery tickets or shares issued
 20 by the Iowa lottery ~~division of the department of~~
 21 ~~revenue and finance authority~~ may be sold pursuant to
 22 chapter 99G.

23 Sec. 37. Section 507A.4, subsection 9, paragraph
 24 e, as enacted by 2003 Iowa Acts, [House File 647](#),
 25 section 4, is amended to read as follows:

26 e. When not otherwise provided, a foreign or
 27 domestic multiple ~~employee~~ employer welfare
 28 arrangement doing business in this state shall pay to
 29 the commissioner of insurance the fees as required in
 30 section 511.24.

31 Sec. 38. Section 556.11, subsection 5, Code 2003,
 32 as amended by 2003 Iowa Acts, [Senate File 180](#), section
 33 2, is amended to read as follows:

34 5. If the holder of property presumed abandoned
 35 under this chapter knows the whereabouts of the owner
 36 and if the owner's claim has not been barred by the
 37 statute of limitations, the holder shall, before
 38 filing the annual report, communicate with the owner
 39 and take necessary steps to prevent abandonment from
 40 being presumed. The holder shall exercise due
 41 diligence to ascertain the whereabouts of the owner. A
 42 holder is not required to make a due diligence mailing
 43 to owners whose property has an aggregate value of
 44 less than fifty dollars. The treasurer of state may
 45 charge a holder that fails to timely exercise due
 46 diligence, as required in this subsection, five
 47 dollars for each name and address account reported if
 48 thirty-five percent ~~of~~ or more of the accounts are
 49 claimed within the twenty-four months immediately
 50 following the filing of the holder report.

Page 16

1 Sec. 39. 2003 Iowa Acts, [Senate File 438](#), section
 2 3, is repealed.

3 Sec. 40. 2003 Iowa Acts, [Senate File 453](#), section
 4 11, if enacted, is amended to read as follows:

5 SEC. 11. Sections ~~403.23~~, 405A.1, 405A.2, 405A.3,
 6 405A.4, 405A.5, 405A.6, 405A.7, 405A.8, 405A.9,
 7 405A.10, 422.65, 427A.12, and 427B.19B, Code 2003, are

8 repealed.

9 Sec. 41. 2003 Iowa Acts, [Senate File 458](#), section

10 13, if enacted, is amended to read as follows:

11 SEC. 13. REDUCTION IN CREDITS NOT APPLICABLE. The
12 ~~provision provisions~~ in section 25B.7 relating to the
13 proration of the property tax credits ~~does and the~~
14 ~~estimation of the portion of the credit or exemption~~
15 ~~which will be funded do~~ not apply with respect to the
16 amount of state reimbursement for property tax credits
17 under this division.

18 Sec. 42. 2003 Iowa Acts, [Senate File 458](#), section

19 159, if enacted, is amended to read as follows:

20 SEC. 159. EFFECTIVE DATES. The following
21 provisions of this division of this Act, being deemed
22 of immediate importance, take effect upon enactment:

23 1. The amendments to sections 8.23, 8.31, and 8.57
24 which are first applicable to appropriations made for
25 the fiscal year beginning July 1, 2003.

26 2. The amendment to section 12E.12.

27 3. The amendments to sections 15E.42, 15E.43,
28 15E.45, and 15E.51, which apply retroactively to
29 January 1, 2002, for tax years beginning on or after
30 that date.

31 4. The amendment to section 15E.193B.

32 5. The amendment to section 435.26A.

33 6. The amendment to section 453A.2, which shall
34 only take effect if 2003 Iowa Acts, [Senate File 401](#),
35 is enacted by the Eightieth General Assembly, 2003
36 Regular Session.

37 7. The amendments to sections 453C.1 and 453C.2
38 and the related severability provision.

39 8. The amendments to sections 518.18 and 518A.35.

40 9. The section directing the department of
41 corrections to develop a plan for selling certain
42 land.

43 10. The section relating to the sales and use tax
44 refund.

45 11. The section relating to the school district
46 reimbursement claim.

47 The sections of this division of this Act amending
48 section 80B.5 and enacting section 80B.5a are
49 applicable to the appointment of the director of the
50 Iowa law enforcement academy for the term beginning

Page 17

1 May 1, 2004.

2 ~~Section 20C.8, subsection 3, paragraph "f", as~~
3 ~~enacted in this division of this Act, and the~~
4 ~~amendment to section 20C.20, subsection 1, as enacted~~
5 ~~in this division of this Act, take effect July 1,~~
6 ~~2004.~~

7 Sec. 43. 2003 Iowa Acts, [House File 171](#), section
8 112, the bill section amending clause, is amended to
9 read as follows:
10 Section 656.2, subsection 2, paragraph a,
11 unnumbered paragraph ~~4~~ 3, Code 2003, is amended to
12 read as follows:
13 Sec. 44. 2003 Iowa Acts, [House File 662](#), section
14 5, subsection 8, paragraphs a and b, if enacted, are
15 amended to read as follows:
16 a. Of the amount appropriated in this ~~section~~
17 ~~subsection~~, \$347,371 shall be allocated to the public
18 broadcasting division for purposes of providing
19 support for functions related to the Iowa
20 communications network, including but not limited to
21 the following functions: development of distance
22 learning applications; development of a central
23 information source on the internet relating to
24 educational uses of the network; second-line technical
25 support for network sites; testing and initializing
26 sites onto the network; and coordinating the work of
27 the education telecommunications council.
28 b. Of the amount appropriated in this ~~section~~
29 ~~subsection~~, \$1,272,285 shall be allocated to the
30 regional telecommunications councils established in
31 section 8D.5. The regional telecommunications
32 councils shall use the funds to provide technical
33 assistance for network classrooms, planning and
34 troubleshooting for local area networks, scheduling of
35 video sites, and other related support activities.
36 Sec. 45. 2003 Iowa Acts, [House File 662](#), section
37 6, unnumbered paragraph 2, if enacted, is amended to
38 read as follows:
39 The funds allocated in this ~~subsection~~ ~~section~~
40 shall be distributed as follows:
41 Sec. 46. 2003 Iowa Acts, [House File 662](#), section
42 18, if enacted, is repealed.
43 Sec. 47. EFFECTIVE AND APPLICABILITY DATES.
44 1. The section of this division of this Act
45 amending section 29A.28, subsection 3, being deemed of
46 immediate importance, takes effect upon enactment and
47 applies retroactively to January 1, 2003.
48 2. The section of this division of this Act
49 amending 2003 Iowa Acts, [Senate File 458](#), section 159,
50 being deemed of immediate importance, takes effect

Page 18

1 upon enactment.
2 3. 2003 Iowa Acts, [Senate File 458](#), section 140,
3 relating to nonreversion of funds appropriated in 1996
4 Iowa Acts, chapter 1218, and 1997 Iowa Acts, chapter
5 215, if enacted, being deemed of immediate importance,

6 takes effect upon enactment of this Act.

7 DIVISION V

8 ALTERNATIVE FORMS OF LOCAL GOVERNMENT

9 Sec. 48. Section 331.234, subsections 3 and 4,
10 Code 2003, as amended by 2003 Iowa Acts, Senate File
11 390, section 4, if enacted, are amended to read as
12 follows:

13 3. The board shall make available to the
14 commission in-kind services such as office space,
15 printing, supplies, and equipment. ~~The county and~~
16 ~~shall pay from the segregated account established in~~
17 ~~subsection 4,~~ the other necessary expenses of the
18 commission including compensation for secretarial,
19 clerical, professional, and consultant services. The
20 total annual expenses, not including the value of in-
21 kind expenses, to be paid from public funds shall not
22 exceed one hundred thousand dollars or an amount equal
23 to thirty cents times the population of the commission
24 area, according to the most recent certified federal
25 census. The commission may employ staff as necessary.

26 4. ~~The~~ Except as otherwise provided in subsection
27 5, the expenses of the commission ~~shall be paid by~~
28 ~~each city and county participating in the charter~~
29 ~~process or may be paid from the general fund of the~~
30 county. Expenses of the commission may also be paid
31 from any combination of public or private funds
32 available for that purpose. ~~Each city's share shall~~
33 ~~be its pro rata share of the expenses based upon the~~
34 ~~ratio that the population of the city bears to the~~
35 ~~total population in the county. The county's share~~
36 ~~shall be its pro rata share of expenses based upon the~~
37 ~~ratio that the population of the unincorporated area~~
38 ~~of the county bears to the total population of the~~
39 ~~county. The amount paid by each city and county~~
40 ~~participating in the charter process shall be~~
41 ~~deposited in a segregated account maintained by the~~
42 ~~county.~~ The commission's annual expenses may exceed
43 the amount in subsection 3 only if the excess is paid
44 from private funds. If a proposed charter is
45 submitted to the electorate, private funds donated to
46 the commission may be used to promote passage of the
47 proposed charter.

48 Sec. 49. Section 331.234, Code 2003, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 5. In the case of a city-county

Page 19

1 consolidation charter commission or a community
2 commonwealth charter commission, the expenses of the
3 commission shall be paid by each city and county
4 participating in the charter process pursuant to

5 section 331.233A. Each participating city's share
6 shall be its pro rata share of the expenses based upon
7 the ratio that the population of the city bears to the
8 total population in the county. The remainder shall
9 be paid from the general fund of the county. The
10 amount paid by each city and county participating in
11 the charter process shall be deposited in a segregated
12 account maintained by the county.

13 Sec. 50. Section 331.235, subsection 3, Code 2003,
14 as amended by 2003 Iowa Acts, [Senate File 390](#), section
15 5, if enacted, is amended to read as follows:

16 3. Within twenty months after organization, the
17 commission shall submit the final report to the board.
18 If the commission is created pursuant to section
19 331.264, subsection 4, the commission shall submit the
20 final report to the board within five months after
21 submission of the preliminary report to the board
22 pursuant to section 331.264, subsection 3. A
23 commission created pursuant to section 331.264,
24 subsection 4, may adopt a motion granting itself a
25 sixty-day extension of time for submission of its
26 final report. If the commission recommends a charter
27 including a form of government other than the existing
28 form of government, the final report shall include the
29 full text and an explanation of the proposed charter,
30 ~~a statement of whether the elected officers shall be~~
31 ~~elected on a partisan or nonpartisan basis,~~ an
32 analysis of the fiscal impact of the proposed charter,
33 any comments deemed desirable by the commission, and
34 any minority reports. The final report may recommend
35 no change to the existing form of government and that
36 no charter be submitted to the electorate, in which
37 case, the report shall state the reasons for and
38 against a change in the existing form of government.
39 The final report shall be made available to the
40 residents of the county upon request. A summary of
41 the final report shall be published in the official
42 newspapers of the county and in a newspaper of general
43 circulation in each participating city.

44 Sec. 51. Section 331.238, subsection 4, if enacted
45 by 2003 Iowa Acts, [Senate File 390](#), section 9, is
46 amended to read as follows:

47 ~~4. Subsections 1 and 2 do~~ This section does not
48 apply to the city-county consolidated form of
49 government or the community commonwealth form of
50 government.

Page 20

1 Sec. 52. Section 331.247, subsection 4, Code 2003,
2 as amended by 2003 Iowa Acts, [Senate File 390](#), section
3 11, if enacted, is amended to read as follows:

4 4. If an alternative form of government for a
5 consolidated unit of local government is proposed,
6 approval of the consolidation charter shall be
7 separate from approval of the alternative form of
8 government in those cities proposed to be included in
9 the consolidation. The question of whether the
10 election of officers of the consolidated unit of local
11 government shall be with regard to political
12 affiliation shall be a separate question on the
13 ballot. Adoption of the consolidation charter
14 requires the approval of a majority of the votes cast
15 in the entire county. A city named on the ballot is
16 included in the consolidation if the proposed charter
17 is approved by a majority of the votes cast in the
18 city. The consolidation charter shall be effective in
19 regard to a city government only if a majority of the
20 voters of the city voting on the question voted for
21 participation in the consolidation charter.

22 Sec. 53. Section 331.248, subsection 2, paragraph
23 j, if enacted by 2003 Iowa Acts, [Senate File 390](#),
24 section 13, is amended by striking the paragraph and
25 inserting in lieu thereof the following:
26 j. Provide for the effective date of the adopted
27 charter.

28 Sec. 54. Section 331.252, Code 2003, as amended by
29 2003 Iowa Acts, [Senate File 390](#), section 18, if
30 enacted, is amended by adding the following new
31 unnumbered paragraph after unnumbered paragraph 2:
32 NEW UNNUMBERED PARAGRAPH. If the charter described
33 on this ballot is adopted, should officers of the new
34 government be elected with regard to political
35 affiliation?

36 Sec. 55. Section 331.254, subsection 7, Code 2003,
37 as amended by 2003 Iowa Acts, [Senate File 390](#), section
38 19, if enacted, is amended to read as follows:
39 7. The merger of the elective offices of each
40 consolidating county with the election of new officers
41 within sixty days after the effective date of the
42 charter ~~which shall specifically provide whether the~~
43 ~~election of new officers shall be on a partisan or~~
44 ~~nonpartisan basis, notwithstanding section 331.238,~~
45 ~~subsection 3.~~ The elections shall be conducted by the
46 county commissioner of elections of each county. No
47 primary election shall be held. Nominations shall be
48 made pursuant to section 43.78 and chapters 44 and 45,
49 as applicable, except that the filing deadline shall
50 be forty days before the election.

Page 21

1 Sec. 56. Section 331.261, subsection 11, Code
2 2003, as amended by 2003 Iowa Acts, [Senate File 390](#),

3 section 22, if enacted, is amended by striking the
4 subsection and inserting in lieu thereof the
5 following:

6 11. The effective date of the adopted charter.

7 Sec. 57. Section 331.264, subsection 4, if enacted
8 by 2003 Iowa Acts, [Senate File 390](#), section 25, is
9 amended to read as follows:

10 4. If the committee report recommends a city-
11 county consolidation or community commonwealth, the
12 committee shall continue its existence and be
13 designated, and operate with the powers and duties of,
14 a commission created pursuant to section 331.233A. If
15 the committee report recommends a multicounty
16 consolidation, the committee shall continue its
17 existence and be designated, and operate with the
18 powers and duties of, a commission created pursuant to
19 section 331.233. ~~If the committee recommends an
20 alternative form of government, that recommendation
21 shall state whether elections conducted under that
22 form of government shall be partisan or nonpartisan.~~

23 Sec. 58. EFFECTIVE AND APPLICABILITY DATES. This
24 division of this Act, being deemed of immediate
25 importance, takes effect upon enactment and applies to
26 charter commissions in existence on that date.

27 DIVISION VI

28 CRIMINAL OFFENDERS AND INMATES

29 Sec. 59. Section 321J.2, subsection 2, paragraph
30 a, subparagraph (1), Code 2003, is amended to read as
31 follows:

32 (1) Imprisonment in the county jail for not less
33 than forty-eight hours, to be served as ordered by the
34 court, less credit for any time the person was
35 confined in a jail or detention facility following
36 arrest or for any time the person spent in a court-
37 ordered operating-while-intoxicated program that
38 provides law enforcement security. However, the
39 court, in ordering service of the sentence and in its
40 discretion, may accommodate the defendant's work
41 schedule.

42 Sec. 60. **NEW SECTION.** 811.2A PRETRIAL RELEASE.

43 a person, who has been released under a plan of
44 pretrial release or on the person's own recognizance
45 and who is subsequently arrested for a new criminal
46 offense while under the plan of pretrial release or
47 released on the person's own recognizance, shall not
48 be eligible for another release pursuant to pretrial
49 release guidelines or released on the person's own
50 recognizance, if all of the following apply:

Page 22

1 1. The arrest for the new criminal offense is

2 based on a set of facts or an event that is different
3 than involved in the earlier arrest.

4 2. The new criminal offense is classified as
5 greater than a serious misdemeanor.

6 However, a person may be admitted to bail if
7 eligible pursuant to section 811.1.

8 Sec. 61. Section 901.4, Code 2003, is amended to
9 read as follows:

10 901.4 PRESENTENCE INVESTIGATION REPORT
11 CONFIDENTIAL – DISTRIBUTION.

12 The presentence investigation report is
13 confidential and the court shall provide safeguards to
14 ensure its confidentiality, including but not limited
15 to sealing the report, which may be opened only by
16 further court order. At least three days prior to the
17 date set for sentencing, the court shall serve all of
18 the presentence investigation report upon the
19 defendant's attorney and the attorney for the state,
20 and the report shall remain confidential except upon
21 court order. However, the court may conceal the
22 identity of the person who provided confidential
23 information. The report of a medical examination or
24 psychological or psychiatric evaluation shall be made
25 available to the attorney for the state and to the
26 defendant upon request. The reports are part of the
27 record but shall be sealed and opened only on order of
28 the court. If the defendant is committed to the
29 custody of the Iowa department of corrections and is
30 not a class "A" felon, a copy of the presentence
31 investigation report shall be forwarded to the
32 director with the order of commitment by the clerk of
33 the district court and to the board of parole at the
34 time of commitment. ~~The Pursuant to section 904.602,~~
35 the presentence investigation report may also be
36 released by the department of corrections or a
37 judicial district department of correctional services
38 pursuant to section 904.602 to another jurisdiction
39 for the purpose of providing interstate probation and
40 parole compact services or evaluations, or to a
41 substance abuse or mental health services provider
42 when referring a defendant for services. The
43 defendant or the defendant's attorney may file with
44 the presentence investigation report, a denial or
45 refutation of the allegations, or both, contained in
46 the report. The denial or refutation shall be
47 included in the report. If the person is sentenced
48 for an offense which requires registration under
49 chapter 692A, the court shall release the report to
50 the department which is responsible under section

Page 23

1 692A.13A for performing the assessment of risk.
2 Sec. 62. Section 901B.1, subsection 1, paragraph
3 c, subparagraph (5), Code 2003, is amended to read as
4 follows:

5 (5) a substance abuse treatment facility as
6 established and operated by the Iowa department of
7 public health or the department of corrections.

8 Sec. 63. Section 903A.2, subsection 1, paragraph
9 a, Code 2003, is amended to read as follows:

10 a. Category "A" sentences are those sentences
11 which are not subject to a maximum accumulation of
12 earned time of fifteen percent of the total sentence
13 of confinement under section 902.12. To the extent
14 provided in subsection 5, category "A" sentences also
15 include life sentences imposed under section 902.1.
16 An inmate of an institution under the control of the
17 department of corrections who is serving a category
18 "A" sentence is eligible for a reduction of sentence
19 equal to one and two-tenths days for each day the
20 inmate demonstrates good conduct and satisfactorily
21 participates in any program or placement status
22 identified by the director to earn the reduction. The
23 programs include but are not limited to the following:

24 (1) Employment in the institution.

25 (2) Iowa state industries.

26 (3) An employment program established by the
27 director.

28 (4) a treatment program established by the
29 director.

30 (5) An inmate educational program approved by the
31 director.

32 An inmate serving a category "A" sentence is
33 eligible for an additional reduction of sentence of up
34 to three hundred sixty-five days of the full term of
35 the sentence of the inmate for exemplary acts. In
36 accordance with section 903A.4, the director shall by
37 policy identify what constitutes an exemplary act that
38 may warrant an additional reduction of sentence.

39 Sec. 64. Section 903A.3, subsection 2, Code 2003,
40 is amended to read as follows:

41 2. The orders of the administrative law judge are
42 subject to appeal to the superintendent or warden of
43 the institution, or the superintendent's or warden's
44 designee, who may either affirm, modify, remand for
45 correction of procedural errors, or reverse an order.
46 However, sanctions shall not be increased on appeal.
47 ~~a decision of the superintendent, warden, or designee~~
48 ~~is subject to review by the director of the Iowa~~
49 ~~department of corrections who may either affirm,~~
50 ~~modify, remand for correction of procedural errors, or~~

Page 24

1 ~~reverse the decision. However, sanctions shall not be~~
2 ~~increased on review.~~

3 Sec. 65. NEW SECTION. 904.117 INTERSTATE COMPACT
4 FUND.

5 An interstate compact fund is established under the
6 control of the department. All interstate compact
7 fees collected by the department pursuant to section
8 907B.5 shall be deposited into the fund and the moneys
9 shall be used by the department to offset the costs of
10 complying with the interstate compact for adult
11 offender supervision in chapter 907B. Notwithstanding
12 section 8.33, moneys remaining in the fund at the end
13 of a fiscal year shall not revert to the general fund
14 of the state. Notwithstanding section 12C.7, interest
15 and earnings deposited in the fund shall be credited
16 to the fund.

17 Sec. 66. Section 904.503, subsection 2, Code 2003,
18 is amended to read as follows:

19 2. When the director has cause to believe that an
20 inmate in a state correctional institution is mentally
21 ill, the Iowa department of corrections may cause the
22 inmate to be transferred to the Iowa medical and
23 classification center, or to another appropriate
24 facility within the department, for examination,
25 diagnosis, or treatment. The inmate shall be confined
26 at that ~~institution center or facility~~ or a state
27 hospital for persons with mental illness until the
28 expiration of the inmate's sentence or until the
29 inmate is pronounced in good mental health. If the
30 inmate is pronounced in good mental health before the
31 expiration of the inmate's sentence, the inmate shall
32 be returned to the state correctional institution
33 until the expiration of the inmate's sentence.

34 Sec. 67. Section 904.508, subsection 2, Code 2003,
35 is amended to read as follows:

36 2. ~~The Pursuant to section 904.702, the~~ director
37 shall establish and maintain an inmate savings fund in
38 an interest-bearing account for the deposit of all or
39 part of an inmate's allowances, ~~as provided in section~~
40 ~~904.702 and amounts, except amounts directed to be~~
41 deposited in the inmate telephone fund established in
42 section 904.508A, sent to the inmate from a source
43 other than the department. All or part of an inmate's
44 allowances and amounts, except amounts directed to be
45 deposited in the inmate telephone fund established in
46 section 904.508A, from a source other than the
47 department shall be deposited into the savings fund,
48 until the inmate's deposit is equal to ~~the amount due~~
49 ~~the inmate upon discharge, parole, or placement on~~
50 ~~work release, one hundred dollars~~ as provided in

Page 25

1 section 906.9. If an inmate's deposits are equal ~~this~~
2 ~~amount~~ to or in excess of one hundred dollars, the
3 inmate may voluntarily withdraw from the savings fund.
4 The director shall notify the inmate of this right to
5 withdraw and shall provide the inmate with a written
6 request form to facilitate the withdrawal. If the
7 inmate withdraws and the inmate's deposits exceed the
8 amount due as provided in section 906.9, the director
9 shall disburse the excess amount as provided for
10 allowances under section 904.702, except the director
11 shall not deposit the excess amount in the inmate
12 savings fund. If the inmate chooses to continue to
13 participate in the savings fund, the inmate's deposits
14 shall be returned to the inmate upon discharge,
15 parole, or placement on work release. Otherwise, the
16 inmate's deposits shall be disposed of as provided in
17 subsection 3. An inmate's deposits into the savings
18 fund may be used to provide the money due the inmate
19 upon discharge, parole, or placement on work release,
20 as required under section 906.9. Interest earned from
21 the savings fund shall be placed in a separate
22 account, and may be used for purchases approved by the
23 director to directly and collectively benefit inmates.

24 Sec. 68. Section 904.508A, Code 2003, is amended
25 to read as follows:

26 904.508A INMATE TELEPHONE ~~REBATE~~ FUND.

27 The department is authorized to establish and
28 maintain an inmate telephone ~~rebate~~ fund ~~in each~~
29 ~~institution~~ for the deposit of moneys received for
30 inmate telephone ~~rebates~~ calls. All funds deposited
31 in this fund shall be used for the benefit of inmates.
32 The director shall adopt rules providing for the
33 disbursement of moneys from the fund.

34 Sec. 69. Section 904.513, subsection 1, paragraph
35 b, subparagraph (4), Code 2003, is amended to read as
36 follows:

37 (4) Assignment may also be made on the basis of
38 the offender's treatment program performance, as a
39 disciplinary measure, for medical needs, and for space
40 availability at community residential facilities. If
41 there is insufficient space at a community residential
42 facility, the court may order an offender to be
43 released to the supervision of the judicial district
44 department of correctional services, ~~or~~ held in jail,
45 or committed to the custody of the director of the
46 department of corrections for assignment to an
47 appropriate correctional facility until there is
48 sufficient space at a community residential facility.

49 Sec. 70. Section 904.702, unnumbered paragraph 1,
50 Code 2003, is amended to read as follows:

Page 26

1 If allowances are paid pursuant to section 904.701,
2 the director shall establish an inmate account, for
3 deposit of those allowances and for deposit of moneys
4 sent to the inmate from a source other than the
5 department of corrections. The director may deduct an
6 amount, not to exceed ten percent of the amount of the
7 allowance, unless the inmate requests a larger amount,
8 to be deposited into the inmate savings fund as
9 required under section 904.508, subsection 2. In
10 addition to deducting a portion of the allowance, the
11 director may also deduct from an inmate account any
12 amount, except amounts directed to be deposited in the
13 inmate telephone fund established in section 904.508A,
14 sent to the inmate from a source other than the
15 department of corrections for deposit in the inmate
16 savings fund as required under section 904.508,
17 subsection 2, until the amount in the fund equals the
18 amount due the inmate upon discharge, parole, or
19 placement on work release. The director shall deduct
20 from the inmate account an amount established by the
21 inmate's restitution plan of payment. The director
22 shall also deduct from any remaining account balance
23 an amount sufficient to pay all or part of any
24 judgment against the inmate, including but not limited
25 to judgments for taxes and child support, and court
26 costs and fees assessed either as a result of the
27 inmate's confinement or amounts required to be paid
28 under section 610A.1. Written notice of the amount of
29 the deduction shall be given to the inmate, who shall
30 have five days after receipt of the notice to submit
31 in writing any and all objections to the deduction to
32 the director, who shall consider the objections prior
33 to transmitting the deducted amount to the clerk of
34 the district court. The director need give only one
35 notice for each action or appeal under section 610A.1
36 for which periodic deductions are to be made. The
37 director shall next deduct from any remaining account
38 balance an amount sufficient to pay all or part of any
39 costs assessed against the inmate for misconduct or
40 damage to the property of others. The director may
41 deduct from the inmate's account an amount sufficient
42 to pay for the inmate's share of the costs of health
43 services requested by the inmate and for the treatment
44 of injuries inflicted by the inmate on the inmate or
45 others. The director may deduct and disburse an
46 amount sufficient for industries' programs to qualify
47 under the eligibility requirements established in the
48 Justice Assistance Act of 1984, Pub. L. No. 98-473,
49 including an amount to pay all or part of the cost of
50 the inmate's incarceration. The director may pay all

Page 27

1 or any part of remaining allowances paid pursuant to
2 section 904.701 directly to a dependent of the inmate,
3 or may deposit the allowance to the account of the
4 inmate, or may deposit a portion and allow the inmate
5 a portion for the inmate's personal use.

6 Sec. 71. Section 907.4, Code 2003, is amended to
7 read as follows:

8 907.4 DEFERRED JUDGMENT DOCKET.

9 a deferment of judgment under section 907.3 shall
10 be reported promptly by the clerk of the district
11 court, or the clerk's designee, to the state court
12 administrator for entry in the deferred judgment
13 docket. The docket shall contain a permanent record
14 of the deferred judgment including the name and date
15 of birth of the defendant, the district court docket
16 number, the nature of the offense, and the date of the
17 deferred judgment. Before granting deferred judgment
18 in any case, the court shall request of the state
19 court administrator a search of the deferred judgment
20 docket and shall consider any prior record of a
21 deferred judgment against the defendant. The
22 permanent record provided for in this section is a
23 confidential record exempted from public access under
24 section 22.7 and shall be available only to justices
25 of the supreme court, judges of the court of appeals,
26 district judges, district associate judges, judicial
27 magistrates, clerks of the district court, judicial
28 district departments of correctional services, and
29 county attorneys requesting information pursuant to
30 this section, or the designee of a justice, judge,
31 magistrate, clerk, judicial district department of
32 correctional services, or county attorney.

33 Sec. 72. Section 907.9, subsections 1, 2, and 4,
34 Code 2003, are amended to read as follows:

35 1. At any time that the court determines that the
36 purposes of probation have been fulfilled and the fees
37 imposed under section 905.14 have been paid ~~to or~~
38 ~~waived by the judicial district department of~~
39 ~~correctional services~~ or on condition that unpaid
40 supervision fees be paid, the court may order the
41 discharge of a person from probation.

42 2. At any time that a probation officer determines
43 that the purposes of probation have been fulfilled and
44 the fees imposed under section 905.14 have been paid
45 ~~to or waived by the judicial district department of~~
46 ~~correctional services~~ or on condition that unpaid
47 supervision fees be paid, the officer may order the
48 discharge of a person from probation after approval of
49 the district director and notification of the
50 sentencing court and the county attorney who

Page 28

1 prosecuted the case.

2 4. At the expiration of the period of probation
3 and if the fees imposed under section 905.14 have been
4 ~~paid to or waived by the judicial district department~~
5 ~~of correctional services or on condition that unpaid~~
6 ~~supervision fees be paid~~, the court shall order the
7 discharge of the person from probation, and the court
8 shall forward to the governor a recommendation for or
9 against restoration of citizenship rights to that
10 person. A person who has been discharged from
11 probation shall no longer be held to answer for the
12 person's offense. Upon discharge from probation, if
13 judgment has been deferred under section 907.3, the
14 court's criminal record with reference to the deferred
15 judgment shall be expunged. The record maintained by
16 the state court administrator as required by section
17 907.4 shall not be expunged. The court's record shall
18 not be expunged in any other circumstances.
19 Sec. 73. NEW SECTION. 907B.4 INTERSTATE COMPACT
20 FEE.

21 The department of corrections may assess a fee, not
22 to exceed one hundred dollars, for an application to
23 transfer out of the state under the interstate compact
24 for adult offender supervision. The fee may be waived
25 by the department. The moneys collected pursuant to
26 this section shall be deposited into the interstate
27 compact fund established in section 904.117 and shall
28 be used to offset the costs of complying with the
29 interstate compact for adult offender supervision.

30 Sec. 74. Section 910.3B, Code 2003, is amended to
31 read as follows:

32 910.3B RESTITUTION FOR DEATH OF VICTIM.

33 1. In all criminal cases in which the offender is
34 convicted of a felony in which the act or acts
35 committed by the offender caused the death of another
36 person, in addition to the amount determined to be
37 payable and ordered to be paid to a victim for
38 pecuniary damages, as defined under section 910.1, and
39 determined under section 910.3, the court shall also
40 order the offender to pay at least one hundred fifty
41 thousand dollars in restitution to the victim's estate
42 if the victim died testate. If the victim died
43 intestate the court shall order the offender to pay
44 the restitution to the victim's heirs at law as
45 determined pursuant to section 633.210. The
46 obligation to pay the additional amount shall not be
47 dischargeable in any proceeding under the federal
48 Bankruptcy Act. Payment of the additional amount
49 shall have the same priority as payment of a victim's
50 pecuniary damages under section 910.2, in the

Page 29

1 offender's plan for restitution.
 2 2. An award under this section does not preclude
 3 or supersede the right of a victim's estate or heirs
 4 at law to bring a civil action against the offender
 5 for damages arising out of the same facts or event.
 6 However, no evidence relating to the entry of the
 7 judgment against the offender pursuant to this section
 8 or the amount of the award ordered pursuant to this
 9 section shall be permitted to be introduced in any
 10 civil action for damages arising out of the same facts
 11 or event.

12 3. An offender who is ordered to pay a victim's
 13 estate or heirs at law under this section is precluded
 14 from denying the elements of the felony offense which
 15 resulted in the order for payment in any subsequent
 16 civil action for damages arising out of the same facts
 17 or event.

18 Sec. 75. Section 915.100, subsection 2, paragraph
 19 c, Code 2003, is amended to read as follows:
 20 c. In cases where the act committed by an offender
 21 causes the death of another person, in addition to the
 22 amount ordered for payment of the victim's pecuniary
 23 damages, the court shall also order the offender to
 24 pay at least one hundred fifty thousand dollars in
 25 restitution to the victim's estate or heirs at law,
 26 pursuant to the provisions of section 910.3B.

27 DIVISION VII

28 ECONOMIC DEVELOPMENT APPROPRIATIONS

29 Sec. 76. MARKETING APPROPRIATION.

30 1. There is appropriated from the grow Iowa fund
 31 created in section 15G.107, if enacted by 2003 Iowa
 32 Acts, [House File 692](#) or another Act, to the department
 33 of economic development, for the fiscal period
 34 beginning July 1, 2004, and ending June 30, 2010, the
 35 following amounts, or so much thereof as is necessary,
 36 to be used for the purpose designated:

37 For implementing and administering the marketing
 38 strategy approved under section 15G.108, if enacted by
 39 2003 Iowa Acts, [House File 692](#) or another Act:

40 FY 2004-2005	\$ 10,000,000
41 FY 2005-2006	\$ 10,000,000
42 FY 2006-2007	\$ 5,000,000
43 FY 2007-2008	\$ 5,000,000
44 FY 2008-2009	\$ 5,000,000
45 FY 2009-2010	\$ 2,500,000

46 2. Notwithstanding section 8.33, moneys that
 47 remain unexpended at the end of a fiscal year shall
 48 not revert to any fund but shall remain available for
 49 expenditure for the designated purposes during the
 50 succeeding fiscal year.

1 Sec. 77. DEPARTMENT OF ECONOMIC DEVELOPMENT
2 APPROPRIATION.

3 1. There is appropriated from the grow Iowa fund
4 created in section 15G.107, if enacted by 2003 Iowa
5 Acts, [House File 692](#) or another Act, to the department
6 of economic development for the fiscal period
7 beginning July 1, 2003, and ending June 30, 2010, the
8 following amounts, or so much thereof as is necessary,
9 to be used for the purpose designated:

10 For programs administered by the department of
11 economic development:

12 FY 2003-2004	\$ 41,575,000
13 FY 2004-2005	\$ 31,575,000
14 FY 2005-2006	\$ 35,000,000
15 FY 2006-2007	\$ 32,500,000
16 FY 2007-2008	\$ 30,500,000
17 FY 2008-2009	\$ 13,500,000
18 FY 2009-2010	\$ 13,500,000

19 2. Notwithstanding section 8.33, moneys that
20 remain unexpended at the end of a fiscal year shall
21 not revert to any fund but shall remain available for
22 expenditure for the designated purposes during the
23 succeeding fiscal year.

24 3. Each year that moneys are appropriated under
25 this section, the grow Iowa board shall allocate a
26 percentage of the moneys for each of the following
27 types of activities:

- 28 a. Business start-ups.
- 29 b. Business expansion.
- 30 c. Business modernization.
- 31 d. Business attraction.
- 32 e. Business retention.
- 33 f. Marketing.

34 4. An applicant for moneys appropriated under this
35 section shall be required by the department to include
36 in the application a statement regarding the intended
37 return on investment. A recipient of moneys
38 appropriated under this section shall annually submit
39 a statement to the department regarding the progress
40 achieved on the intended return on investment stated
41 in the application. The department, in cooperation
42 with the department of revenue and finance, shall
43 develop a method of identifying and tracking each new
44 job created through financial assistance from moneys
45 appropriated under this section.

46 5. The department may use moneys appropriated
47 under this section to procure technical assistance
48 from either the public or private sector, for
49 information technology purposes, and for rail, air, or
50 river port transportation-related purposes. The use

Page 31

1 of moneys appropriated for rail, air, or river port
 2 transportation-related purposes must be directly
 3 related to an economic development project and the
 4 moneys must be used to leverage other financial
 5 assistance moneys.

6 6. Of the moneys appropriated under this section,
 7 the department may use one-quarter of one percent for
 8 administrative purposes.

9 7. The grow Iowa board is required to approve or
 10 deny applications for financial assistance from moneys
 11 appropriated under this section.

12 Sec. 78. UNIVERSITY AND COLLEGE FINANCIAL
 13 ASSISTANCE APPROPRIATION.

14 1. There is appropriated from the grow Iowa fund
 15 created in section 15G.107, if enacted by 2003 Iowa
 16 Acts, [House File 692](#) or another Act, to the grow Iowa
 17 board for the fiscal period beginning July 1, 2003,
 18 and ending June 30, 2010, the following amounts, or so
 19 much thereof as is necessary, to be used for the
 20 purposes designated:

21 For financial assistance for institutions of higher
 22 learning under the control of the state board of
 23 regents and for accredited private institutions as
 24 defined in section 261.9 for multiuse, goods
 25 manufacturing processes approved by the food and drug
 26 administration of the United States department of
 27 health and human services, protein purification
 28 facilities for plant, animal, and chemical
 29 manufactured proteins; upgrading food and drug
 30 administration drug approval laboratories in Iowa City
 31 to a larger multiclient, goods manufacturing processes
 32 facility; crop and animal livestock facilities for the
 33 growing of transgenic crops and livestock; and
 34 advanced laboratory space:

35 FY 2003-2004	\$ 5,325,000
36 FY 2004-2005	\$ 5,325,000
37 FY 2005-2006	\$ 5,325,000
38 FY 2006-2007	\$ 5,325,000
39 FY 2007-2008	\$ 5,325,000
40 FY 2008-2009	\$ 5,325,000
41 FY 2009-2010	\$ 5,325,000

42 2. Notwithstanding section 8.33, moneys that
 43 remain unexpended at the end of a fiscal year shall
 44 not revert to any fund but shall remain available for
 45 expenditure for the designated purposes during the
 46 succeeding fiscal year.

47 3. In the distribution of moneys appropriated
 48 pursuant to this section, the grow Iowa board shall
 49 examine the potential for using moneys appropriated
 50 pursuant to this section to leverage other moneys for

1 financial assistance to accredited private
2 institutions.

3 4. In awarding moneys appropriated pursuant to
4 this section, the grow Iowa board shall consider
5 whether the purchase of suitable existing
6 infrastructure is more cost-efficient than building
7 new infrastructure.

8 5. An institution of higher learning under the
9 control of the state board of regents may apply to use
10 financial assistance moneys under this section for
11 purposes of a public and private joint venture to
12 acquire infrastructure assets or research facilities
13 or to leverage moneys in a manner consistent with
14 meeting the goals and performance measures provided in
15 section 15G.106, if enacted by 2003 Iowa Acts, House
16 File 692 or another Act.

17 Sec. 79. REHABILITATION PROJECT TAX CREDITS
18 APPROPRIATION.

19 1. There is appropriated from the grow Iowa fund
20 created in section 15G.107, if enacted by 2003 Iowa
21 Acts, [House File 692](#) or another Act, to the general
22 fund of the state, for the fiscal period beginning
23 July 1, 2003, and ending June 30, 2010, the following
24 amounts, or so much thereof as is necessary, to be
25 used for the purpose designated:

26 For payment of tax credits approved pursuant to
27 section 404A.4 for projects located in certified
28 cultural and entertainment districts:

29 FY 2003-2004	\$ 700,000
30 FY 2004-2005	\$ 700,000
31 FY 2005-2006	\$ 700,000
32 FY 2006-2007	\$ 700,000
33 FY 2007-2008	\$ 700,000
34 FY 2008-2009	\$ 700,000
35 FY 2009-2010	\$ 700,000

36 2. Notwithstanding section 8.33, moneys that
37 remain unexpended at the end of a fiscal year shall
38 not revert to any fund but shall remain available for
39 expenditure for the designated purposes during the
40 succeeding fiscal year.

41 Sec. 80. LOAN AND CREDIT GUARANTEE FUND
42 APPROPRIATION.

43 1. There is appropriated from the grow Iowa fund
44 created in section 15G.107, if enacted by 2003 Iowa
45 Acts, [House File 692](#) or another Act, to the department
46 of economic development for the fiscal period
47 beginning July 1, 2003, and ending June 30, 2010, the
48 following amounts, or so much thereof as is necessary,
49 to be used for the purpose designated:

50 For deposit in the loan and credit guarantee fund

Page 33

1	created in section 15E.227:	
2	FY 2003-2004	\$ 2,500,000
3	FY 2004-2005	\$ 7,500,000
4	FY 2005-2006	\$ 8,575,000
5	FY 2006-2007	\$ 11,075,000
6	FY 2007-2008	\$ 13,075,000
7	FY 2008-2009	\$ 35,075,000
8	FY 2009-2010	\$ 37,575,000
9	2. Notwithstanding section 8.33, moneys that	
10	remain unexpended at the end of a fiscal year shall	
11	not revert to any fund but shall remain available for	
12	expenditure for the designated purpose during the	
13	succeeding fiscal year.	
14	Sec. 81. ENDOW IOWa TAX CREDITS.	
15	1. There is appropriated from the grow Iowa fund	
16	created in section 15G.107, if enacted by 2003 Iowa	
17	Acts, House File 692 or another Act, to the general	
18	fund of the state, for the fiscal period beginning	
19	July 1, 2003, and ending June 30, 2010, the following	
20	amounts, or so much thereof as is necessary, to be	
21	used for the purpose designated:	
22	For payment of endow Iowa tax credits authorized	
23	pursuant to section 15E.305:	
24	FY 2003-2004	\$ 200,000
25	FY 2004-2005	\$ 200,000
26	FY 2005-2006	\$ 200,000
27	FY 2006-2007	\$ 200,000
28	FY 2007-2008	\$ 200,000
29	FY 2008-2009	\$ 200,000
30	FY 2009-2010	\$ 200,000
31	2. Notwithstanding section 8.33, moneys that	
32	remain unexpended at the end of a fiscal year shall	
33	not revert to any fund but shall remain available for	
34	expenditure for the designated purposes during the	
35	succeeding fiscal year.	
36	Sec. 82. ENDOW IOWa GRANTS APPROPRIATION.	
37	1. There is appropriated from the grow Iowa fund	
38	created in section 15G.107, if enacted by 2003 Iowa	
39	Acts, House File 692 or another Act, to the department	
40	of economic development for the fiscal period	
41	beginning July 1, 2003, and ending June 30, 2010, the	
42	following amounts, or so much thereof as is necessary,	
43	to be used for the purpose designated:	
44	For endow Iowa grants to lead philanthropic	
45	entities pursuant to section 15E.304:	
46	FY 2003-2004	\$ 200,000
47	FY 2004-2005	\$ 200,000
48	FY 2005-2006	\$ 200,000
49	FY 2006-2007	\$ 200,000
50	FY 2007-2008	\$ 200,000

Page 34

1	FY 2008-2009	\$ 200,000
2	FY 2009-2010	\$ 200,000

3 2. Notwithstanding section 8.33, moneys that
 4 remain unexpended at the end of a fiscal year shall
 5 not revert to any fund but shall remain available for
 6 expenditure for the designated purposes during the
 7 succeeding fiscal year.

8 Sec. 83. ANTICIPATED FEDERAL MONEYS –
 9 APPROPRIATION.

10 1. There is appropriated from the fund created by
 11 section 8.41, for the fiscal period beginning July 1,
 12 2003, and ending June 30, 2005, the following amounts
 13 to be used for the purpose designated:

14 For deposit in the grow Iowa fund created in
 15 section 15G.107, if enacted by 2003 Iowa Acts, House
 16 File 692 or another Act:

17	FY 2003-2004	\$ 59,000,000
18	FY 2004-2005	\$ 41,000,000

19 2. Moneys appropriated in this section are moneys
 20 anticipated to be received from the federal government
 21 for state and local government fiscal relief under the
 22 federal Jobs and Growth Tax Relief Reconciliation Act
 23 of 2003 and shall be expended as provided in the
 24 federal law making the moneys available and in
 25 conformance with chapter 17A.

26 3. Notwithstanding section 8.33, moneys that
 27 remain unexpended at the end of a fiscal year shall
 28 not revert to any fund but shall remain available for
 29 expenditure for the designated purposes during the
 30 succeeding fiscal year.

31 Sec. 84. STREAMLINED SALES AND USE TAX REVENUE –
 32 APPROPRIATION.

33 1. There is appropriated from the general fund of
 34 the state from moneys credited to the general fund of
 35 the state as a result of entering into the streamlined
 36 sales and use tax agreement, for the fiscal period
 37 beginning July 1, 2003, and ending June 30, 2010, the
 38 following amounts to be used for the purpose
 39 designated:

40 For deposit in the grow Iowa fund created in
 41 section 15G.107, if enacted by 2003 Iowa Acts, House
 42 File 692 or another Act:

43	FY 2003-2004	\$ 5,000,000
44	FY 2004-2005	\$ 23,000,000
45	FY 2005-2006	\$ 75,000,000
46	FY 2006-2007	\$ 75,000,000
47	FY 2007-2008	\$ 75,000,000
48	FY 2008-2009	\$ 75,000,000
49	FY 2009-2010	\$ 75,000,000

50 2. For purposes of this section, "moneys credited

Page 35

1 to the general fund of the state as a result of
2 entering into the streamlined sales and use tax
3 agreement" means the amount of sales and use tax
4 receipts credited to the general fund of the state
5 during a fiscal year that exceeds by two percent or
6 more the total sales and use tax receipts credited to
7 the general fund of the state during the previous
8 fiscal year.

9 3. If the moneys credited to the general fund of
10 the state as a result of entering into the streamlined
11 sales and use tax agreement during a fiscal year total
12 less than the amount appropriated in this section, the
13 appropriation in this section shall be reduced to
14 equal the total amount of the moneys so credited.

15 4. Notwithstanding section 8.33, moneys that
16 remain unexpended at the end of a fiscal year shall
17 not revert to any fund but shall remain available for
18 expenditure for the designated purposes during the
19 succeeding fiscal year.

20 DIVISION VIII

21 WORKFORCE-RELATED ISSUES

22 Sec. 85. NEW SECTION. 260C.18a WORKFORCE
23 TRAINING AND ECONOMIC DEVELOPMENT FUNDS.

24 1. a. A workforce training and economic
25 development fund is created for each community
26 college. Moneys shall be deposited and expended from
27 a fund as provided under this section.

28 b. Moneys in the funds shall consist of any moneys
29 appropriated by the general assembly and any other
30 moneys available to and obtained or accepted by the
31 department of economic development from federal
32 sources or private sources for placement in the funds.
33 Notwithstanding section 8.33, moneys in the funds at
34 the end of each fiscal year shall not revert to any
35 other fund but shall remain in the funds for
36 expenditure in subsequent fiscal years.

37 2. On July 1 of each year for the fiscal year
38 beginning July 1, 2003, and for every fiscal year
39 thereafter, moneys from the grow Iowa fund created in
40 section 15G.107, if enacted by 2003 Iowa Acts, House
41 File 692 or another Act, are appropriated to the
42 department of economic development for deposit in the
43 workforce training and economic development funds in
44 amounts determined pursuant to subsection 3. Moneys
45 deposited in the funds and disbursed to community
46 colleges for a fiscal year shall be expended for the
47 following purposes:

48 a. Projects in which an agreement between a
49 community college and an employer located within the
50 community college's merged area meet all of the

Page 36

1 requirements of the accelerated career education
2 program under chapter 260G. However, moneys used by
3 the community colleges from the workforce training and
4 economic development fund for these projects shall be
5 in lieu of the program job credits provided under
6 chapter 260G. Projects using moneys from the
7 workforce training and economic development fund under
8 this paragraph shall be in accordance with rules
9 adopted by the department of economic development
10 under chapter 260G.

11 b. Projects in which an agreement between a
12 community college and a business meet all the
13 requirements of the Iowa jobs training Act under
14 chapter 260F. However, when moneys are provided
15 through the grow Iowa fund for such projects, section
16 260F.6, subsections 1 and 2, and section 260F.8 shall
17 not apply. Projects using moneys from the workforce
18 training and economic development fund under this
19 paragraph shall be in accordance with rules adopted by
20 the department of economic development under chapter
21 260F.

22 c. For the development and implementation of
23 career academies designed to provide new career
24 preparation opportunities for high school students
25 that are formally linked with postsecondary career and
26 technical education programs. Moneys from workforce
27 training and economic development funds that are
28 expended for purposes of this paragraph shall be in
29 accordance with the plan submitted to the department
30 of economic development and the grow Iowa board under
31 subsection 5. For purposes of this section, "career
32 academy" means a program of study that combines a
33 minimum of two years of secondary education with an
34 associate degree, or the equivalent, career
35 preparatory program in a nonduplicative, sequential
36 course of study that is standards based, integrates
37 academic and technical instruction, utilizes work-
38 based and worksite learning where appropriate and
39 available, utilizes an individual career planning
40 process with parent involvement, and leads to an
41 associate degree or postsecondary diploma or
42 certificate in a career field that prepares an
43 individual for entry and advancement in a high-skill
44 and reward career field and further education. The
45 state board of education, in conjunction with the
46 division of community colleges and workforce
47 preparation of the department of education, and in
48 consultation with the department of economic
49 development, shall adopt administrative rules for the
50 development and implementation of such career

Page 37

1 academies pursuant to section 256.11, subsection 5,
2 paragraph "h", section 260C.1, and Title II of Pub. L.
3 No. 105-332, Carl D. Perkins Vocational and Technical
4 Education Act of 1998.
5 d. Programs and courses that provide vocational
6 and technical training, and programs for in-service
7 training and retraining under section 260C.1,
8 subsections 2 and 3.
9 3. Moneys from the workforce training and economic
10 development fund that are expended for purposes of
11 this subsection shall be in accordance with the plan
12 submitted to the department of economic development
13 and the grow Iowa board under subsection 5. The
14 maximum cumulative total amount of moneys that may be
15 deposited in all the workforce training and economic
16 development funds for distribution to community
17 colleges in a fiscal year shall be determined as
18 follows:
19 a. Six million dollars for the fiscal year
20 beginning July 1, 2003.
21 b. Eleven million dollars for the fiscal year
22 beginning July 1, 2004.
23 c. Twenty million dollars for the fiscal year
24 beginning July 1, 2005.
25 d. Twenty million dollars for the fiscal year
26 beginning July 1, 2006.
27 e. Twenty million dollars for the fiscal year
28 beginning July 1, 2007.
29 f. Fifteen million dollars for the fiscal year
30 beginning July 1, 2008.
31 g. Fifteen million dollars for the fiscal year
32 beginning July 1, 2009.
33 4. The department of economic development shall
34 allocate the moneys appropriated pursuant to this
35 section to the community college workforce training
36 and economic development funds utilizing the same
37 distribution formula used for the allocation of state
38 general aid to the community colleges.
39 5. Each community college shall do all of the
40 following:
41 a. Adopt a two-year workforce training and
42 economic development fund plan outlining the community
43 college's proposed use of moneys appropriated under
44 subsection 2.
45 b. Update the two-year plan annually.
46 c. Prepare an annual progress report on the two-
47 year plan's implementation.
48 d. Annually submit the two-year plan and progress
49 report to the department of economic development in a
50 manner prescribed by rules adopted by the department

Page 38

1 pursuant to chapter 17a and annually file a copy of
2 the plan and progress report with the grow Iowa board.

3 6. Any individual project using over one million
4 dollars of moneys from a workforce training and
5 economic development fund shall require prior approval
6 from the grow Iowa board.

7 Sec. 86. NEW SECTION. 260F.9 JOB RETENTION
8 PROGRAM AND FUND.

9 1. A job retention fund is created in the state
10 treasury under the control of the department of
11 economic development to encourage the retention of
12 existing jobs and income that would otherwise be lost
13 and encourage large businesses to remain in the state.
14 Moneys shall be deposited and expended from the fund
15 as provided in this section.

16 2. There is appropriated from the grow Iowa fund
17 created in section 15G.107, if enacted by 2003 Iowa
18 Acts, [House File 692](#) or another Act, to the department
19 of economic development for the fiscal period
20 beginning July 1, 2003, and ending June 30, 2006, the
21 following amounts to be used for funding of job
22 retention programs and agreements authorized by the
23 department and participating community colleges as
24 provided in this section:

25 a. One million dollars for the fiscal year
26 beginning July 1, 2003.

27 b. One million dollars for the fiscal year
28 beginning July 1, 2004.

29 c. One million dollars for the fiscal year
30 beginning July 1, 2005.

31 3. Notwithstanding section 8.33, moneys that
32 remain unexpended at the end of a fiscal year shall
33 not revert to any fund but shall remain available for
34 expenditure for the designated purposes during the
35 succeeding fiscal year.

36 4. The department of economic development shall
37 administer the allocation of moneys in the job
38 retention fund and shall administer the job retention
39 program. The department shall adopt rules pursuant to
40 chapter 17a necessary for the administration of this
41 section. By January 15 of each year, the department
42 shall submit a written report to the general assembly
43 and the governor regarding the activities of the job
44 retention program during the previous calendar year.

45 5. A community college and the department may
46 enter into an agreement to establish a job retention
47 project. A job retention project agreement shall
48 include, but not be limited to, the following:

49 a. The date of the agreement.

50 b. The anticipated number of employees to be

Page 39

1 trained.

2 c. The estimated cost of training.

3 d. A statement regarding the number of employees
4 employed by the participating business on the date of
5 the agreement which must equal at least the lesser of
6 one thousand employees or four percent or more of the
7 county's resident labor force based on the most recent
8 annual labor force statistics from the department of
9 workforce development.

10 e. A commitment that the participating business
11 shall invest at least fifteen million dollars to
12 retool the workplace and upgrade the facilities of the
13 participating business.

14 f. A commitment that the participating business
15 shall not move the business operation out of this
16 state or close the business operation for at least ten
17 years following the date of the agreement.

18 g. Other criteria established by the department of
19 economic development.

20 6. A job retention project agreement entered into
21 pursuant to this section must be approved by the board
22 of trustees of the applicable community college, the
23 department of economic development, and the
24 participating business.

25 Sec. 87. NEW SECTION. 260F.101 REPORTING.

26 a community college entering into an agreement
27 pursuant to this chapter shall submit an annual
28 written report by the end of each calendar year with
29 the grow Iowa board created in section 15G.102, if
30 enacted by 2003 Iowa Acts, [House File 692](#) or another
31 Act. The report shall provide information regarding
32 how the agreement affects the achievement of the goals
33 and performance measures provided in section 15G.106,
34 if enacted by 2003 Iowa Acts, [House File 692](#) or
35 another Act.

36 Sec. 88. Section 260G.3, subsection 2, Code 2003,
37 is amended to read as follows:

38 2. An agreement may include reasonable and
39 necessary provisions to implement the accelerated
40 career education program. If an agreement that
41 utilizes program job credits is entered into, the
42 community college and the employer shall notify the
43 department of revenue and finance as soon as possible.
44 The community college shall also file a copy of the
45 agreement with the department of economic development
46 as required in section 260G.4B. The agreement shall
47 provide for program costs, including deferred costs,
48 which may be paid from any of the following sources:

49 a. Program job credits which the employer receives
50 based on the number of program job positions agreed to

Page 40

1 by the employer to be available under the agreement.
2 b. Cash or in-kind contributions by the employer
3 toward the program cost. At a minimum, the employer
4 contribution shall be twenty percent of the program
5 costs.
6 c. Tuition, student fees, or special charges fixed
7 by the board of directors to defray program costs.
8 d. Guarantee by the employer of payments to be
9 received under paragraphs "a" and "b".
10 e. Moneys from a workforce training and economic
11 development fund created in section 260C.18A, based on
12 the number of program job positions agreed to by the
13 employer to be available under the agreement, the
14 amount of which shall be calculated in the same manner
15 as the program job credits provided for in section
16 260G.4A.
17 Sec. 89. NEW SECTION. 260G.101 REPORTING.
18 a community college entering into an agreement
19 pursuant to this chapter shall submit an annual
20 written report by the end of each calendar year with
21 the grow Iowa board created in section 15G.102, if
22 enacted by 2003 Iowa Acts, [House File 692](#) or another
23 Act. The report shall provide information regarding
24 how the agreement affects the achievement of the goals
25 and performance measures provided in section 15G.106,
26 if enacted by 2003 Iowa Acts, [House File 692](#) or
27 another Act.

DIVISION IX

LOAN AND CREDIT GUARANTEE FUND

29 Sec. 90. NEW SECTION. 15E.227 LOAN AND CREDIT
30 GUARANTEE FUND.
31
32 1. A loan and credit guarantee fund is created and
33 established as a separate and distinct fund in the
34 state treasury. Moneys in the fund shall only be used
35 for purposes provided in this section. The moneys in
36 the fund are appropriated to the department to be used
37 for all of the following purposes:
38 a. Payment of claims pursuant to loan and credit
39 guarantee agreements entered into under this division.
40 b. Payment of administrative costs of the
41 department for actual and necessary administrative
42 expenses incurred by the department in administering
43 the program.
44 c. Purchase or buyout of superior or prior liens,
45 mortgages, or security interests.
46 2. Moneys in the loan and credit guarantee fund
47 shall consist of all of the following:
48 a. Moneys appropriated by the general assembly for
49 that purpose and any other moneys available to and
50 obtained or accepted by the department for placement

Page 41

1 in the fund.

2 b. Proceeds from collateral assigned to the
3 department, fees for guarantees, gifts, and moneys
4 from any grant made to the fund by any federal agency.

5 c. Moneys appropriated from the grow Iowa fund
6 created in section 15G.107, if enacted by 2003 Iowa
7 Acts, [House File 692](#) or another Act.

8 3. Moneys in the fund are not subject to section
9 8.33. Notwithstanding section 12C.7, interest or
10 earnings on the moneys in the fund shall be credited
11 to the fund.

12 4. a. The department shall only pledge moneys in
13 the loan and credit guarantee fund and not any other
14 moneys of the department. The department may pledge
15 an amount not to exceed a total of any of the
16 following amounts of moneys in the fund to assure the
17 repayment of loan and credit guarantees or other
18 extensions of credit made to or on behalf of qualified
19 businesses or targeted industry businesses for
20 eligible project costs.

21 (1) Two million five hundred thousand dollars for
22 the fiscal year beginning July 1, 2003.

23 (2) Seven million five hundred thousand dollars
24 for the fiscal year beginning July 1, 2004.

25 (3) Eight million five hundred seventy-five
26 thousand dollars for the fiscal year beginning July 1,
27 2005.

28 (4) Eleven million seventy-five thousand dollars
29 for the fiscal year beginning July 1, 2006.

30 (5) Thirteen million seventy-five thousand dollars
31 for the fiscal year beginning July 1, 2007.

32 (6) Thirty-five million seventy-five thousand
33 dollars for the fiscal year beginning July 1, 2008.

34 (7) Thirty-seven million five hundred seventy-five
35 thousand dollars for the fiscal year beginning July 1,
36 2009.

37 b. The department shall not pledge the credit or
38 taxing power of this state or any political
39 subdivision of this state or make debts payable out of
40 any moneys except for those in the loan and credit
41 guarantee fund.

42 DIVISION X
43 UNIVERSITY-BASED RESEARCH UTILIZATION
44 PROGRAM APPROPRIATION
45 Sec. 91. NEW SECTION. 262B.12 APPROPRIATION.
46 On July 1 of each year there is appropriated from
47 the general fund of the state to each university under
48 the control of the state board of regents, an amount
49 equal to the amount determined by the department of
50 economic development pursuant to section 262B.11,

Page 42

1 subsection 4, paragraph "c", subparagraph (2), if
2 enacted by 2003 Iowa Acts, [House File 692](#) or another
3 Act.

4 DIVISION XI

5 ENDOW IOWa TAX CREDIT

6 Sec. 92. NEW SECTION. 15E.305 ENDOW IOWA TAX
7 CREDIT.

8 1. For tax years beginning on or after January 1,
9 2003, a tax credit shall be allowed against the taxes
10 imposed in chapter 422, divisions II, III, and V, and
11 in chapter 432, and against the moneys and credits tax
12 imposed in section 533.24 equal to twenty percent of a
13 taxpayer's endowment gift to a qualified community
14 foundation. An individual may claim a tax credit
15 under this section of a partnership, limited liability
16 company, S corporation, estate, or trust electing to
17 have income taxed directly to the individual. The
18 amount claimed by the individual shall be based upon
19 the pro rata share of the individual's earnings from
20 the partnership, limited liability company, S
21 corporation, estate, or trust. A tax credit shall be
22 allowed only for an endowment gift made to a qualified
23 community foundation for a permanent endowment fund
24 established to benefit a charitable cause in this
25 state. Any tax credit in excess of the taxpayer's tax
26 liability for the tax year may be credited to the tax
27 liability for the following five years or until
28 depleted, whichever occurs first. A tax credit shall
29 not be carried back to a tax year prior to the tax
30 year in which the taxpayer claims the tax credit.

31 2. The aggregate amount of tax credits authorized
32 pursuant to this section shall not exceed a total of
33 two million dollars. The maximum amount of tax
34 credits granted to a taxpayer shall not exceed five
35 percent of the aggregate amount of tax credits
36 authorized.

37 3. A tax credit shall not be transferable to any
38 other taxpayer.

39 4. A tax credit shall not be authorized pursuant
40 to this section after December 31, 2005.

41 5. The department shall develop a system for
42 registration and authorization of tax credits under
43 this section and shall control the distribution of all
44 tax credits to taxpayers providing an endowment gift
45 subject to this section. The department shall adopt
46 administrative rules pursuant to chapter 17a for the
47 qualification and administration of endowment gifts.

48 Sec. 93. NEW SECTION. 422.11H ENDOW IOWA TAX
49 CREDIT.

50 The tax imposed under this division, less the

Page 43

1 credits allowed under sections 422.12 and 422.12B,
2 shall be reduced by an endow Iowa tax credit
3 authorized pursuant to section 15E.305.
4 Sec. 94. Section 422.33, Code 2003, is amended by
5 adding the following new subsection:
6 NEW SUBSECTION. 14. The taxes imposed under this
7 division shall be reduced by an endow Iowa tax credit
8 authorized pursuant to section 15E.305.
9 Sec. 95. Section 422.60, Code 2003, is amended by
10 adding the following new subsection:
11 NEW SUBSECTION. 7. The taxes imposed under this
12 division shall be reduced by an endow Iowa tax credit
13 authorized pursuant to section 15E.305.
14 Sec. 96. NEW SECTION. 432.12D ENDOW IOWA TAX
15 CREDIT.
16 The tax imposed under this chapter shall be reduced
17 by an endow Iowa tax credit authorized pursuant to
18 section 15E.305.
19 Sec. 97. Section 533.24, Code 2003, is amended by
20 adding the following new unnumbered paragraph:
21 NEW UNNUMBERED PARAGRAPH. The moneys and credits
22 tax imposed under this section shall be reduced by an
23 endow Iowa tax credit authorized pursuant to section
24 15E.305.
25 Sec. 98. EFFECTIVE AND RETROACTIVE APPLICABILITY
26 DATES. This division of this Act, being deemed of
27 immediate importance, takes effect upon enactment and
28 is retroactively applicable to January 1, 2003, for
29 tax years beginning on or after that date.
30 DIVISION XII
31 REHABILITATION PROJECT TAX CREDITS
32 Sec. 99. Section 404A.4, subsection 4, Code 2003,
33 is amended to read as follows:
34 4. The total amount of tax credits that may be
35 approved for a fiscal year under this chapter shall
36 not exceed two million four hundred thousand dollars.
37 For the fiscal years beginning July 1, 2003, and July
38 1, 2004, an additional two million dollars of tax
39 credits may be approved each fiscal year for purposes
40 of projects located in cultural and entertainment
41 districts certified pursuant to section 303.3B, if
42 enacted by 2003 Iowa Acts, House File 692 or another
43 Act. Any of the additional tax credits allocated for
44 projects located in certified cultural and
45 entertainment districts that are not approved during a
46 fiscal year may be carried over to the succeeding
47 fiscal year. Tax credit certificates shall be issued
48 on the basis of the earliest awarding of
49 certifications of completion as provided in subsection
50 1. The departments of economic development and

Page 44

1 revenue and finance shall each adopt rules to jointly
2 administer this subsection and shall provide by rule
3 for the method to be used to determine for which
4 fiscal year the tax credits are approved.

5 DIVISION XIII

6 STATE ASSISTANCE FOR EDUCATIONAL INFRASTRUCTURE FUND

7 Sec. 100. Section 8.57, subsection 5, Code 2003,
8 is amended by adding the following new paragraph:
9 NEW PARAGRAPH. f. There is appropriated from the
10 rebuild Iowa infrastructure fund to the state
11 assistance for educational infrastructure fund created
12 in 2003 Iowa Acts, [House File 692](#) or another Act, for
13 each fiscal year of the fiscal period beginning July
14 1, 2004, and ending June 30, 2014, the amount of the
15 moneys in excess of the first forty-seven million
16 dollars credited to the rebuild Iowa infrastructure
17 fund during the fiscal year, not to exceed ten million
18 dollars.

19 Sec. 101. NEW SECTION. 292A.3A APPROPRIATION.

20 There is appropriated from the general fund of the
21 state from moneys credited to the general fund of the
22 state as a result of the state entering into the
23 streamlined sales and use tax agreement to the state
24 assistance for educational infrastructure fund created
25 in 2003 Iowa Acts, [House File 692](#) or another Act, the
26 sum of five million dollars for each fiscal year of
27 the fiscal period beginning July 1, 2004, and ending
28 June 30, 2014. The appropriation in this section
29 shall be made after the appropriation from the same
30 source to the grow Iowa fund created in 2003 Iowa
31 Acts, [House File 692](#) or another Act. For purposes of
32 this section, "moneys credited to the general fund of
33 the state as a result of entering into the streamlined
34 sales and use tax agreement" means the amount of sales
35 and use tax receipts credited to the general fund of
36 the state during a fiscal year that exceeds by two
37 percent or more the total sales and use tax receipts
38 credited to the general fund of the state during the
39 previous fiscal year.

40 DIVISION XIV

41 REPEALS

42 Sec. 102. The divisions of this Act designated
43 economic development appropriations, workforce-related
44 issues, loan and credit guarantee fund, university-
45 based research utilization program appropriation,
46 endow Iowa tax credit, and rehabilitation project tax
47 credits are repealed effective June 30, 2010.

48 DIVISION XV

49 STREAMLINED SALES AND USE TAXES

50 SUBCHAPTER I

Page 45

DEFINITIONS

- 1
2 Sec. 103. NEW SECTION. 423.1 DEFINITIONS.
3 As used in this chapter the following words, terms,
4 and phrases have the meanings ascribed to them by this
5 section, except where the context clearly indicates
6 that a different meaning is intended:
- 7 1. "Agent" means a person appointed by a seller to
8 represent the seller before the member states.
 - 9 2. "Agreement" means the streamlined sales and use
10 tax agreement authorized by subchapter IV of this
11 chapter to provide a mechanism for establishing and
12 maintaining a cooperative, simplified system for the
13 application and administration of sales and use taxes.
 - 14 3. "Agricultural production" includes the
15 production of flowering, ornamental, or vegetable
16 plants in commercial greenhouses or otherwise, and
17 production from aquaculture. "Agricultural products"
18 includes flowering, ornamental, or vegetable plants
19 and those products of aquaculture.
 - 20 4. "Business" includes any activity engaged in by
21 any person or caused to be engaged in by the person
22 with the object of gain, benefit, or advantage, either
23 direct or indirect.
 - 24 5. "Certificate of title" means a certificate of
25 title issued for a vehicle or for manufactured housing
26 under chapter 321.
 - 27 6. "Certified automated system" means software
28 certified under the agreement to calculate the tax
29 imposed by each jurisdiction on a transaction,
30 determine the amount of tax to remit to the
31 appropriate state, and maintain a record of the
32 transaction.
 - 33 7. "Certified service provider" means an agent
34 certified under the agreement to perform all of a
35 seller's sales or use tax functions, other than the
36 seller's obligation to remit tax on its own purchases.
 - 37 8. "Computer" means an electronic device that
38 accepts information in digital or similar form and
39 manipulates the information for a result based on a
40 sequence of instructions.
 - 41 9. "Computer software" means a set of coded
42 instructions designed to cause a computer or automatic
43 data processing equipment to perform a task.
 - 44 10. "Delivered electronically" means delivered to
45 the purchaser by means other than tangible storage
46 media.
 - 47 11. "Delivery charges" means charges assessed by a
48 seller of personal property or services for
49 preparation and delivery to a location designated by
50 the purchaser of personal property or services

Page 46

- 1 including, but not limited to, transportation,
2 shipping, postage, handling, crating, and packing
3 charges.
- 4 12. "Department" means the department of revenue
5 and finance.
- 6 13. "Direct mail" means printed material delivered
7 or distributed by United States mail or other delivery
8 service to a mass audience or to addressees on a
9 mailing list provided by the purchaser or at the
10 direction of the purchaser when the cost of the items
11 is not billed directly to the recipients. "Direct
12 mail" includes tangible personal property supplied
13 directly or indirectly by the purchaser to the direct
14 mail seller for inclusion in the package containing
15 the printed material. "Direct mail" does not include
16 multiple items of printed material delivered to a
17 single address.
- 18 14. "Director" means the director of revenue and
19 finance.
- 20 15. "Electronic" means relating to technology
21 having electrical, digital, magnetic, wireless,
22 optical, electromagnetic, or similar capabilities.
- 23 16. "Farm deer" means the same as defined in
24 section 189A.2.
- 25 17. "Farm machinery and equipment" means machinery
26 and equipment used in agricultural production.
- 27 18. "First use of a service". A "first use of a
28 service" occurs, for the purposes of this chapter,
29 when a service is rendered, furnished, or performed in
30 Iowa or if rendered, furnished, or performed outside
31 of Iowa, when the product or result of the service is
32 used in Iowa.
- 33 19. "Goods, wares, or merchandise" means the same
34 as tangible personal property.
- 35 20. "Governing board" means the group comprised of
36 representatives of the member states of the agreement
37 which is created by the agreement to be responsible
38 for the agreement's administration and operation.
- 39 21. "Installed purchase price" is the amount
40 charged, valued in money whether paid in money or
41 otherwise, by a building contractor to convert
42 manufactured housing from tangible personal property
43 into realty. "Installed purchase price" includes, but
44 is not limited to, amounts charged for installing a
45 foundation and electrical and plumbing hookups.
46 "Installed purchase price" excludes any amount charged
47 for landscaping in connection with the conversion.
- 48 22. "Lease or rental".
- 49 a. "Lease or rental" means any transfer of
50 possession or control of tangible personal property

Page 47

1 for a fixed or indeterminate term for consideration.
2 a "lease or rental" may include future options to
3 purchase or extend.

4 b. "Lease or rental" includes agreements covering
5 motor vehicles and trailers when the amount of
6 consideration may be increased or decreased by
7 reference to the amount realized upon sale or
8 disposition of the property as defined in 26 U.S.C. §
9 7701(h)(1).

10 c. "Lease or rental" does not include any of the
11 following:

12 (1) a transfer of possession or control of
13 property under a security agreement or deferred
14 payment plan that requires the transfer of title upon
15 completion of the required payments.

16 (2) a transfer of possession or control of
17 property under an agreement that requires the transfer
18 of title upon completion of required payments, and
19 payment of any option price does not exceed the
20 greater of one hundred dollars or one percent of the
21 total required payments.

22 (3) Providing tangible personal property along
23 with an operator for a fixed or indeterminate period
24 of time. A condition of this exclusion is that the
25 operator is necessary for the equipment to perform as
26 designed. For the purpose of this subparagraph, an
27 operator must do more than maintain, inspect, or set
28 up the tangible personal property.

29 d. This definition shall be used for sales and use
30 tax purposes regardless of whether a transaction is
31 characterized as a lease or rental under generally
32 accepted accounting principles, the Internal Revenue
33 Code, the Uniform Commercial Code, or other provisions
34 of federal, state, or local law.

35 23. "Livestock" includes but is not limited to an
36 animal classified as an ostrich, rhea, emu, bison, or
37 farm deer.

38 24. "Manufactured housing" means "manufactured
39 home" as defined in section 321.1.

40 25. "Member state" is any state which has signed
41 the agreement.

42 26. "Mobile home" means "manufactured or mobile
43 home" as defined in section 321.1.

44 27. "Model 1 seller" is a seller that has selected
45 a certified service provider as its agent to perform
46 all the seller's sales and use tax functions, other
47 than the seller's obligation to remit tax on its own
48 purchases.

49 28. "Model 2 seller" is a seller that has selected
50 a certified automated system to perform part of its

Page 48

1 sales and use tax functions, but retains
2 responsibility for remitting the tax.
3 29. "Model 3 seller" is a seller that has sales in
4 at least five member states, has total annual sales
5 revenue of at least five hundred million dollars, has
6 a proprietary system that calculates the amount of tax
7 due each jurisdiction, and has entered into a
8 performance agreement with the member states that
9 establishes a tax performance standard for the seller.
10 As used in this definition, a "seller" includes an
11 affiliated group of sellers using the same proprietary
12 system.
13 30. "Nonresidential commercial operations" means
14 industrial, commercial, mining, or agricultural
15 operations, whether for profit or not, but does not
16 include apartment complexes or mobile home parks.
17 31. "Not registered under the agreement" means
18 lack of registration by a seller with the member
19 states under the central registration system
20 referenced in section 423.11, subsection 4.
21 32. "Person" means an individual, trust, estate,
22 fiduciary, partnership, limited liability company,
23 limited liability partnership, corporation, or any
24 other legal entity.
25 33. "Place of business" means any warehouse,
26 store, place, office, building, or structure where
27 goods, wares, or merchandise are offered for sale at
28 retail or where any taxable amusement is conducted, or
29 each office where gas, water, heat, communication, or
30 electric services are offered for sale at retail.
31 When a retailer or amusement operator sells
32 merchandise by means of vending machines or operates
33 music or amusement devices by coin-operated machines
34 at more than one location within the state, the
35 office, building, or place where the books, papers,
36 and records of the taxpayer are kept shall be deemed
37 to be the taxpayer's place of business.
38 34. "Prewritten computer software" includes
39 software designed and developed by the author or other
40 creator to the specifications of a specific purchaser
41 when it is sold to a person other than the purchaser.
42 The combining of two or more prewritten computer
43 software programs or prewritten portions of prewritten
44 programs does not cause the combination to be other
45 than prewritten computer software. "Prewritten
46 computer software" also means computer software,
47 including prewritten upgrades, which is not designed
48 and developed by the author or other creator to the
49 specifications of a specific purchaser.
50 When a person modifies or enhances computer

Page 49

1 software of which the person is not the author or
2 creator, the person shall be deemed to be the author
3 or creator only of such person's modifications or
4 enhancements. Prewritten computer software or a
5 prewritten portion of the prewritten software that is
6 modified or enhanced to any degree, when such
7 modification or enhancement is designed and developed
8 to the specifications of a specific purchaser, remains
9 prewritten computer software. However, when there is
10 a reasonable, separately stated charge or an invoice
11 or other statement of the price given to the purchaser
12 for such modification or enhancement, such
13 modification or enhancement shall not constitute
14 prewritten computer software.

15 35. "Property purchased for resale in connection
16 with the performance of a service" means property
17 which is purchased for resale in connection with the
18 rendition, furnishing, or performance of a service by
19 a person who renders, furnishes, or performs the
20 service if all of the following occur:

- 21 a. The provider and user of the service intend
22 that a sale of the property will occur.
- 23 b. The property is transferred to the user of the
24 service in connection with the performance of the
25 service in a form or quantity capable of a fixed or
26 definite price value.
- 27 c. The sale is evidenced by a separate charge for
28 the identifiable piece of property.

29 36. "Purchase" means any transfer, exchange, or
30 barter, conditional or otherwise, in any manner or by
31 any means whatsoever, for a consideration.

32 37. "Purchase price" means the same as "sales
33 price" as defined in this section.

34 38. "Purchaser" is a person to whom a sale of
35 personal property is made or to whom a service is
36 furnished.

37 39. "Receive" and "receipt" mean any of the
38 following:

- 39 a. Taking possession of tangible personal
40 property.
- 41 b. Making first use of a service.
- 42 c. Taking possession or making first use of
43 digital goods, whichever comes first.

44 "Receive" and "receipt" do not include possession
45 by a shipping company on behalf of a purchaser.

46 40. "Registered under the agreement" means
47 registration by a seller under the central
48 registration system referenced in section 423.11,
49 subsection 4.

50 41. "Relief agency" means the state, any county,

Page 50

1 city and county, city, or district thereof, or any
2 agency engaged in actual relief work.
3 42. "Retailer" means and includes every person
4 engaged in the business of selling tangible personal
5 property or taxable services at retail, or the
6 furnishing of gas, electricity, water, or
7 communication service, and tickets or admissions to
8 places of amusement and athletic events or operating
9 amusement devices or other forms of commercial
10 amusement from which revenues are derived. However,
11 when in the opinion of the director it is necessary
12 for the efficient administration of this chapter to
13 regard any salespersons, representatives, truckers,
14 peddlers, or canvassers as agents of the dealers,
15 distributors, supervisors, employers, or persons under
16 whom they operate or from whom they obtain tangible
17 personal property sold by them irrespective of whether
18 or not they are making sales on their own behalf or on
19 behalf of such dealers, distributors, supervisors,
20 employers, or persons, the director may so regard
21 them, and may regard such dealers, distributors,
22 supervisors, employers, or persons as retailers for
23 the purposes of this chapter. "Retailer" includes a
24 seller obligated to collect sales or use tax.
25 43. "Retailer maintaining a place of business in
26 this state" or any like term includes any retailer
27 having or maintaining within this state, directly or
28 by a subsidiary, an office, distribution house, sales
29 house, warehouse, or other place of business, or any
30 representative operating within this state under the
31 authority of the retailer or its subsidiary,
32 irrespective of whether that place of business or
33 representative is located here permanently or
34 temporarily, or whether the retailer or subsidiary is
35 admitted to do business within this state pursuant to
36 chapter 490.
37 44. "Retailers who are not model sellers" means
38 all retailers other than model 1, model 2, or model 3
39 sellers.
40 45. "Retail sale" or "sale at retail" means any
41 sale, lease, or rental for any purpose other than
42 resale, sublease, or subrent.
43 46. "Sales" or "sale" means any transfer,
44 exchange, or barter, conditional or otherwise, in any
45 manner or by any means whatsoever, for consideration.
46 47. "Sales price" applies to the measure subject
47 to sales tax.
48 a. "Sales price" means the total amount of
49 consideration, including cash, credit, property, and
50 services, for which personal property or services are

Page 51

1 sold, leased, or rented, valued in money, whether
2 received in money or otherwise, without any deduction
3 for any of the following:

4 (1) The seller's cost of the property sold.

5 (2) The cost of materials used, labor or service
6 cost, interest, losses, all costs of transportation to
7 the seller, all taxes imposed on the seller, and any
8 other expenses of the seller.

9 (3) Charges by the seller for any services
10 necessary to complete the sale, other than delivery
11 and installation charges.

12 (4) Delivery charges.

13 (5) Installation charges.

14 (6) The value of exempt personal property given to
15 the purchaser where taxable and exempt personal
16 property have been bundled together and sold by the
17 seller as a single product or piece of merchandise.

18 (7) Credit for any trade-in authorized by section
19 423.3, subsection 58.

20 b. "Sales price" does not include:

21 (1) Discounts, including cash, term, or coupons
22 that are not reimbursed by a third party that are
23 allowed by a seller and taken by a purchaser on a
24 sale.

25 (2) Interest, financing, and carrying charges from
26 credit extended on the sale of personal property or
27 services, if the amount is separately stated on the
28 invoice, bill of sale, or similar document given to
29 the purchaser.

30 (3) Any taxes legally imposed directly on the
31 consumer that are separately stated on the invoice,
32 bill of sale, or similar document given to the
33 purchaser.

34 (4) The amounts received for charges included in
35 paragraph "a", subparagraphs (3) through (7), if they
36 are separately contracted for and separately stated on
37 the invoice, billing, or similar document given to the
38 purchaser.

39 48. "Sales tax" means the tax levied under
40 subchapter II of this chapter.

41 49. "Seller" means any person making sales,
42 leases, or rentals of personal property or services.

43 50. "Services" means all acts or services
44 rendered, furnished, or performed, other than services
45 used in processing of tangible personal property for
46 use in retail sales or services, for an employer, as
47 defined in section 422.4, subsection 3, for a valuable
48 consideration by any person engaged in any business or
49 occupation specifically enumerated in section 423.2.

50 The tax shall be due and collectible when the service

Page 52

1 is rendered, furnished, or performed for the ultimate
2 user of the service.

3 51. "Services used in the processing of tangible
4 personal property" includes the reconditioning or
5 repairing of tangible personal property of the type
6 normally sold in the regular course of the retailer's
7 business and which is held for sale.

8 52. "State" means any state of the United States
9 and the District of Columbia.

10 53. "System" means the central electronic
11 registration system maintained by Iowa and other
12 states which are signatories to the agreement.

13 54. "Tangible personal property" means personal
14 property that can be seen, weighed, measured, felt, or
15 touched, or that is in any other manner perceptible to
16 the senses. "Tangible personal property" includes
17 electricity, water, gas, steam, and prewritten
18 computer software.

19 55. "Taxpayer" includes any person who is subject
20 to a tax imposed by this chapter, whether acting on
21 the person's own behalf or as a fiduciary.

22 56. "Trailer" shall mean every trailer, as is now
23 or may be hereafter so defined by chapter 321, which
24 is required to be registered or is subject only to the
25 issuance of a certificate of title under chapter 321.

26 57. "Use" means and includes the exercise by any
27 person of any right or power over tangible personal
28 property incident to the ownership of that property.
29 a retailer's or building contractor's sale of
30 manufactured housing for use in this state, whether in
31 the form of tangible personal property or of realty,
32 is a use of that property for the purposes of this
33 chapter.

34 58. "Use tax" means the tax levied under
35 subchapter III of this chapter for which the retailer
36 collects and remits tax to the department.

37 59. "User" means the immediate recipient of the
38 services who is entitled to exercise a right of power
39 over the product of such services.

40 60. "Value of services" means the price to the
41 user exclusive of any direct tax imposed by the
42 federal government or by this chapter.

43 61. "Vehicles subject to registration" means any
44 vehicle subject to registration pursuant to section
45 321.18.

46 SUBCHAPTER II

47 SALES TAX

48 Sec. 104. NEW SECTION. 423.2 TAX IMPOSED.

49 1. There is imposed a tax of five percent upon the
50 sales price of all sales of tangible personal

Page 53

1 property, consisting of goods, wares, or merchandise,
2 sold at retail in the state to consumers or users
3 except as otherwise provided in this subchapter.

4 a. For the purposes of this subchapter, sales of
5 the following services are treated as if they were
6 sales of tangible personal property:

7 (1) Sales of engraving, photography, retouching,
8 printing, and binding services.

9 (2) Sales of vulcanizing, recapping, and
10 retreading services.

11 (3) Sales of prepaid telephone calling cards and
12 prepaid authorization numbers.

13 (4) Sales of optional service or warranty
14 contracts, except residential service contracts
15 regulated under chapter 523C, which provide for the
16 furnishing of labor and materials and require the
17 furnishing of any taxable service enumerated under
18 this section. The sales price is subject to tax even
19 if some of the services furnished are not enumerated
20 under this section. Additional sales, services, or
21 use taxes shall not be levied on services, parts, or
22 labor provided under optional service or warranty
23 contracts which are subject to tax under this
24 subsection.

25 If the optional service or warranty contract is a
26 computer software maintenance or support service
27 contract and there is no separately stated fee for the
28 taxable personal property or for the nontaxable
29 service, the tax imposed by this subsection shall be
30 imposed on fifty percent of the sales price from the
31 sale of such contract. If the contract provides for
32 technical support services only, no tax shall be
33 imposed under this subsection. The provisions of this
34 subparagraph (4) also apply to the use tax.

35 (5) Renting of rooms, apartments, or sleeping
36 quarters in a hotel, motel, inn, public lodging house,
37 rooming house, mobile home which is tangible personal
38 property, or tourist court, or in any place where
39 sleeping accommodations are furnished to transient
40 guests for rent, whether with or without meals.
41 "Renting" and "rent" include any kind of direct or
42 indirect charge for such rooms, apartments, or
43 sleeping quarters, or their use. However, the tax
44 does not apply to the sales price from the renting of
45 a room, apartment, or sleeping quarters while rented
46 by the same person for a period of more than thirty-
47 one consecutive days.

48 b. Sales of building materials, supplies, and
49 equipment to owners, contractors, subcontractors, or
50 builders for the erection of buildings or the

Page 54

1 alteration, repair, or improvement of real property
2 are retail sales of tangible personal property in
3 whatever quantity sold. Where the owner, contractor,
4 subcontractor, or builder is also a retailer holding a
5 retail sales tax permit and transacting retail sales
6 of building materials, supplies, and equipment, the
7 person shall purchase such items of tangible personal
8 property without liability for the tax if such
9 property will be subject to the tax at the time of
10 resale or at the time it is withdrawn from inventory
11 for construction purposes. The sales tax shall be due
12 in the reporting period when the materials, supplies,
13 and equipment are withdrawn from inventory for
14 construction purposes or when sold at retail. The tax
15 shall not be due when materials are withdrawn from
16 inventory for use in construction outside of Iowa and
17 the tax shall not apply to tangible personal property
18 purchased and consumed by the manufacturer as building
19 materials in the performance by the manufacturer or
20 its subcontractor of construction outside of Iowa.
21 The sale of carpeting is not a sale of building
22 materials. The sale of carpeting to owners,
23 contractors, subcontractors, or builders shall be
24 treated as the sale of ordinary tangible personal
25 property and subject to the tax imposed under this
26 subsection and the use tax.

27 c. The use within this state of tangible personal
28 property by the manufacturer thereof, as building
29 materials, supplies, or equipment, in the performance
30 of construction contracts in Iowa, shall, for the
31 purpose of this subchapter, be construed as a sale at
32 retail of tangible personal property by the
33 manufacturer who shall be deemed to be the consumer of
34 such tangible personal property. The tax shall be
35 computed upon the cost to the manufacturer of the
36 fabrication or production of the tangible personal
37 property.

38 2. A tax of five percent is imposed upon the sales
39 price of the sale or furnishing of gas, electricity,
40 water, heat, pay television service, and communication
41 service, including the sales price from such sales by
42 any municipal corporation or joint water utility
43 furnishing gas, electricity, water, heat, pay
44 television service, and communication service to the
45 public in its proprietary capacity, except as
46 otherwise provided in this subchapter, when sold at
47 retail in the state to consumers or users.

48 3. A tax of five percent is imposed upon the sales
49 price of all sales of tickets or admissions to places
50 of amusement, fairs, and athletic events except those

Page 55

1 of elementary and secondary educational institutions.
2 A tax of five percent is imposed on the sales price of
3 an entry fee or like charge imposed solely for the
4 privilege of participating in an activity at a place
5 of amusement, fair, or athletic event unless the sales
6 price of tickets or admissions charges for observing
7 the same activity are taxable under this subchapter.
8 A tax of five percent is imposed upon that part of
9 private club membership fees or charges paid for the
10 privilege of participating in any athletic sports
11 provided club members.

12 4. A tax of five percent is imposed upon the sales
13 price derived from the operation of all forms of
14 amusement devices and games of skill, games of chance,
15 raffles, and bingo games as defined in chapter 99B,
16 operated or conducted within the state, the tax to be
17 collected from the operator in the same manner as for
18 the collection of taxes upon the sales price of
19 tickets or admission as provided in this section.
20 Nothing in this subsection shall legalize any games of
21 skill or chance or slot-operated devices which are now
22 prohibited by law.

23 The tax imposed under this subsection covers the
24 total amount from the operation of games of skill,
25 games of chance, raffles, and bingo games as defined
26 in chapter 99B, and musical devices, weighing
27 machines, shooting galleries, billiard and pool
28 tables, bowling alleys, pinball machines, slot-
29 operated devices selling merchandise not subject to
30 the general sales taxes and on the total amount from
31 devices or systems where prizes are in any manner
32 awarded to patrons and upon the receipts from fees
33 charged for participation in any game or other form of
34 amusement, and generally upon the sales price from any
35 source of amusement operated for profit, not specified
36 in this section, and upon the sales price from which
37 tax is not collected for tickets or admission, but tax
38 shall not be imposed upon any activity exempt from
39 sales tax under section 423.3, subsection 78. Every
40 person receiving any sales price from the sources
41 described in this section is subject to all provisions
42 of this subchapter relating to retail sales tax and
43 other provisions of this chapter as applicable.

44 5. There is imposed a tax of five percent upon the
45 sales price from the furnishing of services as defined
46 in section 423.1.

47 6. The sales price of any of the following
48 enumerated services is subject to the tax imposed by
49 subsection 5: alteration and garment repair; armored
50 car; vehicle repair; battery, tire, and allied;

Page 56

1 investment counseling; service charges of all
2 financial institutions; barber and beauty; boat
3 repair; vehicle wash and wax; campgrounds; carpentry;
4 roof, shingle, and glass repair; dance schools and
5 dance studios; dating services; dry cleaning,
6 pressing, dyeing, and laundering; electrical and
7 electronic repair and installation; excavating and
8 grading; farm implement repair of all kinds; flying
9 service; furniture, rug, carpet, and upholstery repair
10 and cleaning; fur storage and repair; golf and country
11 clubs and all commercial recreation; gun and camera
12 repair; house and building moving; household
13 appliance, television, and radio repair; janitorial
14 and building maintenance or cleaning; jewelry and
15 watch repair; lawn care, landscaping, and tree
16 trimming and removal; limousine service, including
17 driver; machine operator; machine repair of all kinds;
18 motor repair; motorcycle, scooter, and bicycle repair;
19 oilers and lubricators; office and business machine
20 repair; painting, papering, and interior decorating;
21 parking facilities; pay television; pet grooming; pipe
22 fitting and plumbing; wood preparation; executive
23 search agencies; private employment agencies,
24 excluding services for placing a person in employment
25 where the principal place of employment of that person
26 is to be located outside of the state; reflexology;
27 security and detective services; sewage services for
28 nonresidential commercial operations; sewing and
29 stitching; shoe repair and shoeshine; sign
30 construction and installation; storage of household
31 goods, mini-storage, and warehousing of raw
32 agricultural products; swimming pool cleaning and
33 maintenance; tanning beds or salons; taxidermy
34 services; telephone answering service; test
35 laboratories, including mobile testing laboratories
36 and field testing by testing laboratories, and
37 excluding tests on humans or animals; termite, bug,
38 roach, and pest eradicators; tin and sheet metal
39 repair; Turkish baths, massage, and reducing salons,
40 excluding services provided by massage therapists
41 licensed under chapter 152C; water conditioning and
42 softening; weighing; welding; well drilling; wrapping,
43 packing, and packaging of merchandise other than
44 processed meat, fish, fowl, and vegetables; wrecking
45 service; wrecker and towing.
46 For the purposes of this subsection, the sales
47 price of a lease or rental includes rents, royalties,
48 and copyright and license fees. For the purposes of
49 this subsection, "financial institutions" means all
50 national banks, federally chartered savings and loan

Page 57

1 associations, federally chartered savings banks,
2 federally chartered credit unions, banks organized
3 under chapter 524, savings and loan associations and
4 savings banks organized under chapter 534, and credit
5 unions organized under chapter 533.

6 7. a. A tax of five percent is imposed upon the
7 sales price from the sales, furnishing, or service of
8 solid waste collection and disposal service.

9 For purposes of this subsection, "solid waste"
10 means garbage, refuse, sludge from a water supply
11 treatment plant or air contaminant treatment facility,
12 and other discarded waste materials and sludges, in
13 solid, semisolid, liquid, or contained gaseous form,
14 resulting from nonresidential commercial operations,
15 but does not include auto hulks; street sweepings;
16 ash; construction debris; mining waste; trees; tires;
17 lead acid batteries; used oil; hazardous waste; animal
18 waste used as fertilizer; earthen fill, boulders, or
19 rock; foundry sand used for daily cover at a sanitary
20 landfill; sewage sludge; solid or dissolved material
21 in domestic sewage or other common pollutants in water
22 resources, such as silt, dissolved or suspended solids
23 in industrial waste water effluents or discharges
24 which are point sources subject to permits under
25 section 402 of the federal Water Pollution Control
26 Act, or dissolved materials in irrigation return
27 flows; or source, special nuclear, or by-product
28 material defined by the federal Atomic Energy Act of
29 1954.

30 A recycling facility that separates or processes
31 recyclable materials and that reduces the volume of
32 the waste by at least eighty-five percent is exempt
33 from the tax imposed by this subsection if the waste
34 exempted is collected and disposed of separately from
35 other solid waste.

36 b. A person who transports solid waste generated
37 by that person or another person without compensation
38 shall pay the tax imposed by this subsection at the
39 collection or disposal facility based on the disposal
40 charge or tipping fee. However, the costs of a
41 service or portion of a service to collect and manage
42 recyclable materials separated from solid waste by the
43 waste generator are exempt from the tax imposed by
44 this subsection.

45 8. a. A tax of five percent is imposed upon the
46 sales price from sales of bundled services contracts.
47 For purposes of this subsection, a "bundled services
48 contract" means an agreement providing for a
49 retailer's performance of services, one or more of
50 which is a taxable service enumerated in this section

Page 58

1 and one or more of which is not, in return for a
2 consumer's or user's single payment for the
3 performance of the services, with no separate
4 statement to the consumer or user of what portion of
5 that payment is attributable to any one service which
6 is a part of the contract.

7 b. For purposes of the administration of the tax
8 on bundled services contracts, the director may enter
9 into agreements of limited duration with individual
10 retailers, groups of retailers, or organizations
11 representing retailers of bundled services contracts.
12 Such an agreement shall impose the tax rate only upon
13 that portion of the sales price from a bundled
14 services contract which is attributable to taxable
15 services provided under the contract.

16 9. A tax of five percent is imposed upon the sales
17 price from any mobile telecommunications service which
18 this state is allowed to tax by the provisions of the
19 federal Mobile Telecommunications Sourcing Act, Pub.
20 L. No. 106-252, 4 U.S.C. § 116 et seq. For purposes
21 of this subsection, taxes on mobile telecommunications
22 service, as defined under the federal Mobile
23 Telecommunications Sourcing Act that are deemed to be
24 provided by the customer's home service provider,
25 shall be paid to the taxing jurisdiction whose
26 territorial limits encompass the customer's place of
27 primary use, regardless of where the mobile
28 telecommunications service originates, terminates, or
29 passes through and shall in all other respects be
30 taxed in conformity with the federal Mobile
31 Telecommunications Sourcing Act. All other provisions
32 of the federal Mobile Telecommunications Sourcing Act
33 are adopted by the state of Iowa and incorporated into
34 this subsection by reference. With respect to mobile
35 telecommunications service under the federal Mobile
36 Telecommunications Sourcing Act, the director shall,
37 if requested, enter into agreements consistent with
38 the provisions of the federal Act.

39 10. All revenues arising under the operation of
40 the provisions of this section shall be deposited into
41 the general fund of the state.

42 Sec. 105. NEW SECTION. 423.3 EXEMPTIONS.

43 There is exempted from the provisions of this
44 subchapter and from the computation of the amount of
45 tax imposed by it the following:

46 1. The sales price from sales of tangible personal
47 property and services furnished which this state is
48 prohibited from taxing under the Constitution or laws
49 of the United States or under the Constitution of this
50 state.

Page 59

- 1 2. The sales price of sales for resale of tangible
2 personal property or taxable services, or for resale
3 of tangible personal property in connection with the
4 furnishing of taxable services.
- 5 3. The sales price of agricultural breeding
6 livestock and domesticated fowl.
- 7 4. The sales price of commercial fertilizer.
- 8 5. The sales price of agricultural limestone,
9 herbicide, pesticide, insecticide, including
10 adjuvants, surfactants, and other products directly
11 related to the application enhancement of those
12 products, food, medication, or agricultural drain
13 tile, including installation of agricultural drain
14 tile, any of which are to be used in disease control,
15 weed control, insect control, or health promotion of
16 plants or livestock produced as part of agricultural
17 production for market.
- 18 6. The sales price of tangible personal property
19 which will be consumed as fuel in creating heat,
20 power, or steam for grain drying, or for providing
21 heat or cooling for livestock buildings or for
22 greenhouses or buildings or parts of buildings
23 dedicated to the production of flowering, ornamental,
24 or vegetable plants intended for sale in the ordinary
25 course of business, or for use in cultivation of
26 agricultural products by aquaculture, or in implements
27 of husbandry engaged in agricultural production.
- 28 7. The sales price of services furnished by
29 specialized flying implements of husbandry used for
30 agricultural aerial spraying.
- 31 8. The sales price exclusive of services of farm
32 machinery and equipment, including auxiliary
33 attachments which improve the performance, safety,
34 operation, or efficiency of the machinery and
35 equipment and replacement parts, if the following
36 conditions are met:
 - 37 a. The farm machinery and equipment shall be
38 directly and primarily used in production of
39 agricultural products.
 - 40 b. The farm machinery and equipment shall
41 constitute self-propelled implements or implements
42 customarily drawn or attached to self-propelled
43 implements or the farm machinery or equipment is a
44 grain dryer.
 - 45 c. The replacement part is essential to any repair
46 or reconstruction necessary to the farm machinery's or
47 equipment's exempt use in the production of
48 agricultural products.
- 49 Vehicles subject to registration, as defined in
50 section 423.1, or replacement parts for such vehicles,

Page 60

- 1 are not eligible for this exemption.
- 2 9. The sales price of wood chips, sawdust, hay,
3 straw, paper, or other materials used for bedding in
4 the production of agricultural livestock or fowl.
- 5 10. The sales price of gas, electricity, water, or
6 heat to be used in implements of husbandry engaged in
7 agricultural production.
- 8 11. The sales price exclusive of services of farm
9 machinery and equipment, including auxiliary
10 attachments which improve the performance, safety,
11 operation, or efficiency of the machinery and
12 equipment and replacement parts, if all of the
13 following conditions are met:
- 14 a. The implement, machinery, or equipment is
15 directly and primarily used in livestock or dairy
16 production, aquaculture production, or the production
17 of flowering, ornamental, or vegetable plants.
- 18 b. The implement is not a self-propelled implement
19 or implement customarily drawn or attached to self-
20 propelled implements.
- 21 c. The replacement part is essential to any repair
22 or reconstruction necessary to the farm machinery's or
23 equipment's exempt use in livestock or dairy
24 production, aquaculture production, or the production
25 of flowering, ornamental, or vegetable plants.
- 26 12. The sales price, exclusive of services, from
27 sales of irrigation equipment used in farming
28 operations.
- 29 13. The sales price from the sale or rental of
30 irrigation equipment, whether installed above or below
31 ground, to a contractor or farmer if the equipment
32 will be primarily used in agricultural operations.
- 33 14. The sales price from the sales of horses,
34 commonly known as draft horses, when purchased for use
35 and so used as draft horses.
- 36 15. The sales price from the sale of property
37 which is a container, label, carton, pallet, packing
38 case, wrapping, baling wire, twine, bag, bottle,
39 shipping case, or other similar article or receptacle
40 sold for use in agricultural, livestock, or dairy
41 production.
- 42 16. The sales price from the sale of feed and feed
43 supplements and additives when used for consumption by
44 farm deer or bison.
- 45 17. The sales price of all goods, wares, or
46 merchandise, or services, used for educational
47 purposes sold to any private nonprofit educational
48 institution in this state. For the purpose of this
49 subsection, "educational institution" means an

50 institution which primarily functions as a school,

Page 61

1 college, or university with students, faculty, and an
2 established curriculum. The faculty of an educational
3 institution must be associated with the institution
4 and the curriculum must include basic courses which
5 are offered every year. "Educational institution"
6 includes an institution primarily functioning as a
7 library.

8 18. The sales price of tangible personal property
9 sold, or of services furnished, to the following
10 nonprofit corporations:

11 a. Residential care facilities and intermediate
12 care facilities for persons with mental retardation
13 and residential care facilities for persons with
14 mental illness licensed by the department of
15 inspections and appeals under chapter 135C.

16 b. Residential facilities licensed by the
17 department of human services pursuant to chapter 237,
18 other than those maintained by individuals as defined
19 in section 237.1, subsection 7.

20 c. Rehabilitation facilities that provide
21 accredited rehabilitation services to persons with
22 disabilities which are accredited by the commission on
23 accreditation of rehabilitation facilities or the
24 accreditation council for services for persons with
25 mental retardation and other persons with
26 developmental disabilities and adult day care services
27 approved for reimbursement by the state department of
28 human services.

29 d. Community mental health centers accredited by
30 the department of human services pursuant to chapter
31 225C.

32 e. Community health centers as defined in 42
33 U.S.C. § 254(c) and migrant health centers as defined
34 in 42 U.S.C. § 254(b).

35 19. The sales price of tangible personal property
36 sold to a nonprofit organization which was organized
37 for the purpose of lending the tangible personal
38 property to the general public for use by them for
39 nonprofit purposes.

40 20. The sales price of tangible personal property
41 sold, or of services furnished, to nonprofit legal aid
42 organizations.

43 21. The sales price of goods, wares, or
44 merchandise, or of services, used for educational,
45 scientific, historic preservation, or aesthetic
46 purpose sold to a nonprofit private museum.

47 22. The sales price from sales of goods, wares, or
48 merchandise, or from services furnished, to a

49 nonprofit private art center to be used in the
50 operation of the art center.

Page 62

1 23. The sales price of tangible personal property
2 sold, or of services furnished, by a fair society
3 organized under chapter 174.

4 24. The sales price from services furnished by the
5 notification center established pursuant to section
6 480.3, and the vendor selected pursuant to section
7 480.3 to provide the notification service.

8 25. The sales price of food and beverages sold for
9 human consumption by a nonprofit organization which
10 principally promotes a food or beverage product for
11 human consumption produced, grown, or raised in this
12 state and whose income is exempt from federal taxation
13 under section 501(c) of the Internal Revenue Code.

14 26. The sales price of tangible personal property
15 sold, or of services furnished, to a statewide
16 nonprofit organ procurement organization, as defined
17 in section 142C.2.

18 27. The sales price of tangible personal property
19 sold, or of services furnished, to a nonprofit
20 hospital licensed pursuant to chapter 135B to be used
21 in the operation of the hospital.

22 28. The sales price of tangible personal property
23 sold, or of services furnished, to a freestanding
24 nonprofit hospice facility which operates a hospice
25 program as defined in 42 C.F.R., ch. IV, § 418.3,
26 which property or services are to be used in the
27 hospice program.

28 29. The sales price of all goods, wares, or
29 merchandise sold, or of services furnished, which are
30 used in the fulfillment of a written construction
31 contract with a nonprofit hospital licensed pursuant
32 to chapter 135B if all of the following apply:

33 a. The sales and delivery of the goods, wares, or
34 merchandise, or the services furnished occurred
35 between July 1, 1998, and December 31, 2001.

36 b. The written construction contract was entered
37 into prior to December 31, 1999, or bonds to fund the
38 construction were issued prior to December 31, 1999.

39 c. The sales or services were purchased by a
40 contractor as the agent for the hospital or were
41 purchased directly by the hospital.

42 30. The sales price of livestock ear tags sold by
43 a nonprofit organization whose income is exempt from
44 federal taxation under section 501(c)(6) of the
45 Internal Revenue Code where the proceeds are used in
46 bovine research programs selected or approved by such
47 organization.

48 31. The sales price of goods, wares, or
49 merchandise sold to and of services furnished, and
50 used for public purposes sold to a tax-certifying or

Page 63

1 tax-levying body of the state or a governmental
2 subdivision of the state, including regional transit
3 systems, as defined in section 324A.1, the state board
4 of regents, department of human services, state
5 department of transportation, any municipally owned
6 solid waste facility which sells all or part of its
7 processed waste as fuel to a municipally owned public
8 utility, and all divisions, boards, commissions,
9 agencies, or instrumentalities of state, federal,
10 county, or municipal government which have no earnings
11 going to the benefit of an equity investor or
12 stockholder, except any of the following:

13 a. The sales price of goods, wares, or merchandise
14 sold to, or of services furnished, and used by or in
15 connection with the operation of any municipally owned
16 public utility engaged in selling gas, electricity,
17 heat, or pay television service to the general public.

18 b. The sales price of furnishing of sewage
19 services to a county or municipality on behalf of
20 nonresidential commercial operations.

21 c. The furnishing of solid waste collection and
22 disposal service to a county or municipality on behalf
23 of nonresidential commercial operations located within
24 the county or municipality.

25 The exemption provided by this subsection shall
26 also apply to all such sales of goods, wares, or
27 merchandise or of services furnished and subject to
28 use tax.

29 32. The sales price of tangible personal property
30 sold, or of services furnished, by a county or city.
31 This exemption does not apply to any of the following:

32 a. The tax specifically imposed under section
33 423.2 on the sales price from sales or furnishing of
34 gas, electricity, water, heat, pay television service,
35 or communication service to the public by a municipal
36 corporation in its proprietary capacity.

37 b. The sale or furnishing of solid waste
38 collection and disposal service to nonresidential
39 commercial operations.

40 c. The sale or furnishing of sewage service for
41 nonresidential commercial operations.

42 d. Fees paid to cities and counties for the
43 privilege of participating in any athletic sports.

44 33. The sales price of mementos and other items
45 relating to Iowa history and historic sites, the
46 general assembly, and the state capitol, sold by the

47 legislative service bureau and its legislative
48 information office on the premises of property under
49 the control of the legislative council, at the state
50 capitol, and on other state property.

Page 64

1 34. The sales price from sales of mementos and
2 other items relating to Iowa history and historic
3 sites by the department of cultural affairs on the
4 premises of property under its control and at the
5 state capitol.
6 35. The sales price from sales or services
7 furnished by the state fair organized under chapter
8 173.
9 36. The sales price from sales of tangible
10 personal property or of the sale or furnishing of
11 electrical energy, natural or artificial gas, or
12 communication service to another state or political
13 subdivision of another state if the other state
14 provides a similar reciprocal exemption for this state
15 and political subdivision of this state.
16 37. The sales price of services on or connected
17 with new construction, reconstruction, alteration,
18 expansion, remodeling, or the services of a general
19 building contractor, architect, or engineer.
20 38. The sales price from the sale of building
21 materials, supplies, or equipment sold to rural water
22 districts organized under chapter 504a as provided in
23 chapter 357A and used for the construction of
24 facilities of a rural water district.
25 39. The sales price from "casual sales".
26 "Casual sales" means:
27 a. Sales of tangible personal property, or the
28 furnishing of services, of a nonrecurring nature, by
29 the owner, if the seller, at the time of the sale, is
30 not engaged for profit in the business of selling
31 tangible personal property or services taxed under
32 section 423.2.
33 b. The sale of all or substantially all of the
34 tangible personal property or services held or used by
35 a seller in the course of the seller's trade or
36 business for which the seller is required to hold a
37 sales tax permit when the seller sells or otherwise
38 transfers the trade or business to another person who
39 shall engage in a similar trade or business.
40 40. The sales price from the sale of automotive
41 fluids to a retailer to be used either in providing a
42 service which includes the installation or application
43 of the fluids in or on a motor vehicle, which service
44 is subject to section 423.2, subsection 6, or to be
45 installed in or applied to a motor vehicle which the

46 retailer intends to sell, which sale is subject to
47 section 423.26. For purposes of this subsection,
48 automotive fluids are all those which are refined,
49 manufactured, or otherwise processed and packaged for
50 sale prior to their installation in or application to

Page 65

1 a motor vehicle. They include but are not limited to
2 motor oil and other lubricants, hydraulic fluids,
3 brake fluid, transmission fluid, sealants,
4 undercoatings, antifreeze, and gasoline additives.

5 41. The sales price from the rental of motion
6 picture films, video and audio tapes, video and audio
7 discs, records, photos, copy, scripts, or other media
8 used for the purpose of transmitting that which can be
9 seen, heard, or read, if either of the following
10 conditions are met:

11 a. The lessee imposes a charge for the viewing of
12 such media and the charge for the viewing is subject
13 to taxation under this subchapter or is subject to use
14 tax.

15 b. The lessee broadcasts the contents of such
16 media for public viewing or listening.

17 42. The sales price from the sale of tangible
18 personal property consisting of advertising material
19 including paper to a person in Iowa if that person or
20 that person's agent will, subsequent to the sale, send
21 that advertising material outside this state and the
22 material is subsequently used solely outside of Iowa.
23 For the purpose of this subsection, "advertising
24 material" means any brochure, catalog, leaflet, flyer,
25 order form, return envelope, or similar item used to
26 promote sales of property or services.

27 43. The sales price from the sale of property or
28 of services performed on property which the retailer
29 transfers to a carrier for shipment to a point outside
30 of Iowa, places in the United States mail or parcel
31 post directed to a point outside of Iowa, or
32 transports to a point outside of Iowa by means of the
33 retailer's own vehicles, and which is not thereafter
34 returned to a point within Iowa, except solely in the
35 course of interstate commerce or transportation. This
36 exemption shall not apply if the purchaser, consumer,
37 or their agent, other than a carrier, takes physical
38 possession of the property in Iowa.

39 44. The sales price from the sale of property
40 which is a container, label, carton, pallet, packing
41 case, wrapping paper, twine, bag, bottle, shipping
42 case, or other similar article or receptacle sold to
43 retailers or manufacturers for the purpose of
44 packaging or facilitating the transportation of

45 tangible personal property sold at retail or
46 transferred in association with the maintenance or
47 repair of fabric or clothing.
48 45. The sales price from sales or rentals to a
49 printer or publisher of the following: acetate; anti-
50 halation backing; antistatic spray; back lining; base

Page 66

1 material used as a carrier for light sensitive
2 emulsions; blankets; blow-ups; bronze powder; carbon
3 tissue; codas; color filters; color separations;
4 contacts; continuous tone separations; creative art;
5 custom dies and die cutting materials; dampener
6 sleeves; dampening solution; design and styling; diazo
7 coating; dot etching; dot etching solutions; drawings;
8 drawsheets; driers; duplicate films or prints;
9 electronically digitized images; electrotypes; end
10 product of image modulation; engravings; etch
11 solutions; film; finished art or final art; fix;
12 fixative spray; flats; flying pasters; foils;
13 goldenrod paper; gum; halftones; illustrations; ink;
14 ink paste; keylines; lacquer; lasering images;
15 layouts; lettering; line negatives and positives;
16 linotypes; lithographic offset plates; magnesium and
17 zinc etchings; masking paper; masks; masters; mats;
18 mat service; metal toner; models and modeling; mylar;
19 negatives; nonoffset spray; opaque film process paper;
20 opaquing; padding compound; paper stock; photographic
21 materials: acids, plastic film, desensitizer
22 emulsion, exposure chemicals, fix, developers, and
23 paper; photography, day rate; photopolymer coating;
24 photographs; photostats; photo-display tape;
25 phototypesetter materials; ph-indicator sticks;
26 positives; press pack; printing cylinders; printing
27 plates, all types; process lettering; proof paper;
28 proofs and proof processes, all types; pumice powder;
29 purchased author alterations; purchased composition;
30 purchased phototypesetting; purchased stripping and
31 pasteups; red litho tape; reducers; roller covering;
32 screen tints; sketches; stepped plates; stereotypes;
33 strip types; substrate; tints; tissue overlays;
34 toners; transparencies; tympan; typesetting;
35 typography; varnishes; veloxes; wood mounts; and any
36 other items used in a like capacity to any of the
37 above enumerated items by the printer or publisher to
38 complete a finished product for sale at retail.
39 Expendable tools and supplies which are not enumerated
40 in this subsection are excluded from the exemption.
41 "Printer" means that portion of a person's business
42 engaged in printing that completes a finished product
43 for ultimate sale at retail or means that portion of a

44 person's business used to complete a finished printed
45 packaging material used to package a product for
46 ultimate sale at retail. "Printer" does not mean an
47 in-house printer who prints or copyrights its own
48 materials.
49 46. a. The sales price from the sale or rental of
50 computers, machinery, and equipment, including

Page 67

1 replacement parts, and materials used to construct or
2 self-construct computers, machinery, and equipment if
3 such items are any of the following:
4 (1) Directly and primarily used in processing by a
5 manufacturer.
6 (2) Directly and primarily used to maintain the
7 integrity of the product or to maintain unique
8 environmental conditions required for either the
9 product or the computers, machinery, and equipment
10 used in processing by a manufacturer, including test
11 equipment used to control quality and specifications
12 of the product.
13 (3) Directly and primarily used in research and
14 development of new products or processes of
15 processing.
16 (4) Computers used in processing or storage of
17 data or information by an insurance company, financial
18 institution, or commercial enterprise.
19 (5) Directly and primarily used in recycling or
20 reprocessing of waste products.
21 (6) Pollution-control equipment used by a
22 manufacturer, including but not limited to that
23 required or certified by an agency of this state or of
24 the United States government.
25 b. The sales price from the sale of fuel used in
26 creating heat, power, steam, or for generating
27 electrical current, or from the sale of electricity,
28 consumed by computers, machinery, or equipment used in
29 an exempt manner described in paragraph "a",
30 subparagraph (1), (2), (3), (5), or (6).
31 c. The sales price from the sale or rental of the
32 following shall not be exempt from the tax imposed by
33 this subchapter:
34 (1) Hand tools.
35 (2) Point-of-sale equipment and computers.
36 (3) Industrial machinery, equipment, and
37 computers, including pollution-control equipment
38 within the scope of section 427A.1, subsection 1,
39 paragraphs "h" and "i".
40 (4) Vehicles subject to registration, except
41 vehicles subject to registration which are directly
42 and primarily used in recycling or reprocessing of

43 waste products.

44 d. As used in this subsection:

45 (1) "Commercial enterprise" includes businesses
46 and manufacturers conducted for profit and centers for
47 data processing services to insurance companies,
48 financial institutions, businesses, and manufacturers,
49 but excludes professions and occupations and nonprofit
50 organizations.

Page 68

1 (2) "Financial institution" means as defined in
2 section 527.2.

3 (3) "Insurance company" means an insurer organized
4 or operating under chapter 508, 514, 515, 518, 518A,
5 519, or 520, or authorized to do business in Iowa as
6 an insurer or an insurance producer under chapter
7 522B.

8 (4) "Manufacturer" means as defined in section
9 428.20, but also includes contract manufacturers. A
10 contract manufacturer is a manufacturer that otherwise
11 falls within the definition of manufacturer under
12 section 428.20, except that a contract manufacturer
13 does not sell the tangible personal property the
14 contract manufacturer processes on behalf of other
15 manufacturers. A business engaged in activities
16 subsequent to the extractive process of quarrying or
17 mining, such as crushing, washing, sizing, or blending
18 of aggregate materials, is a manufacturer with respect
19 to these activities.

20 (5) "Processing" means a series of operations in
21 which materials are manufactured, refined, purified,
22 created, combined, or transformed by a manufacturer,
23 ultimately into tangible personal property.
24 Processing encompasses all activities commencing with
25 the receipt or producing of raw materials by the
26 manufacturer and ending at the point products are
27 delivered for shipment or transferred from the
28 manufacturer. Processing includes but is not limited
29 to refinement or purification of materials; treatment
30 of materials to change their form, context, or
31 condition; maintenance of the quality or integrity of
32 materials, components, or products; maintenance of
33 environmental conditions necessary for materials,
34 components, or products; quality control activities;
35 and construction of packaging and shipping devices,
36 placement into shipping containers or any type of
37 shipping devices or medium, and the movement of
38 materials, components, or products until shipment from
39 the processor.

40 (6) "Receipt or producing of raw materials" means
41 activities performed upon tangible personal property

42 only. With respect to raw materials produced from or
43 upon real estate, the receipt or producing of raw
44 materials is deemed to occur immediately following the
45 severance of the raw materials from the real estate.

46 47. The sales price from the furnishing of the
47 design and installation of new industrial machinery or
48 equipment, including electrical and electronic
49 installation.

50 48. The sales price from the sale of carbon

Page 69

1 dioxide in a liquid, solid, or gaseous form,
2 electricity, steam, and other taxable services when
3 used by a manufacturer of food products to produce
4 marketable food products for human consumption,
5 including but not limited to treatment of material to
6 change its form, context, or condition, in order to
7 produce the food product, maintenance of quality or
8 integrity of the food product, changing or maintenance
9 of temperature levels necessary to avoid spoilage or
10 to hold the food product in marketable condition,
11 maintenance of environmental conditions necessary for
12 the safe or efficient use of machinery and material
13 used to produce the food product, sanitation and
14 quality control activities, formation of packaging,
15 placement into shipping containers, and movement of
16 the material or food product until shipment from the
17 building of manufacture.

18 49. The sales price of sales of electricity,
19 steam, or any taxable service when purchased and used
20 in the processing of tangible personal property
21 intended to be sold ultimately at retail.

22 50. The sales price of tangible personal property
23 sold for processing. Tangible personal property is
24 sold for processing within the meaning of this
25 subsection only when it is intended that the property
26 will, by means of fabrication, compounding,
27 manufacturing, or germination, become an integral part
28 of other tangible personal property intended to be
29 sold ultimately at retail; or for generating electric
30 current; or the property is a chemical, solvent,
31 sorbent, or reagent, which is directly used and is
32 consumed, dissipated, or depleted, in processing
33 tangible personal property which is intended to be
34 sold ultimately at retail or consumed in the
35 maintenance or repair of fabric or clothing, and which
36 may not become a component or integral part of the
37 finished product. The distribution to the public of
38 free newspapers or shoppers guides is a retail sale
39 for purposes of the processing exemption set out in
40 this subsection and in subsection 49.

41 51. The sales price from the sale of argon and
42 other similar gases to be used in the manufacturing
43 process.

44 52. The sales price from the sale of electricity
45 to water companies assessed for property tax pursuant
46 to sections 428.24, 428.26, and 428.28 which is used
47 solely for the purpose of pumping water from a river
48 or well.

49 53. The sales price from the sale of wind energy
50 conversion property to be used as an electric power

Page 70

1 source and the sale of the materials used to
2 manufacture, install, or construct wind energy
3 conversion property used or to be used as an electric
4 power source.

5 For purposes of this subsection, "wind energy
6 conversion property" means any device, including, but
7 not limited to, a wind charger, windmill, wind
8 turbine, tower and electrical equipment, pad mount
9 transformers, power lines, and substation, which
10 converts wind energy to a form of usable energy.

11 54. The sales price from the sales of newspapers,
12 free newspapers, or shoppers guides and the printing
13 and publishing of such newspapers and shoppers guides,
14 and envelopes for advertising.

15 55. The sales price from the sale of motor fuel
16 and special fuel consumed for highway use or in
17 watercraft or aircraft where the fuel tax has been
18 imposed and paid and no refund has been or will be
19 allowed and the sales price from the sales of ethanol
20 blended gasoline, as defined in section 452A.2.

21 56. The sales price from all sales of food and
22 food ingredients. However, as used in this
23 subsection, "food" does not include alcoholic
24 beverages, candy, dietary supplements, food sold
25 through vending machines, prepared food, soft drinks,
26 and tobacco.

27 For the purposes of this subsection:

28 a. "Alcoholic beverages" means beverages that are
29 suitable for human consumption and contain one-half of
30 one percent or more of alcohol by volume.

31 b. "Candy" means a preparation of sugar, honey, or
32 other natural or artificial sweeteners in combination
33 with chocolate, fruits, nuts, or other ingredients or
34 flavorings in the form of bars, drops, or pieces.
35 Candy shall not include any preparation containing
36 flour and shall require no refrigeration.

37 c. "Dietary supplement" means any product, other
38 than tobacco, intended to supplement the diet that
39 contains one or more of the following dietary

40 ingredients:
41 (1) a vitamin.
42 (2) a mineral.
43 (3) An herb or other botanical.
44 (4) An amino acid.
45 (5) a dietary substance for use by humans to
46 supplement the diet by increasing the total dietary
47 intake.
48 (6) a concentrate, metabolite, constituent,
49 extract, or combination of any of the ingredients in
50 subparagraphs (1) through (5) that is intended for

Page 71

1 ingestion in tablet, capsule, powder, softgel, gelcap,
2 or liquid form, or if not intended for ingestion in
3 such a form, is not represented as conventional food
4 and is not represented for use as a sole item of a
5 meal or of the diet; and is required to be labeled as
6 a dietary supplement, identifiable by the "supplement
7 facts" box found on the label and as required pursuant
8 to 21 C.F.R. § 101.36.
9 d. "Food and food ingredients" means substances,
10 whether in liquid, concentrated, solid, frozen, dried,
11 or dehydrated form, that are sold for ingestion or
12 chewing by humans and are consumed for their taste or
13 nutritional value.
14 e. "Food sold through vending machines" means food
15 dispensed from a machine or other mechanical device
16 that accepts payment, other than food which would be
17 qualified for exemption under subsection 57 if
18 purchased with a coupon described in subsection 57.
19 f. "Prepared food" means any of following:
20 (1) Food sold in a heated state or heated by the
21 seller, including food sold by a caterer.
22 (2) Two or more food ingredients mixed or combined
23 by the seller for sale as a single item.
24 (3) "Prepared food", for the purposes of this
25 paragraph, does not include food that is any of the
26 following:
27 (a) Only cut, repackaged, or pasteurized by the
28 seller.
29 (b) Eggs, fish, meat, poultry, and foods
30 containing these raw animal foods requiring cooking by
31 the consumer as recommended by the United States food
32 and drug administration in chapter 3, part 401.11 of
33 its food code, so as to prevent food borne illnesses.
34 (c) Bakery items sold by the seller which baked
35 them. The words "bakery items" includes but is not
36 limited to breads, rolls, buns, biscuits, bagels,
37 croissants, pastries, donuts, Danish, cakes, tortes,
38 pies, tarts, muffins, bars, cookies, and tortillas.

39 (d) Food sold without eating utensils provided by
40 the seller in an unheated state as a single item which
41 is priced by weight or volume.
42 (4) Food sold with eating utensils provided by the
43 seller, including plates, knives, forks, spoons,
44 glasses, cups, napkins, or straws. A plate does not
45 include a container or packaging used to transport
46 food.
47 g. "Soft drinks" means nonalcoholic beverages that
48 contain natural or artificial sweeteners. "Soft
49 drinks" does not include beverages that contain milk
50 or milk products; soy, rice, or similar milk

Page 72

1 substitutes; or greater than fifty percent of
2 vegetable or fruit juice by volume.
3 f. "Tobacco" means cigarettes, cigars, chewing or
4 pipe tobacco, or any other item that contains tobacco.
5 57. The sales price from the sale of items
6 purchased with coupons issued under the federal Food
7 Stamp Act of 1977, 7 U.S.C. § 2011 et seq.
8 58. In transactions in which tangible personal
9 property is traded toward the sales price of other
10 tangible personal property, that portion of the sales
11 price which is not payable in money to the retailer is
12 exempted from the taxable amount if the following
13 conditions are met:
14 a. The tangible personal property traded to the
15 retailer is the type of property normally sold in the
16 regular course of the retailer's business.
17 b. The tangible personal property traded to the
18 retailer is intended by the retailer to be ultimately
19 sold at retail or is intended to be used by the
20 retailer or another in the remanufacturing of a like
21 item.
22 59. The sales price from the sale or rental of
23 prescription drugs or medical devices intended for
24 human use or consumption.
25 For the purposes of this subsection:
26 a. "Drug" means a compound, substance, or
27 preparation, and any component of a compound,
28 substance, or preparation, other than food and food
29 ingredients, dietary supplements, or alcoholic
30 beverages which is any of the following:
31 (1) Recognized in the official United States
32 pharmacopoeia, official homeopathic pharmacopoeia of
33 the United States, or official national formulary, and
34 supplement to any of them.
35 (2) Intended for use in the diagnosis, cure,
36 mitigation, treatment, or prevention of disease.
37 (3) Intended to affect the structure or any

38 function of the body.

39 b. "Medical device" means equipment or a supply,
40 intended to be prescribed by a practitioner, including
41 orthopedic or orthotic devices. However, "medical
42 device" also includes prosthetic devices, ostomy,
43 urological, and tracheostomy equipment and supplies,
44 and diabetic testing materials, hypodermic syringes
45 and needles, anesthesia trays, biopsy trays and biopsy
46 needles, cannula systems, catheter trays and invasive
47 catheters, dialyzers, drug infusion devices, fistula
48 sets, hemodialysis devices, insulin infusion devices,
49 intraocular lenses, irrigation solutions, intravenous
50 administering sets, solutions and stopcocks, myelogram

Page 73

1 trays, nebulizers, small vein infusion kits, spinal
2 puncture trays, transfusion sets, venous blood sets,
3 and oxygen equipment, intended to be dispensed for
4 human use with or without a prescription to an
5 ultimate user.

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

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

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

21 (1) Artificially replace a missing portion of the
22 body.

23 (2) Prevent or correct physical deformity or
24 malfunction.

25 (3) Support a weak or deformed portion of the
26 body.

27 f. "Ultimate user" means an individual who has
28 lawfully obtained and possesses a prescription drug or
29 medical device for the individual's own use or for the
30 use of a member of the individual's household, or an
31 individual to whom a prescription drug or medical
32 device has been lawfully supplied, administered,
33 dispensed, or prescribed.

34 60. The sales price from services furnished by
35 aerial commercial and charter transportation services.

36 61. The sales price from the sale of raffle

37 tickets for a raffle licensed pursuant to section
38 99B.5.
39 62. The sales price from the sale of tangible
40 personal property which will be given as prizes to
41 players in games of skill, games of chance, raffles,
42 and bingo games as defined in chapter 99B.
43 63. The sales price from the sale of a modular
44 home, as defined in section 435.1, to the extent of
45 the portion of the purchase price of the modular home
46 which is not attributable to the cost of the tangible
47 personal property used in the processing of the
48 modular home. For purposes of this exemption, the
49 portion of the purchase price which is not
50 attributable to the cost of the tangible personal

Page 74

1 property used in the processing of the modular home is
2 forty percent.
3 64. The sales price from charges paid to a
4 provider for access to on-line computer services. For
5 purposes of this subsection, "on-line computer
6 service" means a service that provides or enables
7 computer access by multiple users to the internet or
8 to other information made available through a computer
9 server.
10 65. The sales price from the sale or rental of
11 information services. "Information services" means
12 every business activity, process, or function by which
13 a seller or its agent accumulates, prepares,
14 organizes, or conveys data, facts, knowledge,
15 procedures, and like services to a buyer or its agent
16 of such information through any tangible or intangible
17 medium. Information accumulated, prepared, or
18 organized for a buyer or its agent is an information
19 service even though it may incorporate preexisting
20 components of data or other information. "Information
21 services" includes, but is not limited to, database
22 files, mailing lists, subscription files, market
23 research, credit reports, surveys, real estate
24 listings, bond rating reports, abstracts of title, bad
25 check lists, broadcasting rating services, wire
26 services, and scouting reports, or other similar
27 items.
28 66. The sales price of a sale at retail if the
29 substance of the transaction is delivered to the
30 purchaser digitally, electronically, or utilizing
31 cable, or by radio waves, microwaves, satellites, or
32 fiber optics.
33 67. a. The sales price from the sale of an
34 article of clothing designed to be worn on or about
35 the human body if all of the following apply:

36 (1) The sales price of the article is less than
 37 one hundred dollars.
 38 (2) The sale takes place during a period beginning
 39 at 12:01 a.m. on the first Friday in August and ending
 40 at midnight on the following Saturday.
 41 b. This subsection does not apply to any of the
 42 following:
 43 (1) Sport or recreational equipment and protective
 44 equipment.
 45 (2) Clothing accessories or equipment.
 46 (3) The rental of clothing.
 47 c. For purposes of this subsection:
 48 (1) "Clothing" means all human wearing apparel
 49 suitable for general use. "Clothing" includes, but is
 50 not limited to the following: aprons, household and

Page 75

1 shop; athletic supporters; baby receiving blankets;
 2 bathing suits and caps; beach capes and coats; belts
 3 and suspenders; boots; coats and jackets; costumes;
 4 diapers (children and adults, including disposable
 5 diapers); earmuffs; footlets; formal wear; garters and
 6 garter belts; girdles; gloves and mittens for general
 7 use; hats and caps; hosiery; insoles for shoes; lab
 8 coats; neckties; overshoes; pantyhose; rainwear;
 9 rubber pants; sandals; scarves; shoes and shoelaces;
 10 slippers; sneakers; socks and stockings; steel-toed
 11 shoes; underwear; uniforms, athletic and nonathletic;
 12 and wedding apparel.
 13 "Clothing" does not include the following: belt
 14 buckles sold separately; costume masks sold
 15 separately; patches and emblems sold separately;
 16 sewing equipment and supplies (including, but not
 17 limited to, knitting needles, patterns, pins,
 18 scissors, sewing machines, sewing needles, tape
 19 measures, and thimbles); and sewing materials that
 20 become part of clothing (including, but not limited
 21 to, buttons, fabric, lace, thread, yarn, and zippers).
 22 (2) "Clothing accessories or equipment" means
 23 incidental items worn on the person or in conjunction
 24 with clothing. "Clothing accessories or equipment"
 25 includes, but is not limited to, the following:
 26 briefcases; cosmetics; hair notions (including, but
 27 not limited to, barrettes, hair bows, and hair nets);
 28 handbags; handkerchiefs; jewelry; sunglasses,
 29 nonprescription; umbrellas; wallets; watches; and wigs
 30 and hairpieces.
 31 (3) "Protective equipment" means items for human
 32 wear and designed as protection for the wearer against
 33 injury or disease or as protection against damage or
 34 injury of other persons or property but not suitable

35 for general use. "Protective equipment" includes, but
36 is not limited to, the following: breathing masks;
37 clean room apparel and equipment; ear and hearing
38 protectors; face shields; hard hats; helmets; paint or
39 dust respirators; protective gloves; safety glasses
40 and goggles; safety belts; tool belts; and welders
41 gloves and masks.

42 (4) "Sport or recreational equipment" means items
43 designed for human use and worn in conjunction with an
44 athletic or recreational activity that are not
45 suitable for general use. "Sport or recreational
46 equipment" includes, but is not limited to, the
47 following: ballet and tap shoes; cleated or spiked
48 athletic shoes; gloves (including, but not limited to,
49 baseball, bowling, boxing, hockey, and golf); goggles;
50 hand and elbow guards; life preservers and vests;

Page 76

1 mouth guards; roller and ice skates; shin guards;
2 shoulder pads; ski boots; waders; and wetsuits and
3 fins.

4 68. a. Subject to paragraph "b", the sales price
5 from the sale or furnishing of metered gas,
6 electricity, and fuel, including propane and heating
7 oil, to residential customers which is used to provide
8 energy for residential dwellings and units of
9 apartment and condominium complexes used for human
10 occupancy.

11 b. The exemption in this subsection shall be
12 phased in by means of a reduction in the tax rate as
13 follows:

14 (1) If the date of the utility billing or meter
15 reading cycle of the residential customer for the sale
16 or furnishing of metered gas and electricity is on or
17 after January 1, 2002, through December 31, 2002, or
18 if the sale or furnishing of fuel for purposes of
19 residential energy and the delivery of the fuel occurs
20 on or after January 1, 2002, through December 31,
21 2002, the rate of tax is four percent of the sales
22 price.

23 (2) If the date of the utility billing or meter
24 reading cycle of the residential customer for the sale
25 or furnishing of metered gas and electricity is on or
26 after January 1, 2003, through June 30, 2008, or if
27 the sale or furnishing of fuel for purposes of
28 residential energy and the delivery of the fuel occurs
29 on or after January 1, 2003, through June 30, 2008,
30 the rate of tax is three percent of the sales price.

31 (3) If the date of the utility billing or meter
32 reading cycle of the residential customer for the sale
33 or furnishing of metered gas and electricity is on or

34 after July 1, 2008, through June 30, 2009, or if the
35 sale or furnishing of fuel for purposes of residential
36 energy and the delivery of the fuel occurs on or after
37 July 1, 2008, through June 30, 2009, the rate of tax
38 is two percent of the sales price.

39 (4) If the date of the utility billing or meter
40 reading cycle of the residential customer for the sale
41 or furnishing of metered gas and electricity is on or
42 after July 1, 2009, through June 30, 2010, or if the
43 sale or furnishing of fuel for purposes of residential
44 energy and the delivery of the fuel occurs on or after
45 July 1, 2009, through June 30, 2010, the rate of tax
46 is one percent of the sales price.

47 (5) If the date of the utility billing or meter
48 reading cycle of the residential customer for the sale
49 or furnishing of metered gas and electricity is on or
50 after July 1, 2010, or if the sale, furnishing, or

Page 77

1 service of fuel for purposes of residential energy and
2 the delivery of the fuel occurs on or after July 1,
3 2010, the rate of tax is zero percent of the sales
4 price.

5 c. The exemption in this subsection does not apply
6 to local option sales and services tax imposed
7 pursuant to chapters 423B and 423E.

8 69. The sales price from charges paid for the
9 delivery of electricity or natural gas if the sale or
10 furnishing of the electricity or natural gas or its
11 use is exempt from the tax on sales prices imposed
12 under this subchapter or from the use tax imposed
13 under subchapter III.

14 70. The sales price from the sales, furnishing, or
15 service of transportation service except the rental of
16 recreational vehicles or recreational boats, except
17 the rental of motor vehicles subject to registration
18 which are registered for a gross weight of thirteen
19 tons or less for a period of sixty days or less, and
20 except the rental of aircraft for a period of sixty
21 days or less. This exemption does not apply to the
22 transportation of electric energy or natural gas.

23 71. The sales price from sales of tangible
24 personal property used or to be used as railroad
25 rolling stock for transporting persons or property, or
26 as materials or parts therefor.

27 72. The sales price from the sales of special fuel
28 for diesel engines consumed or used in the operation
29 of ships, barges, or waterborne vessels which are used
30 primarily in or for the transportation of property or
31 cargo, or the conveyance of persons for hire on rivers
32 bordering on the state if the fuel is delivered by the

33 seller to the purchaser's barge, ship, or waterborne
34 vessel while it is afloat upon such a river.

35 73. The sales price from sales of vehicles subject
36 to registration or subject only to the issuance of a
37 certificate of title and sales of aircraft subject to
38 registration under section 328.20.

39 74. The sales price from the sale of aircraft for
40 use in a scheduled interstate federal aviation
41 administration certificated air carrier operation.

42 75. The sales price from the sale or rental of
43 aircraft; the sale or rental of tangible personal
44 property permanently affixed or attached as a
45 component part of the aircraft, including but not
46 limited to repair or replacement materials or parts;
47 and the sales price of all services used for aircraft
48 repair, remodeling, and maintenance services when such
49 services are performed on aircraft, aircraft engines,
50 or aircraft component materials or parts. For the

Page 78

1 purposes of this exemption, "aircraft" means aircraft
2 used in a scheduled interstate federal aviation
3 administration certificated air carrier operation.

4 76. The sales price from the sale or rental of
5 tangible personal property permanently affixed or
6 attached as a component part of the aircraft,
7 including but not limited to repair or replacement
8 materials or parts; and the sales price of all
9 services used for aircraft repair, remodeling, and
10 maintenance services when such services are performed
11 on aircraft, aircraft engines, or aircraft component
12 materials or parts. For the purposes of this
13 exemption, "aircraft" means aircraft used in
14 nonscheduled interstate federal aviation
15 administration certificated air carrier operation
16 operating under 14 C.F.R. ch. 1, pt. 135.

17 77. The sales price from the sale of aircraft to
18 an aircraft dealer who in turn rents or leases the
19 aircraft if all of the following apply:

20 a. The aircraft is kept in the inventory of the
21 dealer for sale at all times.

22 b. The dealer reserves the right to immediately
23 take the aircraft from the renter or lessee when a
24 buyer is found.

25 c. The renter or lessee is aware that the dealer
26 will immediately take the aircraft when a buyer is
27 found.

28 If an aircraft exempt under this subsection is used
29 for any purpose other than leasing or renting, or the
30 conditions in paragraphs "a", "b", and "c" are not
31 continuously met, the dealer claiming the exemption

32 under this subsection is liable for the tax that would
33 have been due except for this subsection. The tax
34 shall be computed upon the original purchase price.
35 78. The sales price from sales or rental of
36 tangible personal property, or services rendered by
37 any entity where the profits from the sales or rental
38 of the tangible personal property, or services
39 rendered are used by or donated to a nonprofit entity
40 which is exempt from federal income taxation pursuant
41 to section 501(c)(3) of the Internal Revenue Code, a
42 government entity, or a nonprofit private educational
43 institution, and where the entire proceeds from the
44 sales, rental, or services are expended for any of the
45 following purposes:
46 a. Educational.
47 b. Religious.
48 c. Charitable. A charitable act is an act done
49 out of goodwill, benevolence, and a desire to add to
50 or to improve the good of humankind in general or any

Page 79

1 class or portion of humankind, with no pecuniary
2 profit inuring to the person performing the service or
3 giving the gift.
4 This exemption does not apply to the sales price
5 from games of skill, games of chance, raffles, and
6 bingo games as defined in chapter 99B. This exemption
7 is disallowed on the amount of the sales price only to
8 the extent the profits from the sales, rental, or
9 services are not used by or donated to the appropriate
10 entity and expended for educational, religious, or
11 charitable purposes.
12 79. The sales price from the sale or rental of
13 tangible personal property or from services furnished
14 to a recognized community action agency as provided in
15 section 216A.93 to be used for the purposes of the
16 agency.
17 80. a. For purposes of this subsection,
18 "designated exempt entity" means an entity which is
19 designated in section 423.4, subsection 1.
20 b. If a contractor, subcontractor, or builder is
21 to use building materials, supplies, and equipment in
22 the performance of a construction contract with a
23 designated exempt entity, the person shall purchase
24 such items of tangible personal property without
25 liability for the tax if such property will be used in
26 the performance of the construction contract and a
27 purchasing agent authorization letter and an exemption
28 certificate, issued by the designated exempt entity,
29 are presented to the retailer.
30 c. Where the owner, contractor, subcontractor, or

31 builder is also a retailer holding a retail sales tax
32 permit and transacting retail sales of building
33 materials, supplies, and equipment, the tax shall not
34 be due when materials are withdrawn from inventory for
35 use in construction performed for a designated exempt
36 entity if an exemption certificate is received from
37 such entity.

38 d. Tax shall not apply to tangible personal
39 property purchased and consumed by a manufacturer as
40 building materials, supplies, or equipment in the
41 performance of a construction contract for a
42 designated exempt entity, if a purchasing agent
43 authorization letter and an exemption certificate are
44 received from such entity and presented to a retailer.

45 81. The sales price from the sales of lottery
46 tickets or shares pursuant to chapter 99G.

47 82. The sales price from the sale or rental of
48 core and mold making equipment and sand handling
49 equipment directly and primarily used in the mold
50 making process by a foundry.

Page 80

1 83. The sales price from noncustomer point of sale
2 or noncustomer automated teller machine access or
3 service charges assessed by a financial institution.
4 For purposes of this subsection, "financial
5 institution" means the same as defined in section
6 527.2.

7 Sec. 106. NEW SECTION. 423.4 REFUNDS.

8 1. A private nonprofit educational institution in
9 this state, nonprofit private museum in this state,
10 tax-certifying or tax-levying body or governmental
11 subdivision of the state, including the state board of
12 regents, state department of human services, state
13 department of transportation, a municipally owned
14 solid waste facility which sells all or part of its
15 processed waste as fuel to a municipally owned public
16 utility, and all divisions, boards, commissions,
17 agencies, or instrumentalities of state, federal,
18 county, or municipal government which do not have
19 earnings going to the benefit of an equity investor or
20 stockholder, may make application to the department
21 for the refund of the sales or use tax upon the sales
22 price of all sales of goods, wares, or merchandise, or
23 from services furnished to a contractor, used in the
24 fulfillment of a written contract with the state of
25 Iowa, any political subdivision of the state, or a
26 division, board, commission, agency, or
27 instrumentality of the state or a political
28 subdivision, a private nonprofit educational
29 institution in this state, or a nonprofit private

30 museum in this state if the property becomes an
31 integral part of the project under contract and at the
32 completion of the project becomes public property, is
33 devoted to educational uses, or becomes a nonprofit
34 private museum; except goods, wares, or merchandise,
35 or services furnished which are used in the
36 performance of any contract in connection with the
37 operation of any municipal utility engaged in selling
38 gas, electricity, or heat to the general public or in
39 connection with the operation of a municipal pay
40 television system; and except goods, wares, and
41 merchandise used in the performance of a contract for
42 a "project" under chapter 419 as defined in that
43 chapter other than goods, wares, or merchandise used
44 in the performance of a contract for a "project" under
45 chapter 419 for which a bond issue was approved by a
46 municipality prior to July 1, 1968, or for which the
47 goods, wares, or merchandise becomes an integral part
48 of the project under contract and at the completion of
49 the project becomes public property or is devoted to
50 educational uses.

Page 81

1 a. Such contractor shall state under oath, on
2 forms provided by the department, the amount of such
3 sales of goods, wares, or merchandise, or services
4 furnished and used in the performance of such
5 contract, and upon which sales or use tax has been
6 paid, and shall file such forms with the governmental
7 unit, private nonprofit educational institution, or
8 nonprofit private museum which has made any written
9 contract for performance by the contractor. The forms
10 shall be filed by the contractor with the governmental
11 unit, educational institution, or nonprofit private
12 museum before final settlement is made.
13 b. Such governmental unit, educational
14 institution, or nonprofit private museum shall, not
15 more than one year after the final settlement has been
16 made, make application to the department for any
17 refund of the amount of the sales or use tax which
18 shall have been paid upon any goods, wares, or
19 merchandise, or services furnished, the application to
20 be made in the manner and upon forms to be provided by
21 the department, and the department shall forthwith
22 audit the claim and, if approved, issue a warrant to
23 the governmental unit, educational institution, or
24 nonprofit private museum in the amount of the sales or
25 use tax which has been paid to the state of Iowa under
26 the contract.
27 Refunds authorized under this subsection shall
28 accrue interest at the rate in effect under section

29 421.7 from the first day of the second calendar month
30 following the date the refund claim is received by the
31 department.

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

37 2. The refund of sales and use tax paid on
38 transportation construction projects let by the state
39 department of transportation is subject to the special
40 provisions of this subsection.

41 a. A contractor awarded a contract for a
42 transportation construction project is considered the
43 consumer of all building materials, building supplies,
44 and equipment and shall pay sales tax to the supplier
45 or remit consumer use tax directly to the department.

46 b. The contractor is not required to file
47 information with the state department of
48 transportation stating the amount of goods, wares, or
49 merchandise, or services rendered, furnished, or
50 performed and used in the performance of the contract

Page 82

1 or the amount of sales or use tax paid.

2 c. The state department of transportation shall
3 file a refund claim based on a formula that considers
4 the following:

5 (1) The quantity of material to complete the
6 contract, and quantities of items of work.

7 (2) The estimated cost of these materials included
8 in the items of work, and the state sales or use tax
9 to be paid on the tax rate in effect in section 423.2.
10 The quantity of materials shall be determined after
11 each letting based on the contract quantities of all
12 items of work let to contract. The quantity of
13 individual component materials required for each item
14 shall be determined and maintained in a database. The
15 total quantities of materials shall be determined by
16 multiplying the quantities of component materials for
17 each contract item of work by the total quantities of
18 each contract item for each letting. Where variances
19 exist in the cost of materials, the lowest cost shall
20 be used as the base cost.

21 d. Only the state sales or use tax is refundable.
22 Local option taxes paid by the contractor are not
23 refundable.

24 3. A relief agency may apply to the director for
25 refund of the amount of sales or use tax imposed and
26 paid upon sales to it of any goods, wares,
27 merchandise, or services furnished, used for free

28 distribution to the poor and needy.
29 a. The refunds may be obtained only in the
30 following amounts and manner and only under the
31 following conditions:
32 (1) On forms furnished by the department, and
33 filed within the time as the director shall provide by
34 rule, the relief agency shall report to the department
35 the total amount or amounts, valued in money, expended
36 directly or indirectly for goods, wares, merchandise,
37 or services furnished, used for free distribution to
38 the poor and needy.
39 (2) On these forms the relief agency shall
40 separately list the persons making the sales to it or
41 to its order, together with the dates of the sales,
42 and the total amount so expended by the relief agency.
43 (3) The relief agency must prove to the
44 satisfaction of the director that the person making
45 the sales has included the amount thereof in the
46 computation of the sales price of such person and that
47 such person has paid the tax levied by this subchapter
48 or subchapter III, based upon such computation of the
49 sales price.
50 b. If satisfied that the foregoing conditions and

Page 83

1 requirements have been complied with, the director
2 shall refund the amount claimed by the relief agency.
3 SUBCHAPTER III
4 USE TAX
5 Sec. 107. NEW SECTION. 423.5 IMPOSITION OF TAX.
6 An excise tax at the rate of five percent of the
7 purchase price or installed purchase price is imposed
8 on the following:
9 1. The use in this state of tangible personal
10 property as defined in section 423.1, including
11 aircraft subject to registration under section 328.20,
12 purchased for use in this state. For the purposes of
13 this subchapter, the furnishing or use of the
14 following services is also treated as the use of
15 tangible personal property: optional service or
16 warranty contracts, except residential service
17 contracts regulated under chapter 523C, vulcanizing,
18 recapping, or retreading services, engraving,
19 photography, retouching, printing, or binding
20 services, and communication service when furnished or
21 delivered to consumers or users within this state.
22 2. The use of manufactured housing in this state,
23 on the purchase price if the manufactured housing is
24 sold in the form of tangible personal property or on
25 the installed purchase price if the manufactured
26 housing is sold in the form of realty.

27 3. The use of leased vehicles, on the amount
28 subject to tax as calculated pursuant to section
29 423.27.

30 4. Purchases of tangible personal property made
31 from the government of the United States or any of its
32 agencies by ultimate consumers shall be subject to the
33 tax imposed by this section. Services purchased from
34 the same source or sources shall be subject to the
35 service tax imposed by this subchapter and apply to
36 the user of the services.

37 5. The use in this state of services enumerated in
38 section 423.2. This tax is applicable where services
39 are furnished in this state or where the product or
40 result of the service is used in this state.

41 6. The excise tax is imposed upon every person
42 using the property within this state until the tax has
43 been paid directly to the county treasurer, the state
44 department of transportation, a retailer, or the
45 department. This tax is imposed on every person using
46 the services or the product of the services in this
47 state until the user has paid the tax either to an
48 Iowa use tax permit holder or to the department.

49 7. For the purpose of the proper administration of
50 the use tax and to prevent its evasion, evidence that

Page 84

1 tangible personal property was sold by any person for
2 delivery in this state shall be prima facie evidence
3 that such tangible personal property was sold for use
4 in this state.

5 Sec. 108. NEW SECTION. 423.6 EXEMPTIONS.

6 The use in this state of the following tangible
7 personal property and services is exempted from the
8 tax imposed by this subchapter:

9 1. Tangible personal property and enumerated
10 services, the sales price from the sale of which are
11 required to be included in the measure of the sales
12 tax, if that tax has been paid to the department or
13 the retailer. This exemption does not include
14 vehicles subject to registration or subject only to
15 the issuance of a certificate of title.

16 2. The sale of tangible personal property or the
17 furnishing of services in the regular course of
18 business.

19 3. Property used in processing. The use of
20 property in processing within the meaning of this
21 subsection shall mean and include any of the
22 following:

23 a. Any tangible personal property including
24 containers which it is intended shall, by means of
25 fabrication, compounding, manufacturing, or

26 germination, become an integral part of other tangible
27 personal property intended to be sold ultimately at
28 retail, and containers used in the collection,
29 recovery, or return of empty beverage containers
30 subject to chapter 455C.

31 b. Fuel which is consumed in creating power, heat,
32 or steam for processing or for generating electric
33 current.

34 c. Chemicals, solvents, sorbents, or reagents,
35 which are directly used and are consumed, dissipated,
36 or depleted in processing tangible personal property
37 which is intended to be sold ultimately at retail, and
38 which may not become a component or integral part of
39 the finished product.

40 d. The distribution to the public of free
41 newspapers or shoppers guides shall be deemed a retail
42 sale for purposes of the processing exemption in this
43 subsection.

44 4. All articles of tangible personal property
45 brought into the state of Iowa by a nonresident
46 individual for the individual's use or enjoyment while
47 within the state.

48 5. Services exempt from taxation by the provisions
49 of section 423.3.

50 6. Tangible personal property or services the

Page 85

1 sales price of which is exempt from the sales tax
2 under section 423.3, except subsections 39 and 73, as
3 it relates to the sale, but not the lease or rental,
4 of vehicles subject to registration or subject only to
5 the issuance of a certificate of title and as it
6 relates to aircraft subject to registration under
7 section 328.20.

8 7. Advertisement and promotional material and
9 matter, seed catalogs, envelopes for same, and other
10 similar material temporarily stored in this state
11 which are acquired outside of Iowa and which,
12 subsequent to being brought into this state, are sent
13 outside of Iowa, either singly or physically attached
14 to other tangible personal property sent outside of
15 Iowa.

16 8. Vehicles, as defined in section 321.1,
17 subsections 41, 64A, 71, 85, and 88, except such
18 vehicles subject to registration which are designed
19 primarily for carrying persons, when purchased for
20 lease and actually leased to a lessee for use outside
21 the state of Iowa and the subsequent sole use in Iowa
22 is in interstate commerce or interstate
23 transportation.

24 9. Tangible personal property which, by means of

25 fabrication, compounding, or manufacturing, becomes an
26 integral part of vehicles, as defined in section
27 321.1, subsections 41, 64A, 71, 85, and 88,
28 manufactured for lease and actually leased to a lessee
29 for use outside the state of Iowa and the subsequent
30 sole use in Iowa is in interstate commerce or
31 interstate transportation. Vehicles subject to
32 registration which are designed primarily for carrying
33 persons are excluded from this subsection.
34 10. Vehicles subject to registration which are
35 transferred from a business or individual conducting a
36 business within this state as a sole proprietorship,
37 partnership, or limited liability company to a
38 corporation formed by the sole proprietorship,
39 partnership, or limited liability company for the
40 purpose of continuing the business when all of the
41 stock of the corporation so formed is owned by the
42 sole proprietor and the sole proprietor's spouse, by
43 all the partners in the case of a partnership, or by
44 all the members in the case of a limited liability
45 company. This exemption is equally available where
46 the vehicles subject to registration are transferred
47 from a corporation to a sole proprietorship,
48 partnership, or limited liability company formed by
49 that corporation for the purpose of continuing the
50 business when all of the incidents of ownership are

Page 86

1 owned by the same person or persons who were
2 stockholders of the corporation.
3 This exemption also applies where the vehicles
4 subject to registration are transferred from a
5 corporation as part of the liquidation of the
6 corporation to its stockholders if within three months
7 of such transfer the stockholders retransfer those
8 vehicles subject to registration to a sole
9 proprietorship, partnership, or limited liability
10 company for the purpose of continuing the business of
11 the corporation when all of the incidents of ownership
12 are owned by the same person or persons who were
13 stockholders of the corporation.
14 10A. Vehicles subject to registration which are
15 transferred from a corporation that is primarily
16 engaged in the business of leasing vehicles subject to
17 registration to a corporation that is primarily
18 engaged in the business of leasing vehicles subject to
19 registration when the transferor and transferee
20 corporations are part of the same controlled group for
21 federal income tax purposes.
22 11. Vehicles registered or operated under chapter
23 326 and used substantially in interstate commerce,

24 section 423.5, subsection 7, notwithstanding. For
25 purposes of this subsection, "substantially in
26 interstate commerce" means that a minimum of twenty-
27 five percent of the miles operated by the vehicle
28 accrues in states other than Iowa. This subsection
29 applies only to vehicles which are registered for a
30 gross weight of thirteen tons or more.

31 For purposes of this subsection, trailers and
32 semitrailers registered or operated under chapter 326
33 are deemed to be used substantially in interstate
34 commerce and to be registered for a gross weight of
35 thirteen tons or more.

36 For the purposes of this subsection, if a vehicle
37 meets the requirement that twenty-five percent of the
38 miles operated accrues in states other than Iowa in
39 each year of the first four-year period of operation,
40 the exemption from use tax shall continue until the
41 vehicle is sold or transferred. If the vehicle is
42 found to have not met the exemption requirements or
43 the exemption was revoked, the value of the vehicle
44 upon which the use tax shall be imposed is the book or
45 market value, whichever is less, at the time the
46 exemption requirements were not met or the exemption
47 was revoked.

48 12. Mobile homes and manufactured housing the use
49 of which has previously been subject to the tax
50 imposed under this subchapter and for which that tax

Page 87

1 has been paid.

2 13. Mobile homes to the extent of the portion of
3 the purchase price of the mobile home which is not
4 attributable to the cost of the tangible personal
5 property used in the processing of the mobile home,
6 and manufactured housing to the extent of the purchase
7 price or the installed purchase price of the
8 manufactured housing which is not attributable to the
9 cost of the tangible personal property used in the
10 processing of the manufactured housing. For purposes
11 of this exemption, the portion of the purchase price
12 which is not attributable to the cost of the tangible
13 personal property used in the processing of the mobile
14 home is forty percent and the portion of the purchase
15 price or installed purchase price which is not
16 attributable to the cost of the tangible personal
17 property used in the processing of the manufactured
18 housing is forty percent.

19 14. Tangible personal property used or to be used
20 as a ship, barge, or waterborne vessel which is used
21 or to be used primarily in or for the transportation
22 of property or cargo for hire on the rivers bordering

23 the state or as materials or parts of such ship,
24 barge, or waterborne vessel.
25 15. Vehicles subject to registration in any state
26 when purchased for rental or registered and titled by
27 a motor vehicle dealer licensed pursuant to chapter
28 322 for rental use, and held for rental for a period
29 of one hundred twenty days or more and actually rented
30 for periods of sixty days or less by a person
31 regularly engaged in the business of renting vehicles
32 including, but not limited to, motor vehicle dealers
33 licensed pursuant to chapter 322 who rent automobiles
34 to users, if the rental of the vehicles is subject to
35 taxation under chapter 423C.
36 16. Motor vehicles subject to registration which
37 were registered and titled between July 1, 1982, and
38 July 1, 1992, to a motor vehicle dealer licensed under
39 chapter 322 and which were rented to a user as defined
40 in section 423C.2 if the following occurred:
41 a. The dealer kept the vehicle on the inventory of
42 vehicles for sale at all times.
43 b. The vehicle was to be immediately taken from
44 the user of the vehicle when a buyer was found.
45 c. The user was aware of this situation.
46 17. Vehicles subject to registration under chapter
47 321, with a gross vehicle weight rating of less than
48 sixteen thousand pounds, excluding motorcycles and
49 motorized bicycles, when purchased for lease and
50 titled by the lessor licensed pursuant to chapter 321F

Page 88

1 and actually leased for a period of twelve months or
2 more if the lease of the vehicle is subject to
3 taxation under section 423.27.
4 a lessor may maintain the exemption from use tax
5 under this subsection for a qualifying lease that
6 terminates at the conclusion or prior to the
7 contracted expiration date, if the lessor does not use
8 the vehicle for any purpose other than for lease.
9 Once the vehicle is used by the lessor for a purpose
10 other than for lease, the exemption from use tax under
11 this subsection no longer applies and, unless there is
12 an exemption from the use tax, use tax is due on the
13 fair market value of the vehicle determined at the
14 time the lessor uses the vehicle for a purpose other
15 than for lease, payable to the department. If the
16 lessor holds the vehicle exclusively for sale, use tax
17 is due and payable on the purchase price of the
18 vehicle at the time of purchase pursuant to this
19 subchapter.
20 18. Aircraft for use in a scheduled interstate
21 federal aviation administration certificated air

22 carrier operation.

23 19. Aircraft; tangible personal property
24 permanently affixed or attached as a component part of
25 the aircraft, including but not limited to repair or
26 replacement materials or parts; and all services used
27 for aircraft repair, remodeling, and maintenance
28 services when such services are performed on aircraft,
29 aircraft engines, or aircraft component materials or
30 parts. For the purposes of this exemption, "aircraft"
31 means aircraft used in a scheduled interstate federal
32 aviation administration certificated air carrier
33 operation.

34 20. Tangible personal property permanently affixed
35 or attached as a component part of the aircraft,
36 including but not limited to repair or replacement
37 materials or parts; and all services used for aircraft
38 repair, remodeling, and maintenance services when such
39 services are performed on aircraft, aircraft engines,
40 or aircraft component materials or parts. For the
41 purposes of this exemption, "aircraft" means aircraft
42 used in a nonscheduled interstate federal aviation
43 administration certificated air carrier operation
44 operating under 14 C.F.R., ch. 1, pt. 135.

45 21. Aircraft sold to an aircraft dealer who in
46 turn rents or leases the aircraft if all of the
47 following apply:

48 a. The aircraft is kept in the inventory of the
49 dealer for sale at all times.

50 b. The dealer reserves the right to immediately

Page 89

1 take the aircraft from the renter or lessee when a
2 buyer is found.

3 c. The renter or lessee is aware that the dealer
4 will immediately take the aircraft when a buyer is
5 found.

6 If an aircraft exempt under this subsection is used
7 for any purpose other than leasing or renting, or the
8 conditions in paragraphs "a", "b", and "c" are not
9 continuously met, the dealer claiming the exemption
10 under this subsection is liable for the tax that would
11 have been due except for this subsection. The tax
12 shall be computed upon the original purchase price.

13 22. The use in this state of building materials,
14 supplies, or equipment, the sale or use of which is
15 not treated as a retail sale or a sale at retail under
16 section 423.2, subsection 1.

17 23. Exempted from the purchase price of any
18 vehicle subject to registration is:

19 a. The amount of any cash rebate which is provided
20 by a motor vehicle manufacturer to the purchaser of

21 the vehicle subject to registration so long as the
22 rebate is applied to the purchase price of the
23 vehicle.
24 b. That in transactions, except those subject to
25 paragraph "c", in which tangible personal property is
26 traded toward the purchase price of other tangible
27 personal property the purchase price is only that
28 portion of the purchase price which is payable in
29 money to the retailer if the following conditions are
30 met:
31 (1) The tangible personal property traded to the
32 retailer is the type of property normally sold in the
33 regular course of the retailer's business.
34 (2) The tangible personal property traded to the
35 retailer is intended by the retailer to be ultimately
36 sold at retail or is intended to be used by the
37 retailer or another in the remanufacturing of a like
38 item.
39 c. In a transaction between persons, neither of
40 which is a retailer of vehicles subject to
41 registration, in which a vehicle subject to
42 registration is traded toward the purchase price of
43 another vehicle subject to registration, the amount of
44 the trade-in value allowed on the vehicle subject to
45 registration traded.

46 SUBCHAPTER IV

47 UNIFORM SALES AND USE TAX ADMINISTRATION ACT
48 Sec. 109. NEW SECTION. 423.7 TITLE.
49 This subchapter shall be known and may be cited as
50 the "Uniform Sales and Use Tax Administration Act".

Page 90

1 Sec. 110. NEW SECTION. 423.8 LEGISLATIVE FINDING
2 AND INTENT.
3 The general assembly finds that Iowa should enter
4 into an agreement with one or more states to simplify
5 and modernize sales and use tax administration in
6 order to substantially reduce the burden of tax
7 compliance for all sellers and for all types of
8 commerce. It is the intent of the general assembly
9 that entering into this agreement will lead to
10 simplification and modernization of the sales and use
11 tax law and not to the imposition of new taxes or an
12 increase or decrease in the existing number of
13 exemptions, unless such a result is unavoidable under
14 the terms of the agreement.
15 Sec. 111. NEW SECTION. 423.9 AUTHORITY TO ENTER
16 AGREEMENT AND TO REPRESENT THE STATE.
17 The director is authorized and directed to enter
18 into the streamlined sales and use tax agreement with
19 one or more states to simplify and modernize sales and

20 use tax administration in order to substantially
21 reduce the burden of tax compliance for all sellers
22 and for all types of commerce.
23 The director is further authorized to take other
24 actions reasonably required to implement the
25 provisions set forth in this chapter. Other actions
26 authorized by this section include, but are not
27 limited to, the adoption of rules and the joint
28 procurement, with other member states, of goods and
29 services in furtherance of the cooperative agreement.
30 The director or the director's designee is
31 authorized to be a member of the governing board
32 established pursuant to the agreement and to represent
33 Iowa before that body.
34 Sec. 112. NEW SECTION. 423.10 RELATIONSHIP TO
35 STATE LAW.
36 Entry into the agreement by the director does not
37 amend or modify any law of this state. Implementation
38 of any condition of the agreement in this state,
39 whether adopted before, at, or after membership of
40 this state in the agreement, shall be by action of the
41 general assembly.
42 Sec. 113. NEW SECTION. 423.11 AGREEMENT
43 REQUIREMENTS.
44 The director shall not enter into the agreement
45 unless the agreement requires each state to abide by
46 the following requirements:
47 1. UNIFORM STATE RATE. The agreement must set
48 restrictions to achieve more uniform state rates
49 through the following:
50 a. Limiting the number of state rates.

Page 91

1 b. Limiting the application of maximums on the
2 amount of state tax that is due on a transaction.
3 c. Limiting the application of thresholds on the
4 application of state tax.
5 2. UNIFORM STANDARDS. The agreement must
6 establish uniform standards for the following:
7 a. The sourcing of transactions to taxing
8 jurisdictions.
9 b. The administration of exempt sales.
10 c. The allowances a seller can take for bad debts.
11 d. Sales and use tax returns and remittances.
12 3. UNIFORM DEFINITIONS. The agreement must
13 require states to develop and adopt uniform
14 definitions of sales and use tax terms. The
15 definitions must enable a state to preserve its
16 ability to make policy choices not inconsistent with
17 the uniform definitions.
18 4. CENTRAL REGISTRATION. The agreement must

19 provide a central, electronic registration system that
20 allows a seller to register to collect and remit sales
21 and use taxes for all member states.
22 5. NO NEXUS ATTRIBUTION. The agreement must
23 provide that registration with the central
24 registration system and the collection of sales and
25 use taxes in the member states must not be used as a
26 factor in determining whether the seller has nexus
27 with a state for any tax.
28 6. LOCAL SALES AND USE TAXES. The agreement must
29 provide for reduction of the burdens of complying with
30 local sales and use taxes through the following:
31 a. Restricting variances between the state and
32 local tax bases.
33 b. Requiring states to administer any sales and
34 use taxes levied by local jurisdictions within the
35 state so that sellers collecting and remitting these
36 taxes must not have to register or file returns with,
37 remit funds to, or be subject to independent audits
38 from local taxing jurisdictions.
39 c. Restricting the frequency of changes in the
40 local sales and use tax rates and setting effective
41 dates for the application of local jurisdictional
42 boundary changes to local sales and use taxes.
43 d. Providing notice of changes in local sales and
44 use tax rates and of changes in the boundaries of
45 local taxing jurisdictions.
46 7. MONETARY ALLOWANCES. The agreement must
47 outline any monetary allowances that are to be
48 provided by the states to sellers or certified service
49 providers.
50 8. STATE COMPLIANCE. The agreement must require

Page 92

1 each state to certify compliance with the terms of the
2 agreement prior to joining and to maintain compliance,
3 under the laws of the member state, with all
4 provisions of the agreement while a member.
5 9. CONSUMER PRIVACY. The agreement must require
6 each state to adopt a uniform policy for certified
7 service providers that protects the privacy of
8 consumers and maintains the confidentiality of tax
9 information.
10 10. ADVISORY COUNCILS. The agreement must provide
11 for the appointment of an advisory council of private
12 sector representatives and an advisory council of
13 nonmember state representatives to consult with in the
14 administration of the agreement.
15 Sec. 114. NEW SECTION. 423.12 LIMITED BINDING
16 AND BENEFICIAL EFFECT.
17 1. The agreement binds and inures only to the

18 benefit of Iowa and the other member states. A
 19 person, other than a member state, is not an intended
 20 beneficiary of the agreement. Any benefit to a person
 21 other than a member state is established by the law of
 22 Iowa and not by the terms of the agreement.

23 2. A person shall not have any cause of action or
 24 defense under the agreement or by virtue of this
 25 state's entry into the agreement. A person may not
 26 challenge, in any action brought under any provision
 27 of law, any action or inaction by any department,
 28 agency, or other instrumentality of this state, or any
 29 political subdivision of this state on the ground that
 30 the action or inaction is inconsistent with the
 31 agreement.

32 3. A law of this state, or the application of it,
 33 shall not be declared invalid as to any such person or
 34 circumstance on the ground that the provision or
 35 application is inconsistent with the agreement.

36 SUBCHAPTER V

37 SALES AND USE TAX ACT § ADMINISTRATION OF
 38 RETAILERS NOT REGISTERED UNDER THE AGREEMENT AND OF
 39 CONSUMERS OBLIGATED TO PAY USE TAX DIRECTLY

40 Sec. 115. NEW SECTION. 423.13 PURPOSE OF THIS
 41 SUBCHAPTER.

42 The purpose of this subchapter is to provide for
 43 the administration and collection of sales or use tax
 44 on the part of retailers who are not registered under
 45 the agreement and for the collection of use tax on the
 46 part of consumers who are obligated to pay that tax
 47 directly. Any application of the sections of this
 48 subchapter to retailers registered under the agreement
 49 is only by way of incorporation by reference into
 50 subchapter VI of this chapter.

Page 93

1 Sec. 116. NEW SECTION. 423.14 SALES AND USE TAX
 2 COLLECTION.

3 1. a. Sales tax, other than that described in
 4 paragraph "c", shall be collected by sellers who are
 5 retailers or by their agents. Sellers or their agents
 6 shall, as far as practicable, add the sales tax, or
 7 the average equivalent thereof, to the sales price or
 8 charge, less trade-ins allowed and taken and when
 9 added such tax shall constitute a part of the sales
 10 price or charge, shall be a debt from consumer or user
 11 to seller or agent until paid, and shall be
 12 recoverable at law in the same manner as other debts.

13 b. In computing the tax to be collected as the
 14 result of any transaction, the tax computation must be
 15 carried to the third decimal place. Whenever the
 16 third decimal place is greater than four, the tax must

17 be rounded up to the next whole cent; whenever the
18 third decimal place is four or less, the tax must be
19 rounded downward to a whole cent. Sellers may elect
20 to compute the tax due on transactions on an item or
21 invoice basis. Sellers are not required to use a
22 bracket system.

23 c. The tax imposed upon those sales of motor
24 vehicle fuel which are subject to tax and refund under
25 chapter 452A shall be collected by the state treasurer
26 by way of deduction from refunds otherwise allowable
27 under that chapter. The treasurer shall transfer the
28 amount of such deductions from the motor vehicle fuel
29 tax fund to the special tax fund.

30 2. Use tax shall be collected in the following
31 manner:

32 a. The tax upon the use of all vehicles subject to
33 registration or subject only to the issuance of a
34 certificate of title or the tax upon the use of
35 manufactured housing shall be collected by the county
36 treasurer or the state department of transportation
37 pursuant to sections 423.26 and 423.27. The county
38 treasurer shall retain one dollar from each tax
39 payment collected, to be credited to the county
40 general fund.

41 b. The tax upon the use of all tangible personal
42 property other than that enumerated in paragraph "a",
43 which is sold by a seller who is a retailer
44 maintaining a place of business in this state, or by
45 such other retailer or agent as the director shall
46 authorize pursuant to section 423.30, shall be
47 collected by the retailer or agent and remitted to the
48 department, pursuant to the provisions of paragraph
49 "e", and sections 423.24, 423.29, 423.30, 423.32, and
50 423.33.

Page 94

1 c. The tax upon the use of all tangible personal
2 property not paid pursuant to paragraphs "a" and "b"
3 shall be paid to the department directly by any person
4 using the property within this state, pursuant to the
5 provisions of section 423.34.

6 d. The tax imposed on the use of services
7 enumerated in section 423.5 shall be collected,
8 remitted, and paid to the department of revenue and
9 finance in the same manner as use tax on tangible
10 personal property is collected, remitted, and paid
11 under this subchapter.

12 e. All persons obligated by paragraph "a", "b", or
13 "d", to collect use tax shall, as far as practicable,
14 add that tax, or the average equivalent thereof, to
15 the purchase price, less trade-ins allowed and taken,

16 and when added the tax shall constitute a part of the
17 purchase price. Use tax which this section requires
18 to be collected by a retailer and any tax collected
19 pursuant to this section by a retailer shall
20 constitute a debt owed by the retailer to this state.
21 Tax which must be paid directly to the department,
22 pursuant to paragraph "c" or "d", is to be computed
23 and added by the consumer or user to the purchase
24 price in the same manner as this paragraph requires a
25 seller to compute and add the tax. The tax shall be a
26 debt from the consumer or user to the department until
27 paid, and shall be recoverable at law in the same
28 manner as other debts.

29 Sec. 117. NEW SECTION. 423.15 GENERAL SOURCING
30 RULES.

31 All sellers obligated to collect Iowa sales or use
32 tax shall use the standards set out in this section to
33 determine where sales of products occur, excluding
34 sales enumerated in section 423.16. These provisions
35 apply regardless of the characterization of a product
36 as tangible personal property, a digital good, or a
37 service, excluding telecommunications services. This
38 section only applies to determine a seller's
39 obligation to pay or collect and remit a sales or use
40 tax with respect to the seller's sale of a product.
41 This section does not affect the obligation of a
42 purchaser or lessee to remit tax on the use of the
43 product to the taxing jurisdictions in which the use
44 occurs. A seller's obligation to collect Iowa sales
45 tax or Iowa use tax only occurs if the sale is sourced
46 to this state. The application of whether Iowa sales
47 tax applies to sales sourced to Iowa depends upon
48 where the sale is consummated by delivery.

49 1. Sales, excluding leases or rentals other than
50 leases or rentals set out in subsection 2, of products

Page 95

1 shall be sourced as follows.

2 a. When the product is received by the purchaser
3 at a business location of the seller, the sale is
4 sourced to that business location.

5 b. When the product is not received by the
6 purchaser at a business location of the seller, the
7 sale is sourced to the location where receipt by the
8 purchaser or the purchaser's donee, designated as such
9 by the purchaser, occurs, including the location
10 indicated by instructions for delivery to the
11 purchaser or donee, known to the seller.

12 c. When paragraphs "a" and "b" do not apply, the
13 sale is sourced to the location indicated by an
14 address for the purchaser that is available from the

15 business records of the seller that are maintained in
16 the ordinary course of the seller's business when use
17 of this address does not constitute bad faith.

18 d. When paragraphs "a", "b", and "c" do not apply,
19 the sale is sourced to the location indicated by an
20 address for the purchaser obtained during the
21 consummation of the sale, including the address of a
22 purchaser's payment instrument, if no other address is
23 available, when use of this address does not
24 constitute bad faith.

25 e. When paragraphs "a", "b", "c", and "d" do not
26 apply, including the circumstance where the seller is
27 without sufficient information to apply the previous
28 rules, then the location will be determined by the
29 address from which tangible personal property was
30 shipped, from which the digital good or the computer
31 software delivered electronically was first available
32 for transmission by the seller, or from which the
33 service was provided disregarding for these purposes
34 any location that merely provided the digital transfer
35 of the product sold.

36 2. The lease or rental of tangible personal
37 property, other than property identified in subsection
38 3 or section 423.16, shall be sourced as follows:

39 a. For a lease or rental that requires recurring
40 periodic payments, the first periodic payment is
41 sourced the same as a retail sale in accordance with
42 the provisions of subsection 1. Periodic payments
43 made subsequent to the first payment are sourced to
44 the primary property location for each period covered
45 by the payment. The primary property location shall
46 be as indicated by an address for the property
47 provided by the lessee that is available to the lessor
48 from its records maintained in the ordinary course of
49 business, when use of this address does not constitute
50 bad faith. The property location shall not be altered

Page 96

1 by intermittent use at different locations, such as
2 use of business property that accompanies employees on
3 business trips and service calls.

4 b. For a lease or rental that does not require
5 recurring periodic payments, the payment is sourced
6 the same as a retail sale in accordance with the
7 provisions of subsection 1.

8 c. This subsection does not affect the imposition
9 or computation of sales or use tax on leases or
10 rentals based on a lump sum or accelerated basis, or
11 on the acquisition of property for lease.

12 3. The retail sale, including lease or rental, of
13 transportation equipment shall be sourced the same as

14 a retail sale in accordance with the provisions of
 15 subsection 1, notwithstanding the exclusion of lease
 16 or rental in that subsection. "Transportation
 17 equipment" means any of the following:
 18 a. Locomotives or railcars that are utilized for
 19 the carriage of persons or property in interstate
 20 commerce.
 21 b. Trucks and truck-tractors with a gross vehicle
 22 weight rating of ten thousand one pounds or greater,
 23 trailers, semitrailers, or passenger buses that meet
 24 both of the following requirements:
 25 (1) Are registered through the international
 26 registration plan.
 27 (2) Are operated under authority of a carrier
 28 authorized and certificated by the United States
 29 department of transportation or another federal
 30 authority to engage in the carriage of persons or
 31 property in interstate commerce.
 32 c. Aircraft that are operated by air carriers
 33 authorized and certificated by the United States
 34 department of transportation or another federal or a
 35 foreign authority to engage in the carriage of persons
 36 or property in interstate or foreign commerce.
 37 d. Containers designed for use on and component
 38 parts attached or secured on the items set forth in
 39 paragraphs "a" through "c".
 40 Sec. 118. NEW SECTION. 423.16 TRANSACTIONS TO
 41 WHICH THE GENERAL SOURCING RULES DO NOT APPLY.
 42 Section 423.15 does not apply to sales or use taxes
 43 levied on the following:
 44 1. The retail sale or transfer of watercraft,
 45 modular homes, manufactured housing, or mobile homes,
 46 and the retail sale, excluding lease or rental, of
 47 motor vehicles, trailers, semitrailers, or aircraft
 48 that do not qualify as transportation equipment, as
 49 defined in section 423.15, subsection 3.
 50 2. The lease or rental of motor vehicles,

Page 97

1 trailers, semitrailers, or aircraft that do not
 2 qualify as transportation equipment, as defined in
 3 section 423.15, subsection 3, which shall be sourced
 4 in accordance with section 423.17.
 5 3. Transactions to which the multiple points use
 6 exemption is applicable, which shall be sourced in
 7 accordance with section 423.18.
 8 4. Transactions to which direct mail sourcing is
 9 applicable, which shall be sourced in accordance with
 10 section 423.19.
 11 5. Telecommunications services, as set out in
 12 section 423.20, which shall be sourced in accordance

13 with section 423.20, subsection 2.

14 Sec. 119. NEW SECTION. 423.17 SOURCING RULES FOR
15 VARIOUS TYPES OF LEASED OR RENTED EQUIPMENT WHICH IS
16 NOT TRANSPORTATION EQUIPMENT.

17 The lease or rental of motor vehicles, trailers,
18 semitrailers, or aircraft that do not qualify as
19 transportation equipment, as defined in section
20 423.15, subsection 3, shall be sourced as follows:

21 1. For a lease or rental that requires recurring
22 periodic payments, each periodic payment is sourced to
23 the primary property location. The primary property
24 location shall be as indicated by an address for the
25 property provided by the lessee that is available to
26 the lessor from its records maintained in the ordinary
27 course of business, when use of this address does not
28 constitute bad faith. This location shall not be
29 altered by intermittent use at different locations.

30 2. For a lease or rental that does not require
31 recurring periodic payments, the payment is sourced
32 the same as a retail sale in accordance with the
33 provisions of section 423.15, subsection 1.

34 3. This section does not affect the imposition or
35 computation of sales or use tax on leases or rentals
36 based on a lump sum or accelerated basis, or on the
37 acquisition of property for lease.

38 Sec. 120. NEW SECTION. 423.18 MULTIPLE POINTS OF
39 USE EXEMPTION FORMS.

40 a business purchaser that is not a holder of a
41 direct pay tax permit pursuant to section 423.36 that
42 knows at the time of its purchase of a digital good,
43 computer software delivered electronically, or a
44 service that the digital good, computer software
45 delivered electronically, or service will be
46 concurrently available for use in more than one
47 jurisdiction shall deliver to the seller in
48 conjunction with its purchase a "multiple points of
49 use" or "MPU" exemption form disclosing this fact.

50 1. Upon receipt of the MPU exemption form, the

Page 98

1 seller is relieved of all obligation to collect, pay,
2 or remit the applicable tax and the purchaser shall be
3 obligated to collect, pay, or remit the applicable tax
4 on a direct pay basis.

5 2. A purchaser delivering the MPU exemption form
6 may use any reasonable, but consistent and uniform,
7 method of apportionment that is supported by the
8 purchaser's business records as they exist at the time
9 of the consummation of the sale.

10 3. The MPU exemption form will remain in effect
11 for all future sales by the seller to the purchaser

12 except as to the subsequent sale's specific
13 apportionment that is governed by the principle of
14 subsection 2 and the facts existing at the time of the
15 sale until it is revoked in writing.

16 4. A holder of a direct pay tax permit under
17 section 423.36 shall not be required to deliver an MPU
18 exemption form to the seller. A direct pay tax permit
19 holder shall follow the provisions of subsection 2 in
20 apportioning the tax due on a digital good, computer
21 software delivered electronically, or service that
22 will be concurrently available for use in more than
23 one jurisdiction.

24 Sec. 121. NEW SECTION. 423.19 DIRECT MAIL
25 SOURCING.

26 1. Notwithstanding section 423.15, a purchaser of
27 direct mail that is not a holder of a direct pay tax
28 permit pursuant to section 423.36 shall provide to the
29 seller in conjunction with the purchase either a
30 direct mail form or information to show the
31 jurisdictions to which the direct mail is delivered to
32 recipients.

33 a. Upon receipt of the direct mail form, the
34 seller is relieved of all obligations to collect, pay,
35 or remit the applicable tax and the purchaser is
36 obligated to pay or remit the applicable tax on a
37 direct pay basis. A direct mail form shall remain in
38 effect for all future sales of direct mail by the
39 seller to the purchaser until it is revoked in
40 writing.

41 b. Upon receipt of information from the purchaser
42 showing the jurisdictions to which the direct mail is
43 delivered to recipients, the seller shall collect the
44 tax according to the delivery information provided by
45 the purchaser. In the absence of bad faith, the
46 seller is relieved of any further obligation to
47 collect tax on any transaction where the seller has
48 collected tax pursuant to the delivery information
49 provided by the purchaser.

50 2. If the purchaser of direct mail does not have a

Page 99

1 direct pay tax permit and does not provide the seller
2 with either a direct mail form or delivery
3 information, as required by subsection 1, the seller
4 shall collect the tax according to section 423.15,
5 subsection 1, paragraph "e". Nothing in this
6 subsection shall limit a purchaser's obligation for
7 sales or use tax to any state to which the direct mail
8 is delivered.

9 3. If a purchaser of direct mail provides the
10 seller with documentation of direct pay authority, the

11 purchaser shall not be required to provide a direct
12 mail form or delivery information to the seller.
13 Sec. 122. NEW SECTION. 423.20 TELECOMMUNICATIONS
14 SERVICE SOURCING.
15 1. As used in this section:
16 a. "Air-to-ground radiotelephone service" means a
17 radio service, as that term is used in 47 C.F.R. }
18 22.99, in which common carriers are authorized to
19 offer and provide radio telecommunications service for
20 hire to subscribers in aircraft.
21 b. "Call-by-call basis" means any method of
22 charging for the telecommunications service where the
23 price is measured by individual calls.
24 c. "Communications channel" means a physical or
25 virtual path of communications over which signals are
26 transmitted between or among customer channel
27 termination points.
28 d. "Customer" means the person or entity that
29 contracts with the seller of the telecommunications
30 service. If the end user of the telecommunications
31 service is not the contracting party, the end user of
32 the telecommunications service is the customer of the
33 telecommunications service, but this sentence only
34 applies for the purpose of sourcing sales of the
35 telecommunications service under this section.
36 "Customer" does not include a reseller of a
37 telecommunications service or for mobile
38 telecommunications service of a serving carrier under
39 an agreement to serve the customer outside the home
40 service provider's licensed service area.
41 e. "Customer channel termination point" means the
42 location where the customer either inputs or receives
43 the communications.
44 f. "End user" means the person who utilizes the
45 telecommunications service. In the case of an entity,
46 "end user" means the individual who utilizes the
47 service on behalf of the entity.
48 g. "Home service provider" means the same as that
49 term is defined in the federal Mobile
50 Telecommunications Sourcing Act, Pub. L. No. 106-252,

Page 100

1 4 U.S.C. § 124(5).
2 h. "Mobile telecommunications service" means the
3 same as that term is defined in federal Mobile
4 Telecommunications Sourcing Act, Pub. L. No. 106-252,
5 4 U.S.C. } 124(7).
6 i. "Place of primary use" means the street address
7 representative of where the customer's use of the
8 telecommunications service primarily occurs, which
9 must be the residential street address or the primary

10 business street address of the customer. In the case
11 of mobile telecommunications service, "place of
12 primary use" must be within the licensed service area
13 of the home service provider.

14 j. "Postpaid calling service" means the
15 telecommunications service obtained by making a
16 payment on a call-by-call basis either through the use
17 of a credit card or payment mechanism such as a bank
18 card, travel card, credit card, or debit card, or by
19 charge made to a telephone number which is not
20 associated with the origination or termination of the
21 telecommunications service. A "postpaid calling
22 service" includes a telecommunications service that
23 would be a prepaid calling service except it is not
24 exclusively a telecommunications service.

25 k. "Prepaid calling service" means the right to
26 access exclusively telecommunications services, which
27 must be paid for in advance and which enables the
28 origination of calls using an access number or
29 authorization code, whether manually or electronically
30 dialed, and that is sold in predetermined units or
31 dollars of which the amount declines with use in a
32 known amount.

33 l. "Private communication service" means a
34 telecommunications service that entitles the customer
35 to exclusive or priority use of a communications
36 channel or group of channels between or among
37 termination points, regardless of the manner in which
38 such channel or channels are connected, and includes
39 switching capacity, extension lines, stations, and any
40 other associated services that are provided in
41 connection with the use of such channel or channels.

42 m. "Service address" means one of the following:

43 (1) The location of the telecommunications
44 equipment to which a customer's call is charged and
45 from which the call originates or terminates,
46 regardless of where the call is billed or paid.

47 (2) If the location in subparagraph (1) is not
48 known, "service address" means the origination point
49 of the signal of the telecommunications service first
50 identified by either the seller's telecommunications

Page 101

1 system or in information received by the seller from
2 its service provider, where the system used to
3 transport such signals is not that of the seller.

4 (3) If the locations in subparagraphs (1) and (2)
5 are not known, the "service address" means the
6 location of the customer's place of primary use.

7 2. Sales of telecommunications services shall be
8 sourced in the following manner:

9 a. Except for the defined telecommunications
10 services in paragraph "c", the sale of
11 telecommunications services sold on a call-by-call
12 basis shall be sourced to one of the following:
13 (1) Each level of taxing jurisdiction where the
14 call originates and terminates in that jurisdiction.
15 (2) Each level of taxing jurisdiction where the
16 call either originates or terminates and in which the
17 service address is also located.

18 b. Except for the defined telecommunications
19 services in paragraph "c", a sale of
20 telecommunications services sold on a basis other than
21 a call-by-call basis is sourced to the customer's
22 place of primary use.

23 c. Sale of the following telecommunications
24 services shall be sourced to each level of taxing
25 jurisdiction as follows:
26 (1) a sale of mobile telecommunications services
27 other than air-to-ground radiotelephone service or
28 prepaid calling service is sourced to the customer's
29 place of primary use as required by the federal Mobile
30 Telecommunications Sourcing Act.
31 (2) a sale of postpaid calling service is sourced
32 to the origination point of the telecommunications
33 signal as first identified by either of the following:
34 (a) The seller's telecommunications system.
35 (b) Information received by the seller from its
36 service provider, where the system used to transport
37 such signals is not that of the seller.
38 (3) a sale of prepaid calling service is sourced
39 in accordance with section 423.15. However, in the
40 case of a sale of mobile telecommunications services
41 that is a prepaid telecommunications service, the rule
42 provided in section 423.15, subsection 1, paragraph
43 "e", shall include as an option the location
44 associated with the mobile telephone number.
45 (4) a sale of a private telecommunications service
46 is sourced as follows:
47 (a) Service for a separate charge related to a
48 customer channel termination point is sourced to each
49 level of jurisdiction in which such customer channel
50 termination point is located.

Page 102

1 (b) Service where all customer termination points
2 are located entirely within one jurisdiction or level
3 of jurisdiction is sourced in such jurisdiction in
4 which the customer channel termination points are
5 located.
6 (c) Service for segments of a channel between two
7 customer channel termination points located in

8 different jurisdictions and which segments of a
9 channel are separately charged is sourced fifty
10 percent in each level of jurisdiction in which the
11 customer channel termination points are located.
12 (d) Service for segments of a channel located in
13 more than one jurisdiction or levels of jurisdiction
14 and which segments are not separately billed is
15 sourced in each jurisdiction based on the percentage
16 determined by dividing the number of customer channel
17 termination points in such jurisdiction by the total
18 number of customer channel termination points.
19 Sec. 123. NEW SECTION. 423.21 BAD DEBT
20 DEDUCTIONS.
21 1. For the purposes of this section, "bad debt"
22 means an amount properly calculated pursuant to
23 section 166 of the Internal Revenue Code then adjusted
24 to exclude financing charges or interest, sales or use
25 taxes charged on the purchase price, uncollectible
26 amounts on property that remain in the possession of
27 the seller until the full purchase price is paid,
28 expenses incurred in attempting to collect any debt,
29 and repossessed property.
30 2. In computing the amount of tax due, a seller
31 may deduct bad debts from the total amount upon which
32 the tax is calculated for any return. Any deduction
33 taken or refund paid which is attributed to bad debts
34 shall not include interest.
35 3. A seller may deduct bad debts on the return for
36 the period during which the bad debt is written off as
37 uncollectible in the seller's books and records and is
38 eligible to be deducted for federal income tax
39 purposes. For purposes of this subsection, a seller
40 who is not required to file federal income tax returns
41 may deduct a bad debt on a return filed for the period
42 in which the bad debt is written off as uncollectible
43 in the seller's books and records and would be
44 eligible for a bad debt deduction for federal income
45 tax purposes if the seller were required to file a
46 federal income tax return.
47 4. If a deduction is taken for a bad debt and the
48 seller subsequently collects the debt in whole or in
49 part, the tax on the amount so collected must be paid
50 and reported on the return filed for the period in

Page 103

1 which the collection is made.
2 5. A seller may obtain a refund of tax on any
3 amount of bad debt that exceeds the amount of taxable
4 sales within the period allowed for refund claims by
5 section 423.47. However, the period allowed for
6 refund claims shall be measured from the due date of

7 the return on which the bad debt could first be
8 claimed.

9 6. For the purposes of computing a bad debt
10 deduction or reporting a payment received on a
11 previously claimed bad debt, any payments made on a
12 debt or account shall be applied first to the price of
13 the property or service and tax thereon,
14 proportionally, and secondly to interest, service
15 charges, and any other charges.

16 Sec. 124. NEW SECTION. 423.22 TAXATION IN
17 ANOTHER STATE.

18 If any person who causes tangible personal property
19 to be brought into this state or who uses in this
20 state services enumerated in section 423.2 has already
21 paid a tax in another state in respect to the sale or
22 use of the property or the performance of the service,
23 or an occupation tax in respect to the property or
24 service, in an amount less than the tax imposed by
25 subchapter II or III, the provisions of those
26 subchapters shall apply, but at a rate measured by the
27 difference only between the rate fixed by subchapter
28 II or III and the rate by which the previous tax on
29 the sale or use, or the occupation tax, was computed.
30 If the tax imposed and paid in the other state is
31 equal to or more than the tax imposed by those
32 subchapters, then a tax is not due in this state on
33 the personal property or service.

34 Sec. 125. NEW SECTION. 423.23 SELLERS'
35 AGREEMENTS.

36 Agreements between competing sellers, or the
37 adoption of appropriate rules and regulations by
38 organizations or associations of sellers to provide
39 uniform methods for adding sales or use tax or the
40 average equivalent thereof, and which do not involve
41 price-fixing agreements otherwise unlawful, are
42 expressly authorized and shall be held not in
43 violation of chapter 553 or other antitrust laws of
44 this state. The director shall cooperate with
45 sellers, organizations, or associations in formulating
46 agreements and rules.

47 Sec. 126. NEW SECTION. 423.24 ABSORBING TAX
48 PROHIBITED.

49 a seller shall not advertise or hold out or state
50 to the public or to any purchaser, consumer, or user,

Page 104

1 directly or indirectly, that the taxes or any parts
2 thereof imposed by subchapter II or III will be
3 assumed or absorbed by the seller or the taxes will
4 not be added to the sales price of the property sold,
5 or if added that the taxes or any part thereof will be

6 refunded. Any person violating any of the provisions
 7 of this section within this state is guilty of a
 8 simple misdemeanor.

9 Sec. 127. NEW SECTION. 423.25 DIRECTOR'S POWER
 10 TO ADOPT RULES.

11 The director shall have the power to adopt rules
 12 for adding the taxes imposed by subchapters II and
 13 III, or the average equivalents thereof, by providing
 14 different methods applying uniformly to retailers
 15 within the same general classification for the purpose
 16 of enabling the retailers to add and collect, as far
 17 as practicable, the amounts of those taxes.

18 Sec. 128. NEW SECTION. 423.26 VEHICLES SUBJECT
 19 TO REGISTRATION OR ONLY TO THE ISSUANCE OF TITLE –
 20 MANUFACTURED HOUSING.

21 The use tax imposed upon the use of vehicles
 22 subject to registration or subject only to the
 23 issuance of a certificate of title or imposed upon the
 24 use of manufactured housing shall be paid by the owner
 25 of the vehicle or of the manufactured housing to the
 26 county treasurer or the state department of
 27 transportation from whom the registration receipt or
 28 certificate of title is obtained. A registration
 29 receipt for a vehicle subject to registration or
 30 certificate of title shall not be issued until the tax
 31 has been paid. The county treasurer or the state
 32 department of transportation shall require every
 33 applicant for a registration receipt for a vehicle
 34 subject to registration or certificate of title to
 35 supply information as the county treasurer or the
 36 director deems necessary as to the time of purchase,
 37 the purchase price, installed purchase price, and
 38 other information relative to the purchase of the
 39 vehicle or manufactured housing. On or before the
 40 tenth day of each month, the county treasurer or the
 41 state department of transportation shall remit to the
 42 department the amount of the taxes collected during
 43 the preceding month.

44 a person who willfully makes a false statement in
 45 regard to the purchase price of a vehicle subject to
 46 taxation under this section is guilty of a fraudulent
 47 practice. A person who willfully makes a false
 48 statement in regard to the purchase price of such a
 49 vehicle with the intent to evade the payment of tax
 50 shall be assessed a penalty of seventy-five percent of

Page 105

1 the amount of tax unpaid and required to be paid on
 2 the actual purchase price less trade-in allowance.
 3 Sec. 129. NEW SECTION. 423.27 MOTOR VEHICLE
 4 LEASE TAX.

5 1. The use tax imposed upon the use of leased
6 vehicles subject to registration under chapter 321,
7 with gross vehicle weight ratings of less than sixteen
8 thousand pounds, excluding motorcycles and motorized
9 bicycles, which are leased by a lessor licensed
10 pursuant to chapter 321F for a period of twelve months
11 or more shall be paid by the owner of the vehicle to
12 the county treasurer or state department of
13 transportation from whom the registration receipt or
14 certificate of title is obtained. A registration
15 receipt for a vehicle subject to registration or
16 issuance of a certificate of title shall not be issued
17 until the tax is paid in the initial instance. Tax on
18 the lease transaction that does not require titling or
19 registration of the vehicle shall be remitted to the
20 department. Tax and the reporting of tax due to the
21 department shall be remitted on or before fifteen days
22 from the last day of the month that the vehicle lease
23 tax becomes due. Failure to timely report or remit
24 any of the tax when due shall result in a penalty and
25 interest being imposed on the tax due pursuant to
26 section 423.40, subsection 1, and section 423.42,
27 subsection 1.

28 2. The amount subject to tax shall be computed on
29 each separate lease transaction by taking the total of
30 the lease payments, plus the down payment, and
31 excluding all of the following:

- 32 a. Title fee.
 - 33 b. Registration fees.
 - 34 c. Vehicle lease tax pursuant to this section.
 - 35 d. Federal excise taxes attributable to the sale
36 of the vehicle to the owner or to the lease of the
37 vehicle by the owner.
 - 38 e. Optional service or warranty contracts subject
39 to tax pursuant to section 423.2, subsection 1.
 - 40 f. Insurance.
 - 41 g. Manufacturer's rebate.
 - 42 h. Refundable deposit.
 - 43 i. Finance charges, if any, on items listed in
44 paragraphs "a" through "h".
- 45 If any or all of the items in paragraphs "a"
46 through "i" are excluded from the taxable lease price,
47 the owner shall maintain adequate records of the
48 amounts of those items. If the parties to a lease
49 enter into an agreement providing that the tax imposed
50 under this statute is to be paid by the lessee or

Page 106

1 included in the monthly lease payments to be paid by
2 the lessee, the total cost of the tax shall not be
3 included in the computation of lease price for the

4 purpose of taxation under this section. The county
5 treasurer, the state department of transportation, or
6 the department of revenue and finance shall require
7 every applicant for a registration receipt for a
8 vehicle subject to tax under this section to supply
9 information as the county treasurer or director deems
10 necessary as to the date of the lease transaction, the
11 lease price, and other information relative to the
12 lease of the vehicle.

13 3. On or before the tenth day of each month, the
14 county treasurer or the state department of
15 transportation shall remit to the department the
16 amount of the taxes collected during the preceding
17 month.

18 4. If the lease is terminated prior to the
19 termination date contained in the lease agreement, no
20 refund shall be allowed for tax previously paid under
21 this section, except as provided in section 322G.4.
22 Sec. 130. NEW SECTION. 423.28 SALES TAX REPORT
23 – DEDUCTION.

24 Motor vehicle or trailer dealers, in making their
25 reports and returns to the department for the purpose
26 of paying the sales tax, shall be permitted to deduct
27 all sales prices from retail sales of vehicles subject
28 to registration or subject only to the issuance of a
29 certificate of title. Sales prices from sales of
30 vehicles subject to registration or subject only to
31 the issuance of a certificate of title are exempted
32 from the sales tax, but, if required by the director,
33 the sales prices shall be included in the returns made
34 by motor vehicle or trailer dealers under subchapter
35 II, and proper deductions taken pursuant to this
36 section.

37 Sec. 131. NEW SECTION. 423.29 COLLECTIONS BY
38 SELLERS.

39 Every seller who is a retailer and who is making
40 taxable sales of tangible personal property in Iowa
41 shall, at the time of selling the property, collect
42 the sales tax. Every seller who is a retailer
43 maintaining a place of business in this state and
44 selling tangible personal property for use in Iowa
45 shall, at the time of making the sale, whether within
46 or without the state, collect the use tax. Sellers
47 required to collect sales or use tax shall give to any
48 purchaser a receipt for the tax collected in the
49 manner and form prescribed by the director.

50 Every seller who is a retailer furnishing taxable

Page 107

1 services in Iowa and every seller who is a retailer
2 maintaining a place of business in this state and

3 furnishing taxable services in Iowa or services
4 outside Iowa if the product or result of the service
5 is used in Iowa shall be subject to the provisions of
6 the preceding paragraph.

7 Sec. 132. NEW SECTION. 423.30 FOREIGN SELLERS
8 NOT REGISTERED UNDER THE AGREEMENT.

9 The director may, upon application, authorize the
10 collection of the use tax by any seller who is a
11 retailer not maintaining a place of business within
12 this state and not registered under the agreement,
13 who, to the satisfaction of the director, furnishes
14 adequate security to ensure collection and payment of
15 the tax. Such sellers shall be issued, without
16 charge, permits to collect tax subject to any
17 regulations which the director shall prescribe. When
18 so authorized, it shall be the duty of foreign sellers
19 to collect the tax upon all tangible personal property
20 sold, to the retailer's knowledge, for use within this
21 state, in the same manner and subject to the same
22 requirements as a retailer maintaining a place of
23 business within this state. The authority and permit
24 may be canceled when, at any time, the director
25 considers the security inadequate, or that tax can
26 more effectively be collected from the person using
27 property in this state.

28 The discretionary power granted in this section is
29 extended to apply in the case of foreign retailers
30 furnishing services enumerated in section 423.2.

31 Sec. 133. NEW SECTION. 423.31 FILING OF SALES
32 TAX RETURNS AND PAYMENT OF SALES TAX.

33 1. Each person subject to this section and section
34 423.36 and in accordance with the provisions of this
35 section and section 423.36 shall, on or before the
36 last day of the month following the close of each
37 calendar quarter during which such person is or has
38 become or ceased being subject to the provisions of
39 this section and section 423.36, make, sign, and file
40 a return for the calendar quarter in the form as may
41 be required. Returns shall show information relating
42 to sales prices including goods, wares, and services
43 converted to the use of such person, the amounts of
44 sales prices excluded and exempt from the tax, the
45 amounts of sales prices subject to tax, a calculation
46 of tax due, and any other information for the period
47 covered by the return as may be required. Returns
48 shall be signed by the retailer or the retailer's
49 authorized agent and must be certified by the retailer
50 to be correct in accordance with forms and rules

Page 108

1 prescribed by the director.

2 2. Persons required to file, or committed to file
3 by reason of voluntary action or by order of the
4 department, deposits of taxes due under this
5 subchapter shall be entitled to take credit against
6 the total quarterly amount of tax due such amount as
7 shall have been deposited by such persons during that
8 calendar quarter. The balance remaining due after
9 such credit for deposits shall be entered on the
10 return. However, such person may be granted an
11 extension of time not exceeding thirty days for filing
12 the quarterly return, upon a proper showing of
13 necessity. If an extension is granted, such person
14 shall have paid by the twentieth day of the month
15 following the close of such quarter ninety percent of
16 the estimated tax due.

17 3. The sales tax forms prescribed by the director
18 shall be referred to as "retailers tax deposit".
19 Deposit forms shall be signed by the retailer or the
20 retailer's duly authorized agent, and shall be duly
21 certified by the retailer or agent to be correct. The
22 director may authorize incorporated banks and trust
23 companies or other depositories authorized by law
24 which are depositories or financial agents of the
25 United States, or of this state, to receive any sales
26 tax imposed under this chapter, in the manner, at the
27 times, and under the conditions the director
28 prescribes. The director shall prescribe the manner,
29 times, and conditions under which the receipt of the
30 tax by those depositories is to be treated as payment
31 of the tax to the department.

32 4. Every retailer at the time of making any return
33 required by this section shall compute and pay to the
34 department the tax due for the preceding period. The
35 tax on sales prices from the sale or rental of
36 tangible personal property under a consumer rental
37 purchase agreement as defined in section 537.3604,
38 subsection 8, is payable in the tax period of receipt.

39 5. Upon making application and receiving approval
40 from the director, a parent corporation and its
41 affiliated corporations that make retail sales of
42 tangible personal property or taxable enumerated
43 services may make deposits and file a consolidated
44 sales tax return for the affiliated group, pursuant to
45 rules adopted by the director. A parent corporation
46 and each affiliate corporation that files a
47 consolidated return are jointly and severally liable
48 for all tax, penalty, and interest found due for the
49 tax period for which a consolidated return is filed or
50 required to be filed.

Page 109

1 a business required to file a consolidated sales
2 tax return shall file a form entitled "schedule of
3 consolidated business locations" with its quarterly
4 sales tax return that shows the taxpayer's
5 consolidated permit number, the permit number for each
6 Iowa business location, the state sales tax amount by
7 business location, and the amount of state sales tax
8 due on goods consumed that are not assigned to a
9 specific business location. Consolidated quarterly
10 sales tax returns that are not accompanied by the
11 schedule of consolidated business locations form are
12 considered incomplete and are subject to penalty under
13 section 421.27.

14 6. If necessary or advisable in order to insure
15 the payment of the tax, the director may require
16 returns and payment of the tax to be made for other
17 than quarterly periods, the provisions of this
18 section, or other provision to the contrary
19 notwithstanding.

20 Sec. 134. NEW SECTION. 423.32 FILING OF USE TAX
21 RETURNS AND PAYMENT OF USE TAX.

22 1. A retailer maintaining a place of business in
23 this state who is required to collect or a user who is
24 required to pay the use tax or a foreign retailer
25 authorized, pursuant to section 423.30, to collect the
26 use tax, shall remit to the department the amount of
27 tax on or before the last day of the month following
28 each calendar quarterly period. However, a retailer
29 who collects or owes more than fifteen hundred dollars
30 in use taxes in a month shall deposit with the
31 department or in a depository authorized by law and
32 designated by the director, the amount collected or
33 owed, with a deposit form for the month as prescribed
34 by the director.

35 a. The deposit form is due on or before the
36 twentieth day of the month following the month of
37 collection, except a deposit is not required for the
38 third month of the calendar quarter, and the total
39 quarterly amount, less the amounts deposited for the
40 first two months of the quarter, is due with the
41 quarterly report on the last day of the month
42 following the month of collection. At that time, the
43 retailer shall file with the department a return for
44 the preceding quarterly period in the form prescribed
45 by the director showing the purchase price of the
46 tangible personal property sold by the retailer during
47 the preceding quarterly period, the use of which is
48 subject to the use tax imposed by this chapter, and
49 other information the director deems necessary for the
50 proper administration of the use tax.

Page 110

1 b. The return shall be accompanied by a remittance
2 of the use tax for the period covered by the return.
3 If necessary in order to ensure payment to the state
4 of the tax, the director may in any or all cases
5 require returns and payments to be made for other than
6 quarterly periods. The director, upon request and a
7 proper showing of necessity, may grant an extension of
8 time not to exceed thirty days for making any return
9 and payment. Returns shall be signed, in accordance
10 with forms and rules prescribed by the director, by
11 the retailer or the retailer's authorized agent, and
12 shall be certified by the retailer or agent to be
13 correct.

14 2. If it is reasonably expected, as determined by
15 rules prescribed by the director, that a retailer's
16 annual sales or use tax liability will not exceed one
17 hundred twenty dollars for a calendar year, the
18 retailer may request and the director may grant
19 permission to the retailer, in lieu of the quarterly
20 filing and remitting requirements set out elsewhere in
21 this section, to file the return required by and remit
22 the sales or use tax due under this section on a
23 calendar-year basis. The return and tax are due and
24 payable no later than January 31 following each
25 calendar year in which the retailer carries on
26 business.

27 3. The director, in cooperation with the
28 department of management, may periodically change the
29 filing and remittance thresholds by administrative
30 rule if in the best interests of the state and
31 taxpayer to do so.

32 Sec. 135. NEW SECTION. 423.33 LIABILITY OF
33 PERSONS OTHER THAN RETAILERS FOR PAYMENT OF SALES OR
34 USE TAX.

35 1. LIABILITY OF PURCHASER FOR SALES TAX. If a
36 purchaser fails to pay sales tax to the retailer
37 required to collect the tax, then in addition to all
38 of the rights, obligations, and remedies provided, the
39 tax is payable by the purchaser directly to the
40 department, and sections 423.31, 423.32, 423.37,
41 423.38, 423.39, 423.40, 423.41, and 423.42 apply to
42 the purchaser. For failure to pay, the retailer and
43 purchaser are liable, unless the circumstances
44 described in section 421.60, subsection 2, paragraph
45 "m", or section 423.45, subsection 4, paragraph "b" or
46 "e", or subsection 5, paragraph "c" or "e", are
47 applicable.

48 2. IMMEDIATE SUCCESSOR LIABILITY FOR SALES OR USE
49 TAX. If a retailer sells the retailer's business or
50 stock of goods or quits the business, the retailer

Page 111

1 shall prepare a final return and pay all sales or use
2 tax due within the time required by law. The
3 immediate successor to the retailer, if any, shall
4 withhold a sufficient portion of the purchase price,
5 in money or money's worth, to pay the amount of
6 delinquent tax, interest, or penalty due and unpaid.
7 If the immediate successor of the business or stock of
8 goods intentionally fails to withhold the amount due
9 from the purchase price as provided in this
10 subsection, the immediate successor is personally
11 liable for the payment of delinquent taxes, interest,
12 and penalty accrued and unpaid on account of the
13 operation of the business by the immediate former
14 retailer, except when the purchase is made in good
15 faith as provided in section 421.28. However, a
16 person foreclosing on a valid security interest or
17 retaking possession of premises under a valid lease is
18 not an "immediate successor" for purposes of this
19 section. The department may waive the liability of
20 the immediate successor under this subsection if the
21 immediate successor exercised good faith in
22 establishing the amount of the previous liability.

23 3. EVENT SPONSOR'S LIABILITY FOR SALES TAX. A
24 person sponsoring a flea market or a craft, antique,
25 coin, or stamp show or similar event shall obtain from
26 every retailer selling tangible personal property or
27 taxable services at the event proof that the retailer
28 possesses a valid sales tax permit or secure from the
29 retailer a statement, taken in good faith, that
30 property or services offered for sale are not subject
31 to sales tax. Failure to do so renders a sponsor of
32 the event liable for payment of any sales tax,
33 interest, and penalty due and owing from any retailer
34 selling property or services at the event. Sections
35 423.31, 423.32, 423.37, 423.38, 423.39, 423.40,
36 423.41, and 423.42 apply to the sponsors. For
37 purposes of this subsection, a person sponsoring a
38 flea market or a craft, antique, coin, or stamp show
39 or similar event does not include an organization
40 which sponsors an event less than three times a year
41 or a state, county, or district agricultural fair.

42 Sec. 136. NEW SECTION. 423.34 LIABILITY OF USER.
43 Any person who uses any property or services
44 enumerated in section 423.2 upon which the use tax has
45 not been paid, either to the county treasurer or to a
46 retailer or direct to the department as required by
47 this subchapter, shall be liable for the payment of
48 tax, and shall on or before the last day of the month
49 next succeeding each quarterly period pay the use tax
50 upon all property or services used by the person

Page 112

1 during the preceding quarterly period in the manner
2 and accompanied by such returns as the director shall
3 prescribe. All of the provisions of sections 423.32
4 and 423.33 with reference to the returns and payments
5 shall be applicable to the returns and payments
6 required by this section.

7 Sec. 137. NEW SECTION. 423.35 POSTING OF BOND TO
8 SECURE PAYMENT.

9 The director may, when necessary and advisable in
10 order to secure the collection of the sales or use
11 tax, authorize any person subject to either tax, and
12 any retailer required or authorized to collect those
13 taxes pursuant to the provisions of section 423.14, to
14 file with the department a bond, issued by a surety
15 company authorized to transact business in this state
16 and approved by the insurance commissioner as to
17 solvency and responsibility, in an amount as the
18 director may fix, to secure the payment of any tax,
19 interest, or penalties due or which may become due
20 from such person. In lieu of a bond, securities
21 approved by the director, in an amount which the
22 director may prescribe, may be deposited with the
23 department, which securities shall be kept in the
24 custody of the department and may be sold by the
25 director at public or private sale, without notice to
26 the depositor, if it becomes necessary to do so in
27 order to recover any tax, interest, or penalties due.
28 Upon the sale, the surplus, if any, above the amounts
29 due under this chapter shall be returned to the person
30 who deposited the securities.

31 Sec. 138. NEW SECTION. 423.36 PERMITS REQUIRED
32 TO COLLECT SALES OR USE TAX – APPLICATIONS –
33 REVOCATION.

34 1. A person shall not engage in or transact
35 business as a retailer making taxable sales of
36 tangible personal property or furnishing services
37 within this state or as a retailer making taxable
38 sales of tangible personal property or furnishing
39 services for use within this state, unless a permit
40 has been issued to the retailer under this section,
41 except as provided in subsection 6. Every person
42 desiring to engage in or transact business as a
43 retailer shall file with the department an application
44 for a permit to collect sales or use tax. Every
45 application for a sales or use tax permit shall be
46 made upon a form prescribed by the director and shall
47 set forth any information the director may require.
48 The application shall be signed by an owner of the
49 business if a natural person; in the case of a
50 retailer which is an association or partnership, by a

Page 113

1 member or partner; and in the case of a retailer which
2 is a corporation, by an executive officer or some
3 person specifically authorized by the corporation to
4 sign the application, to which shall be attached the
5 written evidence of the person's authority.

6 2. To collect sales or use tax, the applicant must
7 have a permit for each place of business in the state
8 of Iowa. The department may deny a permit to an
9 applicant who is substantially delinquent in paying a
10 tax due, or the interest or penalty on the tax,
11 administered by the department at the time of
12 application. If the applicant is a partnership, a
13 permit may be denied if a partner is substantially
14 delinquent in paying any delinquent tax, penalty, or
15 interest. If the applicant is a corporation, a permit
16 may be denied if any officer having a substantial
17 legal or equitable interest in the ownership of the
18 corporation owes any delinquent tax, penalty, or
19 interest.

20 3. The department shall grant and issue to each
21 applicant a permit for each place of business in this
22 state where sales or use tax is collected. A permit
23 is not assignable and is valid only for the person in
24 whose name it is issued and for the transaction of
25 business at the place designated or at a place of
26 relocation within the state if the ownership remains
27 the same.

28 If an applicant is making sales outside Iowa for
29 use in this state or furnishing services outside Iowa,
30 the product or result of which will be used in this
31 state, that applicant shall be issued one use tax
32 permit by the department applicable to these out-of-
33 state sales or services.

34 4. Permits issued under this section are valid and
35 effective until revoked by the department.

36 5. If the holder of a permit fails to comply with
37 any of the provisions of this subchapter or of
38 subchapter II or III or any order or rule of the
39 department adopted under those subchapters or is
40 substantially delinquent in the payment of a tax
41 administered by the department or the interest or
42 penalty on the tax, or if the person is a corporation
43 and if any officer having a substantial legal or
44 equitable interest in the ownership of the corporation
45 owes any delinquent tax of the permit-holding
46 corporation, or interest or penalty on the tax,
47 administered by the department, the director may
48 revoke the permit. The director shall send notice by
49 mail to a permit holder informing that person of the
50 director's intent to revoke the permit and of the

Page 114

1 permit holder's right to a hearing on the matter. If
2 the permit holder petitions the director for a hearing
3 on the proposed revocation, after giving ten days'
4 notice of the time and place of the hearing in
5 accordance with section 17A.18, subsection 3, the
6 matter may be heard and a decision rendered. The
7 director may restore permits after revocation. The
8 director shall adopt rules setting forth the period of
9 time a retailer must wait before a permit may be
10 restored or a new permit may be issued. The waiting
11 period shall not exceed ninety days from the date of
12 the revocation of the permit.

13 6. Sellers who are not regularly engaged in
14 selling at retail and do not have a permanent place of
15 business, but who are temporarily engaged in selling
16 from trucks, portable roadside stands, concessionaires
17 at state, county, district, or local fairs, carnivals,
18 or the like, shall report and remit the sales tax on a
19 temporary basis, under rules the director shall
20 provide for the efficient collection of the sales tax.
21 This subsection applies to sellers who are temporarily
22 engaged in furnishing services.

23 Persons engaged in selling tangible personal
24 property or furnishing services shall not be required
25 to obtain or retain a sales tax permit for a place of
26 business at which taxable sales of tangible personal
27 property or taxable performance of services will not
28 occur.

29 7. The provisions of subsection 1, dealing with
30 the lawful right of a retailer to transact business,
31 as applicable, apply to persons having receipts from
32 furnishing services enumerated in section 423.2,
33 except that a person holding a permit pursuant to
34 subsection 1 shall not be required to obtain any
35 separate sales tax permit for the purpose of engaging
36 in business involving the services.

37 8. a. Except as provided in paragraph "b",
38 purchasers, users, and consumers of tangible personal
39 property or enumerated services taxed pursuant to
40 subchapter II or III of this chapter or chapters 423B
41 and 423E may be authorized, pursuant to rules adopted
42 by the director, to remit tax owed directly to the
43 department instead of the tax being collected and paid
44 by the seller. To qualify for a direct pay tax
45 permit, the purchaser, user, or consumer must accrue a
46 tax liability of more than four thousand dollars in
47 tax under subchapters II and III in a semimonthly
48 period and make deposits and file returns pursuant to
49 section 423.31. This authority shall not be granted
50 or exercised except upon application to the director

Page 115

1 and then only after issuance by the director of a
2 direct pay tax permit.

3 b. The granting of a direct pay tax permit is not
4 authorized for any of the following:

5 (1) Taxes imposed on the sales, furnishing, or
6 service of gas, electricity, water, heat, pay
7 television service, and communication service.

8 (2) Taxes imposed under sections 423.26 and 423.27
9 and chapter 423C.

10 Sec. 139. NEW SECTION. 423.37 FAILURE TO FILE
11 SALES OR USE TAX RETURNS – INCORRECT RETURNS.

12 1. As soon as practicable after a return is filed
13 and in any event within three years after the return
14 is filed, the department shall examine it, assess and
15 determine the tax due if the return is found to be
16 incorrect, and give notice to the person liable for
17 the tax of the assessment and determination as
18 provided in subsection 2. The period for the
19 examination and determination of the correct amount of
20 tax is unlimited in the case of a false or fraudulent
21 return made with the intent to evade tax or in the
22 case of a failure to file a return.

23 2. If a return required by this subchapter is not
24 filed, or if a return when filed is incorrect or
25 insufficient and the maker fails to file a corrected
26 or sufficient return within twenty days after the same
27 is required by notice from the department, the
28 department shall determine the amount of tax due from
29 information as the department may be able to obtain
30 and, if necessary, may estimate the tax on the basis
31 of external indices, such as number of employees of
32 the person concerned, rentals paid by the person,
33 stock on hand, or other factors. The department shall
34 give notice of the determination to the person liable
35 for the tax. The determination shall fix the tax
36 unless the person against whom it is assessed shall,
37 within sixty days after the giving of notice of the
38 determination, apply to the director for a hearing or
39 unless the taxpayer contests the determination by
40 paying the tax, interest, and penalty and timely
41 filing a claim for refund. At the hearing evidence
42 may be offered to support the determination or to
43 prove that it is incorrect. After the hearing the
44 director shall give notice of the decision to the
45 person liable for the tax.

46 3. The three-year period of limitation provided in
47 subsection 1 may be extended by a taxpayer by signing
48 a waiver agreement form to be provided by the
49 department. The agreement shall stipulate the period
50 of extension and the tax period to which the extension

Page 116

1 applies. The agreement shall also provide that a
2 claim for refund may be filed by the taxpayer at any
3 time during the period of extension.
4 Sec. 140. NEW SECTION. 423.38 JUDICIAL REVIEW.
5 1. Judicial review of actions of the director may
6 be sought in accordance with the terms of the Iowa
7 administrative procedure Act.
8 2. For cause and upon a showing by the director
9 that collection of the tax in dispute is in doubt, the
10 court may order the petitioner to file with the clerk
11 a bond for the use of the respondent, with sureties
12 approved by the clerk, in the amount of tax appealed
13 from, conditioned that the petitioner shall perform
14 the orders of the court.
15 3. An appeal may be taken by the taxpayer or the
16 director to the supreme court of this state
17 irrespective of the amount involved.
18 Sec. 141. NEW SECTION. 423.39 SERVICE OF
19 NOTICES.
20 1. A notice authorized or required under this
21 subchapter may be given by mailing the notice to the
22 person for whom it is intended, addressed to that
23 person at the address given in the last return filed
24 by the person pursuant to this subchapter, or if no
25 return has been filed, then to any address obtainable.
26 The mailing of the notice is presumptive evidence of
27 the receipt of the notice by the person to whom
28 addressed. Any period of time which is determined
29 according to this subchapter by the giving of notice
30 commences to run from the date of mailing of the
31 notice.
32 2. The provisions of the Code relative to the
33 limitation of time for the enforcement of a civil
34 remedy shall not apply to any proceeding or action
35 taken to levy, appraise, assess, determine, or enforce
36 the collection of any tax or penalty provided by this
37 chapter.
38 Sec. 142. NEW SECTION. 423.40 PENALTIES –
39 OFFENSES – LIMITATION.
40 1. In addition to the sales or use tax or
41 additional sales or use tax, the taxpayer shall pay a
42 penalty as provided in section 421.27. The taxpayer
43 shall also pay interest on the sales or use tax or
44 additional sales or use tax at the rate in effect
45 under section 421.7 for each month counting each
46 fraction of a month as an entire month, computed from
47 the date the semimonthly or monthly tax deposit form
48 or return was required to be filed. The penalty and
49 interest shall be paid to the department and disposed
50 of in the same manner as other receipts under this

Page 117

1 subchapter. Unpaid penalties and interest may be
2 enforced in the same manner as the taxes imposed by
3 this chapter.

4 2. a. Any person who knowingly sells tangible
5 personal property, tickets or admissions to places of
6 amusement and athletic events, or gas, water,
7 electricity, or communication service at retail, or
8 engages in the furnishing of services enumerated in
9 section 423.2, in this state without procuring a
10 permit to collect tax, as provided in section 423.36,
11 or who violates section 423.24 and the officers of any
12 corporation who so act are guilty of a serious
13 misdemeanor.

14 b. A person who knowingly sells tangible personal
15 property, tickets or admissions to places of amusement
16 and athletic events, or gas, water, electricity, or
17 communication service at retail, or engages in the
18 furnishing of services enumerated in section 423.2, in
19 this state after the person's sales tax permit has
20 been revoked and before it has been restored as
21 provided in section 423.36, subsection 5, and the
22 officers of any corporation who so act are guilty of
23 an aggravated misdemeanor.

24 3. A person who willfully attempts in any manner
25 to evade any tax imposed by this chapter or the
26 payment of the tax or a person who makes or causes to
27 be made a false or fraudulent semimonthly or monthly
28 tax deposit form or return with intent to evade any
29 tax imposed by subchapter II or III or the payment of
30 the tax is guilty of a class "D" felony.

31 4. The certificate of the director to the effect
32 that a tax has not been paid, that a return has not
33 been filed, or that information has not been supplied
34 pursuant to the provisions of this subchapter shall be
35 prima facie evidence thereof.

36 5. A person required to pay sales or use tax, or
37 to make, sign, or file a tax deposit form or return or
38 supplemental return, who willfully makes a false or
39 fraudulent tax deposit form or return, or willfully
40 fails to pay at least ninety percent of the tax or
41 willfully fails to make, sign, or file the tax deposit
42 form or return, at the time required by law, is guilty
43 of a fraudulent practice.

44 6. A prosecution for an offense specified in this
45 section shall be commenced within six years after its
46 commission.

47 Sec. 143. NEW SECTION. 423.41 BOOKS –
48 EXAMINATION.

49 Every retailer required or authorized to collect
50 taxes imposed by this chapter and every person using

Page 118

1 in this state tangible personal property, services, or
2 the product of services shall keep records, receipts,
3 invoices, and other pertinent papers as the director
4 shall require, in the form that the director shall
5 require, for as long as the director has the authority
6 to examine and determine tax due. The director or any
7 duly authorized agent of the department may examine
8 the books, papers, records, and equipment of any
9 person either selling tangible personal property or
10 services or liable for the tax imposed by this
11 chapter, and investigate the character of the business
12 of any person in order to verify the accuracy of any
13 return made, or if a return was not made by the
14 person, ascertain and determine the amount due under
15 this chapter. These books, papers, and records shall
16 be made available within this state for examination
17 upon reasonable notice when the director deems it
18 advisable and so orders. The preceding requirements
19 shall likewise apply to users and persons furnishing
20 services enumerated in section 423.2.

21 Sec. 144. NEW SECTION. 423.42 STATUTES
22 APPLICABLE.

23 1. The director shall administer the taxes imposed
24 by subchapters II and III in the same manner and
25 subject to all the provisions of, and all of the
26 powers, duties, authority, and restrictions contained
27 in, section 422.25, subsection 4, section 422.30, and
28 sections 422.67 through 422.75.

29 2. All the provisions of section 422.26 shall
30 apply in respect to the taxes and penalties imposed by
31 subchapters II and III and this subchapter, except
32 that, as applied to any tax imposed by subchapters II
33 and III, the lien provided in section 422.26 shall be
34 prior and paramount over all subsequent liens upon any
35 personal property within this state, or right to such
36 personal property, belonging to the taxpayer without
37 the necessity of recording as provided in section
38 422.26. The requirements for recording shall, as
39 applied to the taxes imposed by subchapters II and
40 III, apply only to the liens upon real property. When
41 requested to do so by any person from whom a taxpayer
42 is seeking credit, or with whom the taxpayer is
43 negotiating the sale of any personal property, or by
44 any other person having a legitimate interest in such
45 information, the director shall, upon being satisfied
46 that such a situation exists, inform that person as to
47 the amount of unpaid taxes due by such taxpayer under
48 the provisions of subchapters II and III. The giving
49 of this information under these circumstances shall
50 not be deemed a violation of section 422.72 as applied

Page 119

1 to subchapters II and III.
2 Sec. 145. NEW SECTION. 423.43 DEPOSIT OF REVENUE
3 – APPROPRIATIONS.
4 Except as otherwise provided in section 312.2,
5 subsection 15, all revenues derived from the use tax
6 on motor vehicles, trailers, and motor vehicle
7 accessories and equipment as collected pursuant to
8 sections 423.26 and 423.27 shall be deposited and
9 credited to the road use tax fund and shall be used
10 exclusively for the construction, maintenance, and
11 supervision of public highways.
12 1. Notwithstanding any provision of this section
13 which provides that all revenues derived from the use
14 tax on motor vehicles, trailers, and motor vehicle
15 accessories and equipment as collected pursuant to
16 sections 423.26 and 423.27 shall be deposited and
17 credited to the road use tax fund, eighty percent of
18 the revenues shall be deposited and credited as
19 follows:
20 a. Twenty-five percent of all such revenue, up to
21 a maximum of four million two hundred fifty thousand
22 dollars per quarter, shall be deposited into and
23 credited to the Iowa comprehensive petroleum
24 underground storage tank fund created in section
25 455G.3, and the moneys so deposited are a continuing
26 appropriation for expenditure under chapter 455G, and
27 moneys so appropriated shall not be used for other
28 purposes.
29 b. Any such revenues remaining shall be credited
30 to the road use tax fund.
31 2. Notwithstanding any other provision of this
32 section that provides that all revenue derived from
33 the use tax on motor vehicles, trailers, and motor
34 vehicle accessories and equipment as collected
35 pursuant to section 423.26 shall be deposited and
36 credited to the road use tax fund, twenty percent of
37 the revenues shall be credited and deposited as
38 follows: one-half to the road use tax fund and one-
39 half to the primary road fund to be used for the
40 commercial and industrial highway network.
41 3. All other revenue arising under the operation
42 of this chapter shall be credited to the general fund
43 of the state.
44 Sec. 146. NEW SECTION. 423.44 REIMBURSEMENT FOR
45 PRIMARY ROAD FUND.
46 From moneys deposited into the road use tax fund,
47 the department may credit to the primary road fund any
48 amount of revenues derived from the use tax on motor
49 vehicles, trailers, and motor vehicle accessories and
50 equipment as collected pursuant to sections 423.26 and

Page 120

1 423.27 to the extent necessary to reimburse that fund
2 for the expenditures not otherwise eligible to be made
3 from the primary road fund, which are made for
4 repairing, improving, and maintaining bridges over the
5 rivers bordering the state. Expenditures for those
6 portions of bridges within adjacent states may be
7 included when they are made pursuant to an agreement
8 entered into under section 313.63, 313A.34, or 314.10.
9 Sec. 147. NEW SECTION. 423.45 REFUNDS –
10 EXEMPTION CERTIFICATES.

11 1. If an amount of tax represented by a retailer
12 to a consumer or user as constituting tax due is
13 computed upon a sales price that is not taxable or the
14 amount represented is in excess of the actual taxable
15 amount and the amount represented is actually paid by
16 the consumer or user to the retailer, the excess
17 amount of tax paid shall be returned to the consumer
18 or user upon notification to the retailer by the
19 department that an excess payment exists.

20 2. If an amount of tax represented by a retailer
21 to a consumer or user as constituting tax due is
22 computed upon a sales price that is not taxable or the
23 amount represented is in excess of the actual taxable
24 amount and the amount represented is actually paid by
25 the consumer or user to the retailer, the excess
26 amount of tax paid shall be returned to the consumer
27 or user upon proper notification to the retailer by
28 the consumer or user that an excess payment exists.
29 "Proper" notification is written notification which
30 allows a retailer at least sixty days to respond and
31 which contains enough information to allow a retailer
32 to determine the validity of a consumer's or user's
33 claim that an excess amount of tax has been paid. No
34 cause of action shall accrue against a retailer for
35 excess tax paid until sixty days after proper notice
36 has been given the retailer by the consumer or user.

37 3. In the circumstances described in subsections 1
38 and 2, a retailer has the option to either return any
39 excess amount of tax paid to a consumer or user, or to
40 remit the amount which a consumer or user has paid to
41 the retailer to the department.

42 4. a. The department shall issue or the seller
43 may separately provide exemption certificates in the
44 form prescribed by the director, including
45 certificates not made of paper, which conform to the
46 requirements of paragraph "c", to assist retailers in
47 properly accounting for nontaxable sales of tangible
48 personal property or services to purchasers for a
49 nontaxable purpose. The department shall also allow
50 the use of exemption certificates for those

Page 121

1 circumstances in which a sale is taxable but the
2 seller is not obligated to collect tax from the buyer.
3 b. The sales tax liability for all sales of
4 tangible personal property and all sales of services
5 is upon the seller and the purchaser unless the seller
6 takes in good faith from the purchaser a valid
7 exemption certificate stating under penalty of perjury
8 that the purchase is for a nontaxable purpose and is
9 not a retail sale as defined in section 423.1, or the
10 seller is not obligated to collect tax due, or unless
11 the seller takes a fuel exemption certificate pursuant
12 to subsection 5. If the tangible personal property or
13 services are purchased tax free pursuant to a valid
14 exemption certificate which is taken in good faith by
15 the seller, and the tangible personal property or
16 services are used or disposed of by the purchaser in a
17 nonexempt manner, the purchaser is solely liable for
18 the taxes and shall remit the taxes directly to the
19 department and sections 423.31, 423.32, 423.37,
20 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply
21 to the purchaser.

22 c. A valid exemption certificate is an exemption
23 certificate which is complete and correct according to
24 the requirements of the director.

25 d. A valid exemption certificate is taken in good
26 faith by the seller when the seller has exercised that
27 caution and diligence which honest persons of ordinary
28 prudence would exercise in handling their own business
29 affairs, and includes an honesty of intention and
30 freedom from knowledge of circumstances which ought to
31 put one upon inquiry as to the facts. In order for a
32 seller to take a valid exemption certificate in good
33 faith, the seller must exercise reasonable prudence to
34 determine the facts supporting the valid exemption
35 certificate, and if any facts upon such certificate
36 would lead a reasonable person to further inquiry,
37 such inquiry must be made with an honest intent to
38 discover the facts.

39 e. If the circumstances change and as a result the
40 tangible personal property or services are used or
41 disposed of by the purchaser in a nonexempt manner or
42 the purchaser becomes obligated to pay the tax, the
43 purchaser is liable solely for the taxes and shall
44 remit the taxes directly to the department in
45 accordance with this subsection.

46 5. a. The department shall issue or the seller
47 may separately provide fuel exemption certificates in
48 the form prescribed by the director.

49 b. For purposes of this subsection:

50 (1) "Fuel" includes gas, electricity, water, heat,

Page 122

1 steam, and any other tangible personal property
2 consumed in creating heat, power, or steam.

3 (2) "Fuel consumed in processing" means fuel used
4 or consumed for processing including grain drying, for
5 providing heat or cooling for livestock buildings or
6 for greenhouses or buildings or parts of buildings
7 dedicated to the production of flowering, ornamental,
8 or vegetable plants intended for sale in the ordinary
9 course of business, for use in aquaculture production,
10 or for generating electric current, or in implements
11 of husbandry engaged in agricultural production.

12 (3) "Fuel exemption certificate" means an
13 exemption certificate given by the purchaser under
14 penalty of perjury to assist retailers in properly
15 accounting for nontaxable sales of fuel consumed in
16 processing.

17 (4) "Substantial change" means a change in the use
18 or disposition of tangible personal property and
19 services by the purchaser such that the purchaser pays
20 less than ninety percent of the purchaser's actual
21 sales tax liability. A change includes a misstatement
22 of facts in an application made pursuant to paragraph
23 "d" or in a fuel exemption certificate.

24 c. The seller may accept a completed fuel
25 exemption certificate, as prepared by the purchaser,
26 for three years unless the purchaser files a new
27 completed exemption certificate. If the fuel is
28 purchased tax free pursuant to a fuel exemption
29 certificate which is taken by the seller, and the fuel
30 is used or disposed of by the purchaser in a nonexempt
31 manner, the purchaser is solely liable for the taxes,
32 and shall remit the taxes directly to the department
33 and sections 423.31, 423.32, 423.37, 423.38, 423.39,
34 423.40, 423.41, and 423.42 shall apply to the
35 purchaser.

36 d. The purchaser may apply to the department for
37 its review of the fuel exemption certificate. In this
38 event, the department shall review the fuel exemption
39 certificate within twelve months from the date of
40 application and determine the correct amount of the
41 exemption. If the amount determined by the department
42 is different than the amount that the purchaser claims
43 is exempt, the department shall promptly notify the
44 purchaser of the determination. Failure of the
45 department to make a determination within twelve
46 months from the date of application shall constitute a
47 determination that the fuel exemption certificate is
48 correct as submitted. A determination of exemption by
49 the department is final unless the purchaser appeals
50 to the director for a revision of the determination

Page 123

1 within sixty days after the date of the notice of
2 determination. The director shall grant a hearing,
3 and upon the hearing, the director shall determine the
4 correct exemption and notify the purchaser of the
5 decision by mail. The decision of the director is
6 final unless the purchaser seeks judicial review of
7 the director's decision under section 423.38 within
8 sixty days after the date of the notice of the
9 director's decision. Unless there is a substantial
10 change, the department shall not impose penalties
11 pursuant to section 423.40 both retroactively to
12 purchases made after the date of application and
13 prospectively until the department gives notice to the
14 purchaser that a tax or additional tax is due, for
15 failure to remit any tax due which is in excess of a
16 determination made under this section. A
17 determination made by the department pursuant to this
18 subsection does not constitute an audit for purposes
19 of section 423.37.

20 e. If the circumstances change and the fuel is
21 used or disposed of by the purchaser in a nonexempt
22 manner, the purchaser is solely liable for the taxes
23 and shall remit the taxes directly to the department
24 in accordance with paragraph "c".

25 f. The purchaser shall attach documentation to the
26 fuel exemption certificate which is reasonably
27 necessary to support the exemption for fuel consumed
28 in processing. If the purchaser files a new exemption
29 certificate with the seller, documentation shall not
30 be required if the purchaser previously furnished the
31 seller with this documentation and substantial change
32 has not occurred since that documentation was
33 furnished or if fuel consumed in processing is
34 separately metered and billed by the seller.

35 6. Nothing in this section authorizes any cause of
36 action by any person to recover sales or use taxes
37 directly from the state or extends any person's time
38 to seek a refund of sales or use taxes which have been
39 collected and remitted to the state.

40 Sec. 148. NEW SECTION. 423.46 RATE AND BASE
41 CHANGES.

42 The department shall make a reasonable effort to
43 provide sellers with as much advance notice as
44 practicable of a rate change and to notify sellers of
45 legislative changes in the tax base and amendments to
46 sales and use tax rules. Failure of a seller to
47 receive notice or failure of this state to provide
48 notice or limit the effective date of a rate change
49 shall not relieve the seller of its obligation to
50 collect sales or use taxes for this state.

Page 124

1 Sec. 149. NEW SECTION. 423.47 REFUNDS AND
2 CREDITS.

3 If it shall appear that, as a result of mistake, an
4 amount of tax, penalty, or interest has been paid
5 which was not due under the provisions of this
6 chapter, such amount shall be credited against any tax
7 due, or to become due, on the books of the department
8 from the person who made the erroneous payment, or
9 such amount shall be refunded to such person by the
10 department. A claim for refund or credit that has not
11 been filed with the department within three years
12 after the tax payment for which a refund or credit is
13 claimed became due, or one year after such tax payment
14 was made, whichever time is the later, shall not be
15 allowed by the director.

16 SUBCHAPTER VI
17 SALES AND USE TAX ACT – ADMINISTRATION OF
18 RETAILERS REGISTERED VOLUNTARILY UNDER THE
19 AGREEMENT

20 Sec. 150. NEW SECTION. 423.48 RESPONSIBILITIES
21 AND RIGHTS OF SELLERS REGISTERED UNDER THE AGREEMENT.

22 1. By registering under the agreement, the seller
23 agrees to collect and remit sales and use taxes for
24 all its taxable Iowa sales. Iowa's withdrawal from
25 the agreement or revocation of its membership in the
26 agreement shall not relieve a seller from its
27 responsibility to remit taxes previously collected on
28 behalf of this state.

29 2. The following provisions apply to any seller
30 who registers under the agreement:

31 a. The seller may register on-line.

32 b. Registration under the agreement and the
33 collection of Iowa sales and use taxes shall not be
34 used as factors in determining whether the seller has
35 nexus with Iowa for any tax.

36 c. If registered under the agreement with any
37 other member state, the seller is considered to be
38 registered in Iowa.

39 d. The seller is not required to pay registration
40 fees or other charges.

41 e. A written signature from the seller is not
42 required.

43 f. The seller may register by way of an agent.
44 The agent's appointment shall be in writing and
45 submitted to the department if requested by the
46 department.

47 g. The seller may cancel its registration at any
48 time under procedures adopted by the governing board
49 established pursuant to the agreement. Cancellation
50 does not relieve the seller of its liability for

Page 125

1 remitting any Iowa taxes collected.

2 3. The following additional responsibilities and
3 rights apply to model sellers:

4 a. A model 1 seller's obligation to calculate,
5 collect, and remit sales and use taxes shall be
6 performed by its certified service provider, except
7 for the seller's obligation to remit tax on its own
8 purchases. As the seller's agent, the certified
9 service provider is liable for its model 1 seller's
10 sales and use tax due Iowa on all sales transactions
11 it processes for the seller except as set out in this
12 section. A seller that contracts with a certified
13 service provider is not liable to the state for sales
14 or use tax due on transactions processed by the
15 certified service provider unless the seller
16 misrepresents the types of items or services it sells
17 or commits fraud. In the absence of probable cause to
18 believe that the seller has committed fraud or made a
19 material misrepresentation, the seller is not subject
20 to audit on the transactions processed by the
21 certified service provider. A model 1 seller is
22 subject to audit for transactions not processed by the
23 certified service provider. The director is
24 authorized to perform a system check of the model 1
25 seller and review the seller's procedures to determine
26 if the certified service provider's system is
27 functioning properly and the extent to which the
28 seller's transactions are being processed by the
29 certified service provider.

30 b. A model 2 seller shall calculate the amount of
31 tax due on a transaction by the use of a certified
32 automated system, but shall collect and remit tax on
33 its own sales. A person that provides a certified
34 automated system is responsible for the proper
35 functioning of that system and is liable to this state
36 for underpayments of tax attributable to errors in the
37 functioning of the certified automated system. A
38 seller that uses a certified automated system remains
39 responsible and is liable to the state for reporting
40 and remitting tax.

41 c. A model 3 seller shall use its own proprietary
42 automated system to calculate tax due and collect and
43 remit tax on its own sales. A model 3 seller is
44 liable for the failure of its proprietary automated
45 system to meet the applicable performance standard.

46 Sec. 151. NEW SECTION. 423.49 RETURNS.

47 1. All model 1, 2, or 3 sellers are subject to all
48 of the following return requirements:

49 a. The seller is required to file only one return
50 per month for this state and for all taxing

Page 126

1 jurisdictions within this state.

2 b. The date for filing returns shall be determined
3 under rules adopted by the director. However, in no
4 case shall the return be due earlier than the
5 twentieth day of the following month.

6 c. The director shall request additional
7 information returns. These returns shall not be
8 required more frequently than every six months.

9 2. Any registered seller which does not have a
10 legal obligation to register in this state and is not
11 a model 1, 2, or 3 seller is subject to all of the
12 following return requirements:

13 a. The seller is required to file a return within
14 one year of the month of initial registration and
15 shall file a return on an annual basis in succeeding
16 years.

17 b. In addition to the return required in paragraph
18 "a", if the seller accumulates more than one thousand
19 dollars in total state and local tax, the seller is
20 required to file a return in the following month.

21 c. The format of the return and the due date of
22 the initial return and the annual return shall be
23 determined under rules adopted by the department.

24 Sec. 152. NEW SECTION. 423.50 REMITTANCE OF
25 FUNDS.

26 1. Only one remittance of tax per return is
27 required except as provided in this subsection.
28 Sellers that collect more than thirty thousand dollars
29 in sales and use taxes for this state during the
30 preceding calendar year shall be required to make
31 additional remittances as required under rules adopted
32 by the director. The filing of a return is not
33 required with an additional remittance.

34 2. All remittances shall be remitted
35 electronically.

36 3. Electronic payments may be made either by
37 automated clearinghouse credit or automated
38 clearinghouse debit. Any data accompanying a
39 remittance must be formatted using uniform tax type
40 and payment codes approved by the governing board
41 established pursuant to the agreement. An alternative
42 method for making same-day payments shall be
43 determined under rules adopted by the director.

44 4. If a due date falls on a legal banking holiday
45 in this state, the taxes are due on the succeeding
46 business day.

47 Sec. 153. NEW SECTION. 423.51 ADMINISTRATION OF
48 EXEMPTIONS.

49 1. The following provisions shall apply when a
50 purchaser claims an exemption:

Page 127

1 a. The seller shall obtain identifying information
2 of the purchaser and the reason for claiming a tax
3 exemption at the time of the purchase as determined by
4 the member states acting jointly.
5 b. A purchaser is not required to provide a
6 signature to claim an exemption from tax unless a
7 paper certificate is used.
8 c. The seller shall use the standard form for
9 claiming an exemption electronically as adopted
10 jointly by the member states.
11 d. The seller shall obtain the same information
12 for proof of a claimed exemption regardless of the
13 medium in which the transaction occurred.
14 e. The department may authorize a system wherein
15 the purchaser exempt from the payment of the tax is
16 issued an identification number which shall be
17 presented to the seller at the time of the sale.
18 f. The seller shall maintain proper records of
19 exempt transactions and provide them to the department
20 when requested.
21 g. The department shall administer entity-based
22 and use-based exemptions when practicable through a
23 direct pay tax permit, an exemption certificate, or
24 another means that does not burden sellers. For the
25 purposes of this paragraph:
26 (1) An "entity-based exemption" is an exemption
27 based on who purchases the product or who sells the
28 product.
29 (2) A "use-based exemption" is an exemption based
30 on the purchaser's use of the product.
31 2. Sellers that follow the requirements of this
32 section are relieved from any tax otherwise applicable
33 if it is determined that the purchaser improperly
34 claimed an exemption and that the purchaser is liable
35 for the nonpayment of tax. This relief from liability
36 does not apply to a seller who fraudulently fails to
37 collect the tax or solicits purchasers to participate
38 in the unlawful claim of an exemption.
39 Sec. 154. NEW SECTION. 423.52 RELIEF FROM
40 LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.
41 Sellers and certified service providers are
42 relieved from liability to this state or its local
43 taxing jurisdictions for having charged and collected
44 the incorrect amount of sales or use tax resulting
45 from the seller or certified service provider relying
46 on erroneous data provided by this state on tax rates,
47 boundaries, or taxing jurisdiction assignments. If
48 this state provides an address-based system for
49 assigning taxing jurisdictions whether or not pursuant
50 to the federal Mobile Telecommunications Sourcing Act,

Page 128

1 the director is not required to provide liability
2 relief for errors resulting from reliance on the
3 information provided by this state.

4 Sec. 155. NEW SECTION. 423.53 BAD DEBTS AND
5 MODEL 1 SELLERS.

6 A certified service provider may claim, on behalf
7 of a model 1 seller, any bad debt deduction as
8 provided in section 423.21. The certified service
9 provider must credit or refund the full amount of any
10 bad debt deduction or refund received to the seller.

11 Sec. 156. NEW SECTION. 423.54 AMNESTY FOR
12 REGISTERED SELLERS.

13 1. Subject to the limitations in subsections 2
14 through 6, the following provisions apply:

15 a. Amnesty is provided for uncollected or unpaid
16 sales or use tax to a seller who registers to pay or
17 to collect and remit applicable sales or use tax on
18 sales made to purchasers in this state in accordance
19 with the terms of the agreement, provided the seller
20 was not so registered in this state in the twelve-
21 month period preceding the commencement of Iowa's
22 participation in the agreement.

23 b. Amnesty precludes assessment of the seller for
24 uncollected or unpaid sales or use tax together with
25 penalty or interest for sales made during the period
26 the seller was not registered in this state, provided
27 registration occurs within twelve months of the
28 commencement of Iowa's participation in the agreement.

29 c. Amnesty shall be provided to any seller
30 lawfully registered under the agreement by any other
31 member state prior to the date of the commencement of
32 Iowa's participation in the agreement.

33 2. Amnesty is not available to a seller with
34 respect to any matter or matters for which the seller
35 received notice of the commencement of an audit and
36 which audit is not yet finally resolved, including any
37 related administrative and judicial processes.

38 3. Amnesty is not available for sales or use taxes
39 already paid or remitted or to taxes collected by the
40 seller.

41 4. Amnesty is fully effective absent the seller's
42 fraud or intentional misrepresentation of a material
43 fact as long as the seller continues registration and
44 continues payment or collection and remittance of
45 applicable sales or use taxes for a period of at least
46 thirty-six months. The statute of limitations
47 applicable to asserting a tax liability is tolled
48 during this thirty-six month period.

49 5. Amnesty is applicable only to sales or use
50 taxes due from a seller in its capacity as a seller

Page 129

1 and not to sales or use taxes due from a seller in its
2 capacity as a buyer.

3 6. The director may allow amnesty on terms and
4 conditions more favorable to a seller than the terms
5 required by this section.

6 Sec. 157. NEW SECTION. 423.55 DATABASES.

7 The department shall provide and maintain databases
8 required by the agreement for the benefit of sellers
9 registered under the agreement.

10 Sec. 158. NEW SECTION. 423.56 CONFIDENTIALITY
11 AND PRIVACY PROTECTIONS UNDER MODEL 1.

12 1. As used in this section:

13 a. "Anonymous data" means information that does
14 not identify a person.

15 b. "Confidential taxpayer information" means all
16 information that is protected under this state's laws,
17 rules, and privileges.

18 c. "Personally identifiable information" means
19 information that identifies a person.

20 2. With very limited exceptions, a certified
21 service provider shall perform its tax calculation,
22 remittance, and reporting functions without retaining
23 the personally identifiable information of consumers.

24 3. A certified service provider may perform its
25 services in this state only if the certified service
26 provider certifies that:

27 a. Its system has been designed and tested to
28 ensure that the fundamental precept of anonymity is
29 respected.

30 b. Personally identifiable information is only
31 used and retained to the extent necessary for the
32 administration of model 1 sellers with respect to
33 exempt purchasers.

34 c. It provides consumers clear and conspicuous
35 notice of its information practices, including what
36 information it collects, how it collects the
37 information, how it uses the information, how long, if
38 at all, it retains the information, and whether it
39 discloses the information to member states. This
40 notice shall be satisfied by a written privacy policy
41 statement accessible by the public on the official web
42 site of the certified service provider.

43 d. Its collection, use, and retention of
44 personally identifiable information is limited to that
45 required by the member states to ensure the validity
46 of exemptions from taxation that are claimed by reason
47 of a consumer's status or the intended use of the
48 goods or services purchased.

49 e. It provides adequate technical, physical, and
50 administrative safeguards so as to protect personally

Page 130

1 identifiable information from unauthorized access and
2 disclosure.

3 4. The department shall provide public
4 notification of its practices relating to the
5 collection, use, and retention of personally
6 identifiable information.

7 5. When any personally identifiable information
8 that has been collected and retained by the department
9 or certified service provider is no longer required
10 for the purposes set forth in subsection 3, paragraph
11 "d", that information shall no longer be retained by
12 the department or certified service provider.

13 6. When personally identifiable information
14 regarding an individual is retained by or on behalf of
15 this state, this state shall provide reasonable access
16 by such individual to his or her own information in
17 the state's possession and a right to correct any
18 inaccurately recorded information.

19 7. This privacy policy is subject to enforcement
20 by the department and the attorney general.

21 8. This state's laws and rules regarding the
22 collection, use, and maintenance of confidential
23 taxpayer information remain fully applicable and
24 binding. Without limitation, the agreement does not
25 enlarge or limit the state's or department's authority
26 to:

27 a. Conduct audits or other review as provided
28 under the agreement and state law.

29 b. Provide records pursuant to its examination of
30 public records law, disclosure laws of individual
31 governmental agencies, or other regulations.

32 c. Prevent, consistent with state law, disclosures
33 of confidential taxpayer information.

34 d. Prevent, consistent with federal law,
35 disclosures or misuse of federal return information
36 obtained under a disclosure agreement with the
37 internal revenue service.

38 e. Collect, disclose, disseminate, or otherwise
39 use anonymous data for governmental purposes.

40 9. This privacy policy does not preclude the
41 certification of a certified service provider whose
42 privacy policy is more protective of confidential
43 taxpayer information or personally identifiable
44 information than is required by the agreement.

45 Sec. 159. NEW SECTION. 423.57 STATUTES
46 APPLICABLE.

47 The director shall administer this subchapter as it
48 relates to the taxes imposed in this chapter in the
49 same manner and subject to all the provisions of, and
50 all of the powers, duties, authority, and restrictions

Page 131

1 contained in sections 423.14, 423.15, 423.16, 423.17,
2 423.18, 423.19, 423.20, 423.21, 423.22, 423.23,
3 423.24, 423.25, 423.28, 423.29, 423.31, 423.32,
4 423.33, 423.34, 423.35, 423.37, 423.38, 423.39,
5 423.40, 423.41, and 423.42, section 423.43, subsection
6 3, and sections 423.45, 423.46, and 423.47.

7 Sec. 160.

8 1. Sections 422.42 through 422.59, Code 2003, are
9 repealed.

10 2. Chapter 423, Code 2003, is repealed.

11 COORDINATING AMENDMENTS

12 Sec. 161. Section 15.331A, Code 2003, is amended
13 to read as follows:

14 15.331a SALES, SERVICES, AND USE TAX REFUND –
15 CONTRACTOR OR SUBCONTRACTOR.

16 The eligible business or a supporting business
17 shall be entitled to a refund of the sales and use
18 taxes paid under ~~chapters 422 and~~ chapter 423 for gas,
19 electricity, water, or sewer utility services, goods,
20 wares, or merchandise, or on services rendered,
21 furnished, or performed to or for a contractor or
22 subcontractor and used in the fulfillment of a written
23 contract relating to the construction or equipping of
24 a facility within the economic development area of the
25 eligible business or a supporting business. Taxes
26 attributable to intangible property and furniture and
27 furnishings shall not be refunded.

28 To receive the refund a claim shall be filed by the
29 eligible business or a supporting business with the
30 department of revenue and finance as follows:

31 1. The contractor or subcontractor shall state
32 under oath, on forms provided by the department, the
33 amount of the sales of goods, wares, or merchandise or
34 services rendered, furnished, or performed including
35 water, sewer, gas, and electric utility services for
36 use in the economic development area upon which sales
37 or use tax has been paid prior to the project
38 completion, and shall file the forms with the eligible
39 business or supporting business before final
40 settlement is made.

41 2. The eligible business or a supporting business
42 shall, not more than one year after project
43 completion, make application to the department for any
44 refund of the amount of the sales and use taxes paid
45 pursuant to chapter ~~422 or~~ 423 upon any goods, wares,
46 or merchandise, or services rendered, furnished, or
47 performed, including water, sewer, gas, and electric
48 utility services. The application shall be made in
49 the manner and upon forms to be provided by the
50 department, and the department shall audit the claim

Page 132

1 and, if approved, issue a warrant to the eligible
2 business or supporting business in the amount of the
3 sales or use tax which has been paid to the state of
4 Iowa under a contract. A claim filed by the eligible
5 business or a supporting business in accordance with
6 this section shall not be denied by reason of a
7 limitation provision set forth in chapter ~~421-422~~, or
8 423.

9 3. A contractor or subcontractor who willfully
10 makes a false report of tax paid under the provisions
11 of this section is guilty of a simple misdemeanor and
12 in addition is liable for the payment of the tax and
13 any applicable penalty and interest.

14 Sec. 162. Section 15.334A, Code 2003, is amended
15 to read as follows:

16 15.334A SALES AND USE TAX EXEMPTION.

17 An eligible business may claim an exemption from
18 sales and use taxation under section ~~422-45~~ 423.3,
19 subsection ~~27~~ 46, for property which is exempt from
20 taxation under section 15.334, notwithstanding the
21 requirements of section ~~422-45~~ 423.3, subsection ~~27~~
22 46, or any other provision of the Code to the
23 contrary.

24 Sec. 163. Section 15A.9, subsections 5, 6, and 7,
25 Code 2003, are amended to read as follows:

26 5. PROPERTY TAX EXEMPTION.

27 a. All property, as defined in section 427A.1,
28 subsection 1, paragraphs "e" and "j", Code 1993, used
29 by the primary business or a supporting business and
30 located within the zone, shall be exempt from property
31 taxation for a period of twenty years beginning with
32 the year it is first assessed for taxation. In order
33 to be eligible for this exemption, the property shall
34 be acquired or leased by the primary business or a
35 supporting business or relocated by the primary
36 business or a supporting business to the zone from
37 outside the state prior to project completion.

38 b. Property which is exempt for property tax
39 purposes under this subsection is eligible for the
40 sales and use tax exemption under section ~~422-45~~
41 423.3, subsection ~~27~~ 46, notwithstanding that
42 subsection or any other provision of the Code to the
43 contrary.

44 6. SALES, SERVICES, AND USE TAX REFUND. Taxes
45 paid pursuant to chapter ~~422~~ or 423 on the ~~gross~~
46 ~~receipts~~ sales price or rental price of property
47 purchased or rented by the primary business or a
48 supporting business for use by the primary business or
49 a supporting business within the zone or on gas,
50 electricity, water, and sewer utility services prior

Page 133

1 to project completion shall be refunded to the primary
2 business or supporting business if the item was
3 purchased or the service was performed or received
4 prior to project completion. Claims under this
5 section shall be submitted on forms provided by the
6 department of revenue and finance not later than six
7 months after project completion. The refund in this
8 subsection shall not apply to furniture or
9 furnishings, or intangible property.

10 7. SALES, SERVICES, AND USE TAX REFUND -
11 CONTRACTOR OR SUBCONTRACTOR. The primary business or
12 a supporting business shall be entitled to a refund of
13 the sales and use taxes paid under ~~chapters 422 and~~
14 chapter 423 for gas, electricity, water, or sewer
15 utility services, goods, wares, or merchandise, or on
16 services rendered, furnished, or performed to or for a
17 contractor or subcontractor and used in the
18 fulfillment of a written contract relating to the
19 construction or equipping of a facility within the
20 zone of the primary business or a supporting business.
21 Taxes attributable to intangible property and
22 furniture and furnishings shall not be refunded.

23 To receive the refund a claim shall be filed by the
24 primary business or a supporting business with the
25 department of revenue and finance as follows:

26 a. The contractor or subcontractor shall state
27 under oath, on forms provided by the department, the
28 amount of the sales of goods, wares, or merchandise or
29 services rendered, furnished, or performed including
30 water, sewer, gas, and electric utility services for
31 use in the zone upon which sales or use tax has been
32 paid prior to the project completion, and shall file
33 the forms with the primary business or supporting
34 business before final settlement is made.

35 b. The primary business or a supporting business
36 shall, not more than six months after project
37 completion, make application to the department for any
38 refund of the amount of the sales and use taxes paid
39 pursuant to chapter ~~422 or~~ 423 upon any goods, wares,
40 or merchandise, or services rendered, furnished, or
41 performed, including water, sewer, gas, and electric
42 utility services. The application shall be made in
43 the manner and upon forms to be provided by the
44 department, and the department shall audit the claim
45 and, if approved, issue a warrant to the primary
46 business or supporting business in the amount of the
47 sales or use tax which has been paid to the state of
48 Iowa under a contract. A claim filed by the primary
49 business or a supporting business in accordance with
50 this subsection shall not be denied by reason of a

Page 134

1 limitation provision set forth in chapter 421, 422, or
2 423.

3 c. A contractor or subcontractor who willfully
4 makes a false report of tax paid under the provisions
5 of this subsection is guilty of a simple misdemeanor
6 and in addition is liable for the payment of the tax
7 and any applicable penalty and interest.

8 Sec. 164. Section 28A.17, unnumbered paragraph 1,
9 Code 2003, is amended to read as follows:

10 If an authority is established as provided in
11 section 28A.6 and after approval of a referendum by a
12 simple majority of votes cast in each metropolitan
13 area in favor of the sales and services tax, the
14 governing board of a county in this state within a
15 metropolitan area which is part of the authority shall
16 impose, at the request of the authority, a local sales
17 and services tax at the rate of one-fourth of one
18 percent on ~~gross receipts~~ the sales price taxed by
19 this state under ~~chapter 422, division IV section~~
20 423.2, within the metropolitan area located in this
21 state. The referendum shall be called by resolution
22 of the board and shall be held as provided in section
23 28A.6 to the extent applicable. The ballot
24 proposition shall contain a statement as to the
25 specific purpose or purposes for which the revenues
26 shall be expended and the date of expiration of the
27 tax. The local sales and services tax shall be
28 imposed on the same basis, with the same exceptions,
29 and following the same administrative procedures as
30 provided for a county under sections 422B.8 and
31 422B.9. The amount of the sale, for the purposes of
32 determining the amount of the local sales and services
33 tax under this section, does not include the amount of
34 any local sales and services tax imposed under
35 sections 422B.8 and 422B.9.

36 Sec. 165. Section 29C.15, Code 2003, is amended to
37 read as follows:

38 29C.15 TAX-EXEMPT PURCHASES.

39 All purchases under the provisions of this chapter
40 shall be exempt from the taxes imposed by sections
41 ~~422.43 423.2~~ and ~~423.2 423.5~~.

42 Sec. 166. Section 99E.10, subsection 1, paragraph
43 b, Code 2003, is amended to read as follows:

44 b. An amount equal to the product of the state
45 sales tax rate under section ~~422.43 423.2~~ multiplied
46 by the gross sales price of each ticket or share sold
47 shall be deducted as the sales tax on the sale of that
48 ticket or share, remitted to the treasurer of state
49 and deposited into the state general fund.

50 Sec. 167. Section 123.187, subsection 2, Code

Page 135

1 2003, is amended to read as follows:

2 2. A winery licensed or permitted pursuant to laws
3 regulating alcoholic beverages in a state which
4 affords this state an equal reciprocal shipping
5 privilege may ship into this state by private common
6 carrier, to a person twenty-one years of age or older,
7 not more than eighteen liters of wine per month, for
8 consumption or use by the person. Such wine shall not
9 be resold. Shipment of wine pursuant to this
10 subsection is not subject to sales tax under section
11 ~~422.43~~ 423.2, use tax under section ~~423.2~~ 423.5, or
12 the wine gallonage tax under section 123.183, and does
13 not require a refund value for beverage container
14 control purposes under chapter 455C.

15 Sec. 168. Section 262.54, Code 2003, is amended to
16 read as follows:

17 262.54 COMPUTER SALES.

18 Sales, by an institution under the control of the
19 board of regents, of computer equipment, computer
20 software, and computer supplies to students and
21 faculty at the institution are retail sales under
22 chapter ~~422, division IV~~ 423.

23 Sec. 169. Section 303.9, subsection 2, Code 2003,
24 is amended to read as follows:

25 2. The department may sell mementos and other
26 items relating to Iowa history and historic sites on
27 the premises of property under control of the
28 department and at the state capitol. Notwithstanding
29 sections 18.12 and 18.16, the department may directly
30 and independently enter into rental and lease
31 agreements with private vendors for the purpose of
32 selling mementos. All fees and income produced by the
33 sales and rental or lease agreements shall be credited
34 to the account of the department. The mementos and
35 other items sold by the department or vendors under
36 this subsection are exempt from section 18.6. ~~The~~
37 ~~department is not a retailer under chapter 422 and the~~
38 ~~sale of such mementos and other items by the~~
39 ~~department is not a retail sale under chapter 422 and~~
40 ~~is exempt from the sales tax.~~

41 Sec. 170. Section 312.1, subsection 4, Code 2003,
42 is amended to read as follows:

43 4. To the extent provided in section ~~423.24~~
44 423.43, subsection 1, paragraph "b", from revenue
45 derived from the use tax, under chapter 423 on motor
46 vehicles, trailers, and motor vehicle accessories and
47 equipment.

48 Sec. 171. Section 312.2, subsections 14 and 16,
49 Code 2003, are amended to read as follows:

50 14. The treasurer of state, before making the

Page 136

1 allotments provided for in this section, shall credit
2 monthly from the road use tax fund to the general fund
3 of the state from revenue credited to the road use tax
4 fund under section ~~423.24~~ 423.43, subsection 1,
5 paragraph "b", an amount equal to one-twentieth of
6 eighty percent of the revenue from the operation of
7 section ~~423.7~~ 423.26.

8 There is appropriated from the general fund of the
9 state for each fiscal year to the state department of
10 transportation the amount of revenues credited to the
11 general fund of the state during the fiscal year under
12 this subsection to be used for purposes of public
13 transit assistance under chapter 324A.

14 16. The treasurer of state, before making the
15 allotments provided for in this section, shall credit
16 monthly from the road use tax fund to the motorcycle
17 rider education fund established in section 321.180B,
18 an amount equal to one dollar per year of license
19 validity for each issued or renewed driver's license
20 which is valid for the operation of a motorcycle.
21 Moneys credited to the motorcycle rider education fund
22 under this subsection shall be taken from moneys
23 credited to the road use tax fund under section ~~423.24~~
24 423.43.

25 Sec. 172. Section 321.20, subsection 5, Code 2003,
26 is amended to read as follows:

27 5. The amount of tax to be paid under section
28 ~~423.7~~ 423.26.

29 Sec. 173. Section 321.24, subsections 1 and 3,
30 Code 2003, are amended to read as follows:

31 1. Upon receipt of the application for title and
32 payment of the required fees for a motor vehicle,
33 trailer, or semitrailer, the county treasurer or the
34 department shall, when satisfied as to the
35 application's genuineness and regularity, and, in the
36 case of a mobile home or manufactured home, that taxes
37 are not owing under chapter 435, issue a certificate
38 of title and, except for a mobile home or manufactured
39 home, a registration receipt, and shall file the
40 application, the manufacturer's or importer's
41 certificate, the certificate of title, or other
42 evidence of ownership, as prescribed by the
43 department. The registration receipt shall be
44 delivered to the owner and shall contain upon its face
45 the date issued, the name and address of the owner,
46 the registration number assigned to the vehicle, the
47 amount of the fee paid, the amount of tax paid
48 pursuant to section ~~423.7~~ 423.26, the type of fuel
49 used, and a description of the vehicle as determined
50 by the department, and upon the reverse side a form

Page 137

1 for notice of transfer of the vehicle. The name and
2 address of any lessee of the vehicle shall not be
3 printed on the registration receipt or certificate of
4 title. Up to three owners may be listed on the
5 registration receipt and certificate of title.

6 3. The certificate of title shall contain upon its
7 face the identical information required upon the face
8 of the registration receipt. In addition, the
9 certificate of title shall contain a statement of the
10 owner's title, the title number assigned to the owner
11 or owners of the vehicle, the amount of tax paid
12 pursuant to section ~~423.7~~ 423.26, the name and address
13 of the previous owner, and a statement of all security
14 interests and encumbrances as shown in the
15 application, upon the vehicle described, including the
16 nature of the security interest, date of notation, and
17 name and address of the secured party.

18 Sec. 174. Section 321.34, subsection 7, paragraph
19 c, Code 2003, is amended to read as follows:

20 c. The fees for a collegiate registration plate
21 are as follows:

22 (1) A registration fee of twenty-five dollars.

23 (2) A special collegiate registration fee of
24 twenty-five dollars.

25 These fees are in addition to the regular annual
26 registration fee. The fees collected by the director
27 under this subsection shall be paid monthly to the
28 treasurer of state and credited by the treasurer of
29 state to the road use tax fund. Notwithstanding
30 section ~~423.24~~ 423.43 and prior to the revenues being
31 credited to the road use tax fund under section ~~423.24~~
32 423.43, subsection 1, paragraph "b", the treasurer of
33 state shall credit monthly from those revenues
34 respectively, to Iowa state university of science and
35 technology, the university of northern Iowa, and the
36 state university of Iowa, the amount of the special
37 collegiate registration fees collected in the previous
38 month for collegiate registration plates designed for
39 the university. The moneys credited are appropriated
40 to the respective universities to be used for
41 scholarships for students attending the universities.

42 Sec. 175. Section 321.34, subsection 11, paragraph
43 c, Code 2003, is amended to read as follows:

44 c. The special natural resources fee for letter
45 number designated natural resources plates is thirty-
46 five dollars. The fee for personalized natural
47 resources plates is forty-five dollars which shall be
48 paid in addition to the special natural resources fee
49 of thirty-five dollars. The fees collected by the
50 director under this subsection shall be paid monthly

Page 138

1 to the treasurer of state and credited to the road use
2 tax fund. Notwithstanding section ~~423.24~~ 423.43, and
3 prior to the crediting of revenues to the road use tax
4 fund under section ~~423.24~~ 423.43, subsection 1,
5 paragraph "b", the treasurer of state shall credit
6 monthly from those revenues to the Iowa resources
7 enhancement and protection fund created pursuant to
8 section 455A.18, the amount of the special natural
9 resources fees collected in the previous month for the
10 natural resources plates.

11 Sec. 176. Section 321.34, subsection 11A,
12 paragraph c, Code 2003, is amended to read as follows:

13 c. The special fee for letter number designated
14 love our kids plates is thirty-five dollars. The fee
15 for personalized love our kids plates is twenty-five
16 dollars, which shall be paid in addition to the
17 special love our kids fee of thirty-five dollars. The
18 fees collected by the director under this subsection
19 shall be paid monthly to the treasurer of state and
20 credited to the road use tax fund. Notwithstanding
21 section ~~423.24~~ 423.43, and prior to the crediting of
22 revenues to the road use tax fund under section ~~423.24~~
23 423.43, subsection 1, paragraph "b", the treasurer of
24 state shall transfer monthly from those revenues to
25 the Iowa department of public health the amount of the
26 special fees collected in the previous month for the
27 love our kids plates. Notwithstanding section 8.33,
28 moneys transferred under this subsection shall not
29 revert to the general fund of the state.

30 Sec. 177. Section 321.34, subsection 11B,
31 paragraph c, Code 2003, is amended to read as follows:

32 c. The special fee for letter number designated
33 motorcycle rider education plates is thirty-five
34 dollars. The fee for personalized motorcycle rider
35 education plates is twenty-five dollars, which shall
36 be paid in addition to the special motorcycle rider
37 education fee of thirty-five dollars. The fees
38 collected by the director under this subsection shall
39 be paid monthly to the treasurer of state and credited
40 to the road use tax fund. Notwithstanding section
41 ~~423.24~~ 423.43, and prior to the crediting of revenues
42 to the road use tax fund under section ~~423.24~~ 423.43,
43 subsection 1, paragraph "b", the treasurer of state
44 shall transfer monthly from those revenues to the
45 department for use in accordance with section
46 321.180B, subsection 6, the amount of the special fees
47 collected in the previous month for the motorcycle
48 rider education plates.

49 Sec. 178. Section 321.34, subsection 13, paragraph
50 d, Code 2003, is amended to read as follows:

Page 139

1 d. A state agency may submit a request to the
2 department recommending a special registration plate.
3 The alternate fee for letter number designated plates
4 is thirty-five dollars with a ten dollar annual
5 special renewal fee. The fee for personalized plates
6 is twenty-five dollars which is in addition to the
7 alternative fee of thirty-five dollars with an annual
8 personalized plate renewal fee of five dollars which
9 is in addition to the special renewal fee of ten
10 dollars. The alternate fees are in addition to the
11 regular annual registration fee. The alternate fees
12 collected under this paragraph shall be paid monthly
13 to the treasurer of state and credited to the road use
14 tax fund. Notwithstanding section ~~423.24~~ 423.43, and
15 prior to the crediting of the revenues to the road use
16 tax fund under section ~~423.24~~ 423.43, subsection 1,
17 paragraph "b", the treasurer of state shall credit
18 monthly the amount of the alternate fees collected in
19 the previous month to the state agency that
20 recommended the special registration plate.
21 Sec. 179. Section 321.34, subsection 21, paragraph
22 c, Code 2003, is amended to read as follows:
23 c. The special fees collected by the director
24 under this subsection shall be paid monthly to the
25 treasurer of state and credited to the road use tax
26 fund. Notwithstanding section ~~423.24~~ 423.43, and
27 prior to the crediting of revenues to the road use tax
28 fund under section ~~423.24~~ 423.43, subsection 1,
29 paragraph "b", the treasurer of state shall credit
30 monthly to the Iowa heritage fund created under
31 section 303.9a the amount of the special fees
32 collected in the previous month for the Iowa heritage
33 plates.
34 Sec. 180. Section 321.34, subsection 22, paragraph
35 b, Code 2003, is amended to read as follows:
36 b. The special school transportation fee for
37 letter number designated education plates is thirty-
38 five dollars. The fee for personalized education
39 plates is twenty-five dollars, which shall be paid in
40 addition to the special school transportation fee of
41 thirty-five dollars. The annual special school
42 transportation fee is ten dollars for letter number
43 designated registration plates and is fifteen dollars
44 for personalized registration plates which shall be
45 paid in addition to the regular annual registration
46 fee. The fees collected by the director under this
47 subsection shall be paid monthly to the treasurer of
48 state and credited to the road use tax fund.
49 Notwithstanding section ~~423.24~~ 423.43, and prior to
50 the crediting of revenues to the road use tax fund

Page 140

1 under section ~~423.24~~ 423.43, subsection 1, paragraph
2 "b", the treasurer of state shall transfer monthly
3 from those revenues to the school budget review
4 committee in accordance with section 257.31,
5 subsection 17, the amount of the special school
6 transportation fees collected in the previous month
7 for the education plates.

8 Sec. 181. Section 321F.9, Code 2003, is amended to
9 read as follows:

10 321F.9 OPTION TO PURCHASE – DEALER'S LICENSE.

11 Any person engaged in business in this state shall
12 not enter into any agreement for the use of a motor
13 vehicle under the terms of which ~~such that~~ person
14 grants to another an option to purchase ~~such the~~ motor
15 vehicle without first having obtained a motor vehicle
16 dealer's license under the provisions of chapter 322,
17 and all sales of motor vehicles under such options
18 shall be subject to sales or use taxes imposed under
19 the provisions of ~~chapters 422 and~~ chapter 423.
20 Nothing contained in this section shall require such
21 person to have a place of business as provided by
22 section 322.6, subsection 8.

23 Sec. 182. Section 327I.26, Code 2003, is amended
24 to read as follows:

25 327I.26 APPROPRIATION TO AUTHORITY.

26 Notwithstanding section ~~423.24~~ 423.43, and prior to
27 the application of section ~~423.24~~ 423.43, subsection
28 1, paragraph "b", there shall be deposited into the
29 general fund of the state and is appropriated to the
30 authority from eighty percent of the revenues derived
31 from the operation of section ~~423.7~~ 423.26, the
32 amounts certified by the authority under section
33 327I.25. However, the total amount deposited into the
34 general fund and appropriated to the Iowa railway
35 finance authority under this section shall not exceed
36 two million dollars annually. Moneys appropriated to
37 the Iowa railway finance authority under this section
38 are appropriated only for the payment of principal and
39 interest on obligations or the payment of leases
40 guaranteed by the authority as provided under section
41 327I.25.

42 Sec. 183. Section 328.26, unnumbered paragraph 2,
43 Code 2003, is amended to read as follows:

44 When an aircraft is registered to a person for the
45 first time the fee submitted to the department shall
46 include the tax imposed by section ~~422.43~~ 423.2 or
47 section ~~423.2~~ 423.5 or evidence of the exemption of
48 the aircraft from the tax imposed under section ~~422.43~~
49 423.2 or ~~423.2~~ 423.5.

50 Sec. 184. Section 331.557, subsection 3, Code

Page 141

1 2003, is amended to read as follows:

2 3. Collect the use tax on vehicles subject to
3 registration as provided in sections ~~423.6, 423.7, and~~
4 ~~423.7a-423.14, 423.26, and 423.27.~~

5 Sec. 185. Section 357A.15, unnumbered paragraph 2,
6 Code 2003, is amended to read as follows:

7 A rural water district organized under chapter 504A
8 shall receive a refund of sales or use taxes upon
9 submitting an application to the department of revenue
10 and finance for ~~such the~~ refund of taxes imposed upon
11 the ~~gross receipts~~ sales price of all sales of
12 building materials, supplies, or equipment sold to a
13 contractor or used in the fulfillment of a written
14 contract for the construction of facilities for ~~such~~
15 ~~the~~ rural water district to the same extent as a rural
16 water district organized under this chapter may obtain
17 a refund under section ~~422.45~~ 423.4, subsection 7 1.

18 Sec. 186. Section 421.10, Code 2003, is amended to
19 read as follows:

20 421.10 APPEAL PERIOD – APPLICABILITY.

21 The appeal period for revision of assessment of
22 tax, interest, and penalties set out under section
23 ~~422.28, 422.54~~ 423.37, 437A.9, 437A.22, 452A.64,
24 453A.29, or 453A.46 applies to appeals to notices from
25 the department denying changes in filing methods,
26 denying refund claims, and denying portions of refund
27 claims for the tax covered by that section, and
28 notices of any department action directed to a
29 specific taxpayer, other than licensing, which
30 involves a calculation.

31 Sec. 187. Section 421.17, subsection 22B, Code
32 2003, is amended to read as follows:

33 22B. ~~Enter To enter~~ into agreements or compacts
34 with remote sellers, retailers, or third-party
35 providers for the voluntary collection of Iowa sales
36 or use taxes attributable to sales into Iowa ~~and to~~
37 ~~enter~~. The director has the authority to enter into
38 and perform all duties required of the office of
39 director by multistate agreements or compacts that
40 provide for the ~~voluntary~~ collection of sales and use
41 taxes, including joint audits with other states or
42 audits on behalf of other states. The agreements or
43 compacts shall generally conform to the provisions of
44 Iowa sales and use tax statutes. All fees for
45 services, reimbursements, remuneration, incentives,
46 and costs incurred by the department associated with
47 these agreements or compacts may be paid or reimbursed
48 from the additional revenue generated. An amount is
49 appropriated from amounts generated to pay or
50 reimburse all costs associated with this subsection.

Page 142

1 Persons entering into an agreement or compact with the
2 department pursuant to this subsection are subject to
3 the requirements and penalties of the confidentiality
4 laws of this state regarding tax information.

5 Notwithstanding any other provisions of law, the
6 contract, agreement, or compact shall provide for the
7 registration, collection, report, and verification of
8 amounts subject to this subsection.

9 Sec. 188. Section 421.17, subsection 29, paragraph
10 j, Code 2003, is amended to read as follows:

11 j. The department's existing right to credit
12 against tax due or to become due under section 422.73
13 ~~or 423.47~~ is not to be impaired by a right granted to
14 or a duty imposed upon the department or other state
15 agency by this subsection. This subsection is not
16 intended to impose upon the department any additional
17 requirement of notice, hearing, or appeal concerning
18 the right to credit against tax due under section
19 422.73 ~~or 423.47~~.

20 Sec. 189. Section 421.17, subsection 34, paragraph
21 i, Code 2003, is amended to read as follows:

22 i. The director may distribute to credit reporting
23 entities and for publication the names, addresses, and
24 amounts of indebtedness owed to or being collected by
25 the state if the indebtedness is subject to the
26 centralized debt collection procedure established in
27 this subsection. The director shall adopt rules to
28 administer this paragraph, and the rules shall provide
29 guidelines by which the director shall determine which
30 names, addresses, and amounts of indebtedness may be
31 distributed for publication. The director may
32 distribute information for publication pursuant to
33 this paragraph, notwithstanding sections 422.20,
34 422.72, and ~~423.23~~ 423.42, or any other provision of
35 state law to the contrary pertaining to
36 confidentiality of information.

37 Sec. 190. Section 421.26, Code 2003, is amended to
38 read as follows:

39 421.26 PERSONAL LIABILITY FOR TAX DUE.

40 If a licensee or other person under section
41 452A.65, a retailer or purchaser under chapter 422a or
42 422B, or section ~~422.52~~ 423.31 or 423.33, or a
43 retailer or purchaser under section ~~423.13~~ 423.32 or a
44 user under section ~~423.14~~ 423.34 fails to pay a tax
45 under those sections when due, an officer of a
46 corporation or association, notwithstanding sections
47 490A.601 and 490A.602, a member or manager of a
48 limited liability company, or a partner of a
49 partnership, having control or supervision of or the
50 authority for remitting the tax payments and having a

Page 143

1 substantial legal or equitable interest in the
2 ownership of the corporation, association, limited
3 liability company, or partnership, who has
4 intentionally failed to pay the tax is personally
5 liable for the payment of the tax, interest, and
6 penalty due and unpaid. However, this section shall
7 not apply to taxes on accounts receivable. The
8 dissolution of a corporation, association, limited
9 liability company, or partnership shall not discharge
10 a person's liability for failure to remit the tax due.

11 Sec. 191. Section 421.28, Code 2003, is amended to
12 read as follows:

13 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

14 The immediate successor to a licensee's or
15 retailer's business or stock of goods under chapter
16 422a or 422B, or section ~~422.52, 423.13, 423.14,~~
17 ~~423.33~~ or 452A.65, is not personally liable for the
18 amount of delinquent tax, interest, or penalty due and
19 unpaid if the immediate successor shows that the
20 purchase of the business or stock of goods was made in
21 good faith that no delinquent tax, interest, or
22 penalty was due and unpaid. For purposes of this
23 section the immediate successor shows good faith by
24 evidence that the department had provided the
25 immediate successor with a certified statement that no
26 delinquent tax, interest, or penalty is unpaid, or
27 that the immediate successor had taken in good faith a
28 certified statement from the licensee, retailer, or
29 seller that no delinquent tax, interest, or penalty is
30 unpaid. When requested to do so by a person with whom
31 the licensee or retailer is negotiating the sale of
32 the business or stock of goods, the director of
33 revenue and finance shall, upon being satisfied that
34 such a situation exists, inform that person as to the
35 amount of unpaid delinquent tax, interest, or penalty
36 due by the licensee or the retailer. The giving of
37 the information under this circumstance is not a
38 violation of section 422.20, 422.72, or 452A.63.

39 Sec. 192. Section 421B.11, unnumbered paragraph 3,
40 Code 2003, is amended to read as follows:

41 Judicial review of the actions of the director may
42 be sought in accordance with the terms of the Iowa
43 administrative procedure Act, and section ~~422.55~~
44 ~~423.38~~.

45 Sec. 193. Section 422.7, subsection 21, paragraph
46 a, subparagraph (1), unnumbered paragraph 1, Code
47 2003, is amended to read as follows:

48 Net capital gain from the sale of real property
49 used in a business, in which the taxpayer materially
50 participated for ten years, as defined in section

Page 144

1 469(h) of the Internal Revenue Code, and which has
2 been held for a minimum of ten years, or from the sale
3 of a business, as defined in section ~~422.42~~ 423.1, in
4 which the taxpayer was employed or in which the
5 taxpayer materially participated for ten years, as
6 defined in section 469(h) of the Internal Revenue
7 Code, and which has been held for a minimum of ten
8 years. The sale of a business means the sale of all
9 or substantially all of the tangible personal property
10 or service of the business.

11 Sec. 194. Section 422.73, subsection 1, Code 2003,
12 is amended by striking the subsection.

13 Sec. 195. Section 422A.1, unnumbered paragraphs 1,
14 3, 7, and 8, Code 2003, are amended to read as
15 follows:

16 A city or county may impose by ordinance of the
17 city council or by resolution of the board of
18 supervisors a hotel and motel tax, at a rate not to
19 exceed seven percent, which shall be imposed in
20 increments of one or more full percentage points upon
21 the ~~gross receipts~~ sales price from the renting of
22 sleeping rooms, apartments, or sleeping quarters in a
23 hotel, motel, inn, public lodging house, rooming
24 house, manufactured or mobile home which is tangible
25 personal property, or tourist court, or in any place
26 where sleeping accommodations are furnished to
27 transient guests for rent, whether with or without
28 meals; except the ~~gross receipts~~ sales price from the
29 renting of sleeping rooms in dormitories and in
30 memorial unions at all universities and colleges
31 located in the state of Iowa and the guests of a
32 religious institution if the property is exempt under
33 section 427.1, subsection 8, and the purpose of
34 renting is to provide a place for a religious retreat
35 or function and not a place for transient guests
36 generally. The tax when imposed by a city shall apply
37 only within the corporate boundaries of that city and
38 when imposed by a county shall apply only outside
39 incorporated areas within that county. "Renting" and
40 "rent" include any kind of direct or indirect charge
41 for such sleeping rooms, apartments, or sleeping
42 quarters, or their use. However, the tax does not
43 apply to the ~~gross receipts~~ sales price from the
44 renting of a sleeping room, apartment, or sleeping
45 quarters while rented by the same person for a period
46 of more than thirty-one consecutive days.

47 a local hotel and motel tax shall be imposed on
48 January 1, April 1, July 1, or October 1, following
49 the notification of the director of revenue and
50 finance. Once imposed, the tax shall remain in effect

Page 145

1 at the rate imposed for a minimum of one year. A
2 local hotel and motel tax shall terminate only on
3 March 31, June 30, September 30, or December 31. At
4 least ~~forty-five~~ sixty days prior to the tax being
5 effective or prior to a revision in the tax rate, or
6 prior to the repeal of the tax, a city or county shall
7 provide notice by mail of such action to the director
8 of revenue and finance.

9 No tax permit other than the state sales tax permit
10 required under section ~~422.53~~ 423.36 may be required
11 by local authorities.

12 The tax levied shall be in addition to any state
13 sales tax imposed under section ~~422.43~~ 423.2. Section
14 422.25, subsection 4, sections 422.30, ~~422.48~~ to
15 ~~422.52, 422.54 to 422.58~~, 422.67, and 422.68, section
16 422.69, subsection 1, and sections 422.70 to 422.75,
17 section 423.14, subsection 1, and sections 423.23,
18 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to
19 423.42, and 423.47, consistent with the provisions of
20 this chapter, apply with respect to the taxes
21 authorized under this chapter, in the same manner and
22 with the same effect as if the hotel and motel taxes
23 were retail sales taxes within the meaning of those
24 statutes. Notwithstanding this paragraph, the
25 director shall provide for quarterly filing of returns
26 ~~as prescribed in section 422.51~~ and for other than
27 quarterly filing of returns both as prescribed in
28 section ~~422.51, subsection 2~~ 423.31. The director may
29 require all persons, as defined in section ~~422.42~~
30 423.1, who are engaged in the business of deriving
31 ~~gross receipts~~ any sales price subject to tax under
32 this chapter, to register with the department.

33 Sec. 196. Section 422B.8, Code 2003, is amended to
34 read as follows:

35 422B.8 LOCAL SALES AND SERVICES TAX.

36 a local sales and services tax at the rate of not
37 more than one percent may be imposed by a county on
38 the ~~gross receipts~~ sales price taxed by the state
39 under chapter ~~422~~ 423, ~~division IV subchapter II~~. A
40 local sales and services tax shall be imposed on the
41 same basis as the state sales and services tax or in
42 the case of the use of natural gas, natural gas
43 service, electricity, or electric service on the same
44 basis as the state use tax and shall not be imposed on
45 the sale of any property or on any service not taxed
46 by the state, except the tax shall not be imposed on
47 the ~~gross receipts~~ sales price from the sale of motor
48 fuel or special fuel as defined in chapter 452a which
49 is consumed for highway use or in watercraft or
50 aircraft if the fuel tax is paid on the transaction

Page 146

1 and a refund has not or will not be allowed, on the
2 ~~gross receipts~~ sales price from the rental of rooms,
3 apartments, or sleeping quarters which are taxed under
4 chapter 422a during the period the hotel and motel tax
5 is imposed, on the ~~gross receipts~~ sales price from the
6 sale of equipment by the state department of
7 transportation, on the ~~gross receipts~~ sales price from
8 the sale of self-propelled building equipment, pile
9 drivers, motorized scaffolding, or attachments
10 customarily drawn or attached to self-propelled
11 building equipment, pile drivers, and motorized
12 scaffolding, including auxiliary attachments which
13 improve the performance, safety, operation, or
14 efficiency of the equipment and replacement parts and
15 are directly and primarily used by contractors,
16 subcontractors, and builders for new construction,
17 reconstruction, alterations, expansion, or remodeling
18 of real property or structures, and on the ~~gross~~
19 ~~receipts~~ sales price from the sale of a lottery ticket
20 or share in a lottery game conducted pursuant to
21 chapter 99E and except the tax shall not be imposed on
22 the ~~gross receipts~~ sales price from the sale or use of
23 natural gas, natural gas service, electricity, or
24 electric service in a city or county where the ~~gross~~
25 ~~receipts~~ sales price from the sale of natural gas or
26 electric energy are subject to a franchise fee or user
27 fee during the period the franchise or user fee is
28 imposed. A local sales and services tax is applicable
29 to transactions within those incorporated and
30 unincorporated areas of the county where it is imposed
31 and shall be collected by all persons required to
32 collect state ~~gross receipts~~ sales taxes. However, a
33 person required to collect state retail sales tax
34 under chapter ~~422~~ 423, ~~division IV~~ subchapter V or VI,
35 is not required to collect local sales and services
36 tax on transactions delivered within the area where
37 the local sales and services tax is imposed unless the
38 person has physical presence in that taxing area. All
39 cities contiguous to each other shall be treated as
40 part of one incorporated area and the tax would be
41 imposed in each of those contiguous cities only if the
42 majority of those voting in the total area covered by
43 the contiguous cities favor its imposition.

44 The amount of the sale, for purposes of determining
45 the amount of the local sales and services tax, does
46 not include the amount of any state ~~gross receipts~~
47 ~~taxes~~ sales tax.

48 A tax permit other than the state sales tax permit
49 required under section ~~422.53 or 423.10~~ 423.36 shall
50 not be required by local authorities.

Page 147

1 If a local sales and services tax is imposed by a
2 county pursuant to this chapter, a local excise tax at
3 the same rate shall be imposed by the county on the
4 purchase price of natural gas, natural gas service,
5 electricity, or electric service subject to tax under
6 chapter 423, subchapter III, and not exempted from tax
7 by any provision of chapter 423, subchapter III. The
8 local excise tax is applicable only to the use of
9 natural gas, natural gas service, electricity, or
10 electric service within those incorporated and
11 unincorporated areas of the county where it is imposed
12 and, except as otherwise provided in this chapter,
13 shall be collected and administered in the same manner
14 as the local sales and services tax. For purposes of
15 this chapter, "local sales and services tax" shall
16 also include the local excise tax.

17 Sec. 197. Section 422B.9, subsections 1 and 2,
18 Code 2003, are amended to read as follows:

19 1. a. A local sales and services tax shall be
20 imposed either January 1 or July 1 following the
21 notification of the director of revenue and finance
22 but not sooner than ninety days following the
23 favorable election and not sooner than sixty days
24 following notice to sellers, as defined in section
25 423.1. However, a jurisdiction which has voted to
26 continue imposition of the tax may impose that tax
27 without repeal of the prior tax.

28 b. A local sales and services tax shall be
29 repealed only on June 30 or December 31 but not sooner
30 than ninety days following the favorable election if
31 one is held. However, a local sales and services tax
32 shall not be repealed before the tax has been in
33 effect for one year. At least forty days before the
34 imposition or repeal of the tax, a county shall
35 provide notice of the action by certified mail to the
36 director of revenue and finance.

37 c. The imposition of or a rate change for a local
38 sales and service tax shall not be applied to
39 purchases from a printed catalog wherein a purchaser
40 computes the local tax based on rates published in the
41 catalog unless a minimum of one hundred twenty days'
42 notice of the imposition or rate change has been given
43 to the seller from the catalog and the first day of a
44 calendar quarter has occurred on or after the one
45 hundred twentieth day.

46 e. d. If a local sales and services tax has been
47 imposed prior to April 1, 2000, and at the time of the
48 election a date for repeal was specified on the
49 ballot, the local sales and services tax may be
50 repealed on that date, notwithstanding paragraph "b".

Page 148

1 2. a. The director of revenue and finance shall
2 administer a local sales and services tax as nearly as
3 possible in conjunction with the administration of
4 state ~~gross receipts~~ sales tax laws. The director
5 shall provide appropriate forms or provide on the
6 regular state tax forms for reporting local sales and
7 services tax liability.

8 b. The ordinance of a county board of supervisors
9 imposing a local sales and services tax shall adopt by
10 reference the applicable provisions of the appropriate
11 sections of ~~chapter 422, division IV, and~~ chapter 423.
12 All powers and requirements of the director to
13 administer the state ~~gross receipts~~ sales tax law and
14 use tax law are applicable to the administration of a
15 local sales and services tax law and the local excise
16 tax, including but not limited to, the provisions of
17 section 422.25, subsection 4, sections 422.30, ~~422.48~~
18 ~~to 422.52, 422.54 to 422.58, 422.67, and 422.68,~~
19 section 422.69, subsection 1, sections 422.70 to
20 422.75, ~~423.6, subsections 2 to 4, and sections 423.11~~
21 to 423.18, and ~~423.21~~ section 423.14, subsection 1 and
22 subsection 2, paragraphs "b" through "e", and sections
23 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35,
24 423.37 to 423.42, 423.46, and 423.47. Local officials
25 shall confer with the director of revenue and finance
26 for assistance in drafting the ordinance imposing a
27 local sales and services tax. A certified copy of the
28 ordinance shall be filed with the director as soon as
29 possible after passage.

30 c. Frequency of deposits and quarterly reports of
31 a local sales and services tax with the department of
32 revenue and finance are governed by the tax provisions
33 in section ~~422.52~~ 423.31. Local tax collections shall
34 not be included in computation of the total tax to
35 determine frequency of filing under section ~~422.52~~
36 423.31.

37 d. The director shall apply a boundary change of a
38 county or city imposing or collecting the local sales
39 and service tax to the imposition or collection of
40 that tax only on the first day of a calendar quarter
41 which occurs sixty days or more after the director has
42 given notice of the boundary change to sellers.

43 Sec. 198. Section 422C.2, subsections 4 and 6,
44 Code 2003, are amended to read as follows:

45 4. "Person" means person as defined in section
46 ~~422.42~~ 423.1.

47 6. "Rental price" means the consideration for
48 renting an automobile valued in money, and means the
49 same as "~~gross taxable services~~" "sales price" as
50 defined in section ~~422.42~~ 423.1.

Page 149

1 Sec. 199. Section 422C.3, Code 2003, is amended to
2 read as follows:

3 422C.3 TAX ON RENTAL OF AUTOMOBILES.

4 1. A tax of five percent is imposed upon the
5 rental price of an automobile if the rental
6 transaction is subject to the sales and services tax
7 under chapter ~~422~~ 423, ~~division IV subchapter II~~, or
8 the use tax under chapter ~~423~~ 423, ~~subchapter III~~. The
9 tax shall not be imposed on any rental transaction not
10 taxable under the state sales and services tax, as
11 provided in section ~~422.45~~ 423.3, or the state use
12 tax, as provided in section ~~423.4~~ 423.6, on automobile
13 rental receipts.

14 2. The lessor shall collect the tax by adding the
15 tax to the rental price of the automobile.

16 3. The tax, when collected, shall be stated as a
17 distinct item separate and apart from the rental price
18 of the automobile and the sales and services tax
19 imposed under chapter ~~422~~ 423, ~~division IV subchapter~~
20 II, or the use tax imposed under chapter 423,
21 ~~subchapter III~~.

22 Sec. 200. Section 422C.4, Code 2003, is amended to
23 read as follows:

24 422C.4 ADMINISTRATION AND ENFORCEMENT.

25 All powers and requirements of the director of
26 revenue and finance to administer the state ~~gross~~
27 ~~receipts sales~~ tax law under chapter ~~422~~, ~~division IV~~,
28 423 are applicable to the administration of the tax
29 imposed under section 422C.3, including but not
30 limited to section 422.25, subsection 4, sections
31 ~~422.30, 422.48 through 422.52, 422.54 through 422.58,~~
32 422.67, and 422.68, section 422.69, subsection 1, and
33 sections 422.70 through 422.75, section 423.14,
34 subsection 1, and sections 423.15, 423.23, 423.24,
35 423.25, 423.31, 423.33, 423.35 and 423.37 through
36 423.42, 423.45, 423.46, and 423.47. However, as an
37 exception to the powers specified in section ~~422.52,~~
38 ~~subsection 1~~ 423.31, the director shall only require
39 the filing of quarterly reports.

40 Sec. 201. Section 422E.1, subsection 1, is amended
41 to read as follows:

42 1. A local sales and services tax for school
43 infrastructure purposes may be imposed by a county on
44 behalf of school districts as provided in this
45 chapter.

46 If a local sales and services tax for school
47 infrastructure is imposed by a county pursuant to this
48 chapter, a local excise tax for school infrastructure
49 at the same rate shall be imposed by the county on the
50 purchase price of natural gas, natural gas service,

Page 150

1 electricity, or electric service subject to tax under
2 chapter 423, subchapter III, and not exempted from tax
3 by any provision of chapter 423, subchapter III. The
4 local excise tax for school infrastructure is
5 applicable only to the use of natural gas, natural gas
6 service, electricity, or electric service within those
7 incorporated and unincorporated areas of the county
8 where it is imposed and, except as otherwise provided
9 in this chapter, shall be collected and administered
10 in the same manner as the local sales and services tax
11 for school infrastructure. For purposes of this
12 chapter, "local sales and services tax for school
13 infrastructure" shall also include the local excise
14 tax for school infrastructure.

15 Sec. 202. Section 422E.3, subsections 1, 2, and 3,
16 Code 2003, are amended to read as follows:

17 1. If a majority of those voting on the question
18 of imposition of a local sales and services tax for
19 school infrastructure purposes favors imposition of
20 the tax, the tax shall be imposed by the county board
21 of supervisors within the county pursuant to section
22 422E.2, at the rate specified for a ten-year duration
23 on the ~~gross receipts~~ sales price taxed by the state
24 under chapter ~~422~~ 423, ~~division IV~~ subchapter II.

25 2. The tax shall be imposed on the same basis as
26 the state sales and services tax or in the case of the
27 use of natural gas, natural gas service, electricity,
28 or electric service on the same basis as the state use
29 tax and shall not be imposed on the sale of any
30 property or on any service not taxed by the state,
31 except the tax shall not be imposed on the ~~gross~~
32 ~~receipts~~ sales price from the sale of motor fuel or
33 special fuel as defined in chapter 452a which is
34 consumed for highway use or in watercraft or aircraft
35 if the fuel tax is paid on the transaction and a
36 refund has not or will not be allowed, on the ~~gross~~
37 ~~receipts~~ sales price from the rental of rooms,
38 apartments, or sleeping quarters which are taxed under
39 chapter 422A during the period the hotel and motel tax
40 is imposed, on the ~~gross receipts~~ sales price from the
41 sale of equipment by the state department of
42 transportation, on the ~~gross receipts~~ sales price from
43 the sale of self-propelled building equipment, pile
44 drivers, motorized scaffolding, or attachments
45 customarily drawn or attached to self-propelled
46 building equipment, pile drivers, and motorized
47 scaffolding, including auxiliary attachments which
48 improve the performance, safety, operation, or
49 efficiency of the equipment, and replacement parts and
50 are directly and primarily used by contractors,

Page 151

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

14 3. The tax is applicable to transactions within
15 the county where it is imposed and shall be collected
16 by all persons required to collect state ~~gross~~
17 ~~receipts sales~~ or local excise taxes. However, a
18 person required to collect state ~~retail~~ sales tax
19 under chapter ~~422, division IV, 423~~ is not required to
20 collect local sales and services tax on transactions
21 delivered within the area where the local sales and
22 services tax is imposed unless the person has physical
23 presence in that taxing area. The amount of the sale,
24 for purposes of determining the amount of the tax,
25 does not include the amount of any state ~~gross~~
26 ~~receipts sales taxes~~ or excise taxes or other local
27 option sales or excise taxes. A tax permit other than
28 the state tax permit required under section ~~422.53 or~~
29 ~~423.10 423.36~~ shall not be required by local
30 authorities.

31 Sec. 203. Section 425.30, Code 2003, is amended to
32 read as follows:

33 425.30 NOTICES.

34 Section ~~422.57 423.39~~, subsection 1, shall apply to
35 all notices under this division.

36 Sec. 204. Section 425.31, Code 2003, is amended to
37 read as follows:

38 425.31 APPEALS.

39 Any person aggrieved by an act or decision of the
40 director of revenue and finance or the department of
41 revenue and finance under this division shall have the
42 same rights of appeal and review as provided in
43 sections 421.1 and ~~422.55 423.38~~ and the rules of the
44 department of revenue and finance.

45 Sec. 205. Section 452A.66, unnumbered paragraph 1,
46 Code 2003, is amended to read as follows:

47 The appropriate state agency shall administer the
48 taxes imposed by this chapter in the same manner as
49 and subject to section 422.25, subsection 4 and
50 section ~~422.52, subsection 3 423.35~~.

Page 152

1 Sec. 206. Section 455B.455, Code 2003, is amended
2 to read as follows:

3 455B.455 SURCHARGE IMPOSED.

4 A land burial surcharge tax of two percent is
5 imposed on the fee for land burial of a hazardous
6 waste. The owner of the land burial facility shall
7 remit the tax collected to the director of revenue and
8 finance after consultation with the director according
9 to rules that the director shall adopt. The director
10 shall forward a copy of the site license to the
11 director of revenue and finance which shall be the
12 appropriate license for the collection of the land
13 burial surcharge tax and shall be subject to
14 suspension or revocation if the site license holder
15 fails to collect or remit the tax collected under this
16 section. The provisions of ~~sections~~ section 422.25,
17 subsection 4, sections 422.30, ~~422.48 to 422.52,~~
18 ~~422.54 to 422.58,~~ 422.67, and 422.68, section 422.69,
19 subsection 1, and sections 422.70 to 422.75, section
20 423.14, subsection 1, and sections 423.23, 423.24,
21 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and
22 423.47, consistent with the provisions of this part 6
23 of division IV, shall apply with respect to the taxes
24 authorized under this part, in the same manner and
25 with the same effect as if the land burial surcharge
26 tax were ~~retail~~ sales taxes within the meaning of
27 those statutes. Notwithstanding the provisions of
28 this ~~paragraph~~ section, the director shall provide for
29 only quarterly filing of returns as prescribed in
30 ~~section 422.51~~ 423.31. Taxes collected by the
31 director of revenue and finance under this section
32 shall be deposited in the general fund of the state.

33 Sec. 207. Section 455G.3, subsection 1, Code 2003,
34 is amended to read as follows:

35 1. The Iowa comprehensive petroleum underground
36 storage tank fund is created as a separate fund in the
37 state treasury, and any funds remaining in the fund at
38 the end of each fiscal year shall not revert to the
39 general fund but shall remain in the Iowa
40 comprehensive petroleum underground storage tank fund.
41 Interest or other income earned by the fund shall be
42 deposited in the fund. The fund shall include moneys
43 credited to the fund under this section, section
44 ~~423.24~~ 423.43, subsection 1, paragraph "a", and
45 sections 455G.8, 455G.9, and 455G.11, and other funds
46 which by law may be credited to the fund. The moneys
47 in the fund are appropriated to and for the purposes
48 of the board as provided in this chapter. Amounts in
49 the fund shall not be subject to appropriation for any
50 other purpose by the general assembly, but shall be

Page 153

1 used only for the purposes set forth in this chapter.
2 The treasurer of state shall act as custodian of the
3 fund and disburse amounts contained in it as directed
4 by the board including automatic disbursements of
5 funds as received pursuant to the terms of bond
6 indentures and documents and security provisions to
7 trustees and custodians. The treasurer of state is
8 authorized to invest the funds deposited in the fund
9 at the direction of the board and subject to any
10 limitations contained in any applicable bond
11 proceedings. The income from such investment shall be
12 credited to and deposited in the fund. The fund shall
13 be administered by the board which shall make
14 expenditures from the fund consistent with the
15 purposes of the programs set out in this chapter
16 without further appropriation. The fund may be
17 divided into different accounts with different
18 depositories as determined by the board and to fulfill
19 the purposes of this chapter.
20 Sec. 208. Section 455G.6, subsection 4, Code 2003,
21 is amended to read as follows:
22 4. Grant a mortgage, lien, pledge, assignment, or
23 other encumbrance on one or more improvements,
24 revenues, asset of right, accounts, or funds
25 established or received in connection with the fund,
26 including revenues derived from the use tax under
27 section ~~423.24~~ 423.43, subsection 1, paragraph "a",
28 and deposited in the fund or an account of the fund.
29 Sec. 209. Section 455G.8, subsection 2, Code 2003,
30 is amended to read as follows:
31 2. USE TAX. The revenues derived from the use tax
32 imposed under chapter 423, subchapter III. The
33 proceeds of the use tax under section ~~423.24~~ 423.43,
34 subsection 1, paragraph "a", shall be allocated,
35 consistent with this chapter, among the fund's
36 accounts, for debt service and other fund expenses,
37 according to the fund budget, resolution, trust
38 agreement, or other instrument prepared or entered
39 into by the board or authority under direction of the
40 board.
41 Sec. 210. Section 455G.9, subsection 2, Code 2003,
42 is amended to read as follows:
43 2. REMEDIAL ACCOUNT FUNDING. The remedial account
44 shall be funded by that portion of the proceeds of the
45 use tax imposed under chapter 423, subchapter III, and
46 other moneys and revenues budgeted to the remedial
47 account by the board.
48 Sec. 211. Section 2.67, Code 2003, is repealed.
49 Sec. 212. CODE EDITOR DIRECTIVE. The Code editor
50 is directed to transfer Code chapter 423a to Code

Page 154

1 chapter 421A and to transfer Code chapters 422A, 422B,
2 422C, and 422E to Code chapters 423A, 423B, 423C, and
3 423E, respectively. The Code editor is directed to
4 correct Code references as required due to the changes
5 made in this Act.

6 SALES TAX ADVISORY COUNCIL
7 Sec. 213. IOWa STREAMLINED SALES TAX ADVISORY
8 COUNCIL.

9 1. An Iowa streamlined sales tax advisory council
10 is created. The advisory council shall review, study,
11 and submit recommendations to the Iowa streamlined
12 sales and use tax delegation regarding the proposed
13 streamlined sales and use tax agreement formalized by
14 the project's implementing sales on November 12, 2002,
15 the proposed language conforming Iowa's sales and use
16 tax to the national agreement, and the following
17 issues:

18 a. Uniform definitions proposed in the current
19 streamlined sales and use tax agreement and future
20 proposals.

21 b. Effects upon taxability of items newly defined
22 in Iowa.

23 c. Impacts upon business as a result of the
24 streamlined sales and use tax.

25 d. Technology implementation issues.

26 e. Any other issues that are brought before the
27 streamlined sales and use tax implementing state or
28 the streamlined sales and use tax governing board.

29 2. The department shall provide administrative
30 support to the Iowa streamlined sales tax advisory
31 council. The advisory council shall be representative
32 of Iowa's business community and economy when
33 reviewing and recommending solutions to streamlined
34 sales and use tax issues. The advisory council shall
35 provide the general assembly and the governor with
36 final recommendations made to the Iowa streamlined
37 sales and use tax delegation upon the conclusion of
38 each calendar year.

39 3. The director of revenue, in consultation with
40 the Iowa taxpayers association and the Iowa
41 association of business and industry, shall appoint
42 members to the Iowa streamlined sales tax advisory
43 council, which shall consist of the following members:

44 a. One member from the department of revenue and
45 finance.

46 b. Three members representing small Iowa
47 businesses, at least one of whom must be a retailer,
48 and at least one of whom shall be a supplier.

49 c. Three members representing medium Iowa
50 businesses, at least one of whom shall be a retailer,

Page 155

- 1 and at least one of whom shall be a supplier.
- 2 d. Three members representing large Iowa
- 3 businesses, at least one of whom shall be a retailer,
- 4 and at least one of whom shall be a supplier.
- 5 e. One member representing taxpayers as a whole.
- 6 f. One member representing the retail community as
- 7 a whole.
- 8 g. Any other member the director of revenue and
- 9 finance deems appropriate.
- 10 Sec. 214. EFFECTIVE DATE. Except for the section
- 11 creating the Iowa streamlined sales tax advisory
- 12 council, this division of this Act takes effect July
- 13 1, 2004.

14 DIVISION XVI

15 WIND ENERGY PRODUCTION TAX CREDIT

16 Sec. 215. NEW SECTION. 422.11H WIND ENERGY

17 PRODUCTION TAX CREDIT.
18 The taxes imposed under this division, less the
19 credits allowed under sections 422.12 and 422.12B,
20 shall be reduced by a wind energy production tax
21 credit allowed under chapter 476B.

22 Sec. 216. Section 422.33, Code 2003, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 14. The taxes imposed under this
25 division shall be reduced by a wind energy production
26 tax credit allowed under chapter 476B.

27 Sec. 217. Section 422.60, Code 2003, is amended by
28 adding the following new subsection:

29 NEW SUBSECTION. 7. The taxes imposed under this
30 division shall be reduced by a wind energy production
31 tax credit allowed under chapter 476B.

32 Sec. 218. NEW SECTION. 432.12D WIND ENERGY

33 PRODUCTION TAX CREDIT.
34 The taxes imposed under this chapter shall be
35 reduced by a wind energy production tax credit allowed
36 under chapter 476B.

37 Sec. 219. NEW SECTION. 476B.1 DEFINITIONS.

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

- 40 1. "Board" means the utilities board within the
- 41 utilities division of the department of commerce.
- 42 2. "Department" means the department of revenue
- 43 and finance.
- 44 3. "Qualified electricity" means electricity
- 45 produced from wind at a qualified facility.
- 46 4. "Qualified facility" means an electrical
- 47 production facility that meets all of the following:
 - 48 a. Produces electricity from wind.
 - 49 b. Is located in Iowa.
 - 50 c. Was originally placed in service on or after

Page 156

1 July 1, 2004, but before July 1, 2007.

2 Sec. 220. NEW SECTION. 476B.2 GENERAL RULE.

3 The owner of a qualified facility shall, for each
4 kilowatt-hour of qualified electricity that the owner
5 sells during the ten-year period beginning on the date
6 the qualified facility was originally placed in
7 service, be allowed a wind energy production tax
8 credit to the extent provided in this chapter against
9 the tax imposed in chapter 422, divisions II, III, and
10 V, and chapter 432.

11 Sec. 221. NEW SECTION. 476B.3 CREDIT AMOUNT.

12 The wind energy production tax credit allowed under
13 this chapter equals the product of one cent multiplied
14 by the number of kilowatt-hours of qualified
15 electricity sold by the owner during the taxable year.

16 Sec. 222. NEW SECTION. 476B.4 LIMITATIONS.

17 1. A. The wind energy production tax credit shall
18 not be allowed for any kilowatt-hour of electricity
19 produced on wind energy conversion property for which
20 the owner has claimed or otherwise received for that
21 property the benefit of special valuation under
22 section 427B.26 or section 441.21, subsection 8, or
23 the exemption from retail sales tax under section
24 422.45, subsection 48.

25 b. The disallowance of the tax credit pursuant to
26 paragraph "a" does not apply to an owner of a
27 qualified facility that owns, directly or indirectly,
28 in the aggregate, a total annual turbine nameplate
29 capacity of all such property of less than one
30 megawatt.

31 2. The wind energy production tax credit shall not
32 be allowed for any kilowatt-hour of electricity that
33 is sold to a related person. For purpose of this
34 subsection, persons shall be treated as related to
35 each other if such persons would be treated as a
36 single employer under the regulations prescribed under
37 section 52(b) of the Internal Revenue Code. In the
38 case of a corporation that is a member of an
39 affiliated group of corporations filing a consolidated
40 return, such corporation shall be treated as selling
41 electricity to an unrelated person if such electricity
42 is sold to such a person by another member of such
43 group.

44 Sec. 223. NEW SECTION. 476B.5 APPLICATION FOR
45 TAX CREDIT CERTIFICATES.

46 1. To receive the wind energy production tax
47 credit, an owner of the qualified facility must submit
48 an application for a tax credit certificate to the
49 board not later than thirty days after the close of
50 its taxable year. The owner's application must

Page 157

1 contain, but need not be limited to, all of the
2 following information: the owner's name, tax
3 identification number, and address, the number of
4 kilowatt-hours of qualified electricity sold by the
5 owner during the preceding taxable year, the address
6 of the qualified facility at which the qualified
7 electricity was produced, a certified statement of the
8 number, if any, of kilowatt-hours of electricity
9 produced on wind energy conversion property for which
10 the owner has claimed or otherwise received for that
11 property the benefit of special valuation under
12 section 427B.26 or section 441.21, subsection 8, or
13 the exemption from the retail sales tax under section
14 422.45, subsection 48, and the denomination that each
15 tax credit certificate is to carry.

16 1A. In addition to the information required in
17 subsection 1, the application shall specify the amount
18 of property taxes imposed by the school district,
19 city, and county on the wind energy conversion
20 property payable during the owner's taxable year. The
21 amount of property taxes imposed by the school
22 district, city, and county on such property that is
23 payable during the owner's taxable year shall be
24 computed as follows:

25 a. If the fiscal year for which such property
26 taxes are imposed ends during the taxable year, divide
27 the property taxes imposed by the school district,
28 city, and county payable in that fiscal year by twelve
29 and multiply the resulting quotient by the number of
30 months of the fiscal year ending in the taxable year.

31 b. If the fiscal year for which such property
32 taxes are imposed begins, but does not end, during the
33 taxable year, divide the property taxes imposed by the
34 school district, city, and county payable in that
35 fiscal year by twelve and multiply the resulting
36 quotient by the number of months of the fiscal year
37 ending in the taxable year.

38 c. Add the amounts determined pursuant to
39 paragraphs "a" and "b".

40 The application shall also contain the name of the
41 school district, city or cities, and county and the
42 portion of the total amount of paragraph "c" that was
43 imposed by each jurisdiction.

44 2. The board shall, in conjunction with the
45 department, prescribe appropriate forms and
46 instructions to enable owners to claim the tax credit
47 allowed under this chapter. If the board prescribes
48 these forms and instructions, an owner's application
49 for a tax credit certificate shall not be valid unless
50 made on and in accordance with these forms and

Page 158

1 instructions.

2 3. Within thirty days of the end of the owner's
3 eleventh and twelfth taxable years with respect to the
4 ownership of the qualified facility for which the
5 owner had previously received a tax credit, the owner
6 shall file with the board an "extra two year
7 information form". The form shall contain all
8 property tax information in subsection 1a and other
9 information deemed appropriate by the board or
10 treasurer of state for the owner's eleventh or twelfth
11 taxable year, as applicable.

12 Sec. 224. NEW SECTION. 476B.6 ISSUANCE OF TAX
13 CREDIT CERTIFICATES.

14 1. If the owner meets the criteria for eligibility
15 for the wind energy production tax credit, the board
16 shall determine the validity of the application and if
17 valid, shall issue one or more tax credit certificates
18 to the owner not later than thirty days after the
19 application is submitted to the board. Each tax
20 credit certificate must contain the owner's name,
21 address, and tax identification number, amount of tax
22 credits, and the expiration date of the tax credit
23 certificate, which shall be seven years from its date
24 of issuance and any other information required by the
25 department. Once issued by the board, the tax credit
26 certificate shall be binding on the board and the
27 department and shall not be modified, terminated, or
28 rescinded. Upon the issuance of the tax credit
29 certificate, the board shall forward to the treasurer
30 of state a copy of the information provided pursuant
31 to section 476B.5, subsection 1A, containing the
32 amount of property taxes payable during the owner's
33 taxable year which were levied on wind energy
34 conversion property for which the tax credit
35 certificates were issued. The board shall also
36 forward to the treasurer of state information provided
37 pursuant to section 476B.5, subsection 3, containing
38 the amount of property taxes payable during the
39 eleventh or twelfth taxable year.

40 2. If the tax credit application is filed by a
41 partnership, limited liability company, S corporation,
42 estate, trust, or other reporting entity all of the
43 income of which is taxed directly to its equity
44 holders or beneficiaries, the tax credit certificate
45 may, at the election of the owner, be issued directly
46 to equity holders or beneficiaries of the owner in
47 proportion to their pro rata share of the income of
48 such entity. If the owner elects to have the tax
49 credit certificate issued directly to its equity
50 holders or beneficiaries, the owner must, in the

Page 159

1 application made under section 476B.5, identify its
2 equity holders or beneficiaries, and the amount of
3 such entity's income that is allocable to each equity
4 holder or beneficiary.
5 Sec. 225. NEW SECTION. 476B.7 TRANSFER OF TAX
6 CREDIT CERTIFICATES.
7 Wind energy production tax credit certificates
8 issued under this chapter may be transferred to any
9 person or entity. Within thirty days of transfer, the
10 transferee must submit the transferred tax credit
11 certificate to the board along with a statement
12 containing the transferee's name, tax identification
13 number, and address, and the denomination that each
14 replacement tax credit certificate is to carry and any
15 other information required by the department. Within
16 thirty days of receiving the transferred tax credit
17 certificate and the transferee's statement, the board
18 shall issue one or more replacement tax credit
19 certificates to the transferee. Each replacement
20 certificate must contain the information required
21 under section 476B.6 and must have the same expiration
22 date that appeared in the transferred tax credit
23 certificate. Tax credit certificate amounts of less
24 than the minimum amount established by rule of the
25 board shall not be transferable. A tax credit shall
26 not be claimed by a transferee under this chapter
27 until a replacement tax credit certificate identifying
28 the transferee as the proper holder has been issued.
29 The tax credit shall only be transferred once. The
30 transferee may use the amount of the tax credit
31 transferred against the taxes imposed under chapter
32 422, divisions II, III, and V, and chapter 432 for any
33 tax year the original transferor could have claimed
34 the tax credit. Any consideration received for the
35 transfer of the tax credit shall not be included as
36 income under chapter 422, divisions II, III, and V.
37 Any consideration paid for the transfer of the tax
38 credit shall not be deducted from income under chapter
39 422, divisions II, III, and V.
40 Sec. 226. NEW SECTION. 476B.8 USE OF TAX CREDIT
41 CERTIFICATES.
42 To claim a wind energy production tax credit under
43 this chapter, a taxpayer must attach one or more tax
44 credit certificates to the taxpayer's tax return. A
45 tax credit certificate shall not be used or attached
46 to a return filed prior to July 1, 2005. The tax
47 credit certificate or certificates attached to the
48 taxpayer's tax return shall be issued in the
49 taxpayer's name, expire on or after the last day of
50 the taxable year for which the taxpayer is claiming

Page 160

1 the tax credit, and show a tax credit amount equal to
2 or greater than the tax credit claimed on the
3 taxpayer's tax return. Any tax credit in excess of
4 the taxpayer's tax liability for the taxable year may
5 be credited to the taxpayer's tax liability for the
6 following seven taxable years or until depleted,
7 whichever is the earlier.

8 Sec. 227. NEW SECTION. 476B.9 REGISTRATION OF
9 TAX CREDIT CERTIFICATES.

10 The board shall, in conjunction with the
11 department, develop a system for the registration of
12 the wind energy production tax credit certificates
13 issued or transferred under this chapter and a system
14 that permits verification that any tax credit claimed
15 on a tax return is valid and that transfers of the tax
16 credit certificates are made in accordance with the
17 requirements of this chapter. The tax credit
18 certificates issued under this chapter shall not be
19 classified as a security pursuant to chapter 502.

20 Sec. 228. NEW SECTION. 476B.10 PAYMENT TO STATE
21 OF PROPERTY TAXES COLLECTED.

22 1. a. By March 15 and September 15 of each year,
23 the treasurer of state shall notify each school
24 district, city, and county of the amount of property
25 taxes imposed by the jurisdiction on wind energy
26 conversion property for which tax credit certificates
27 have been issued under this chapter. The amount of
28 property taxes contained on the notice to the school
29 district, city, or county shall equal the amounts
30 received by the treasurer of state from the board
31 since the treasurer of state last sent out notices
32 pursuant to this subsection. The sending of a notice
33 shall constitute a demand for the payment of an amount
34 equal to the property taxes imposed on the wind energy
35 conversion property as specified in the notice.

36 b. In addition to the amount of property taxes
37 referred to in paragraph "a", the treasurer of state
38 shall notify each school district, city, and county of
39 the property taxes imposed on wind energy conversion
40 property for the owner's eleventh or twelfth taxable
41 year as specified pursuant to section 476B.5,
42 subsection 3.

43 2. A school district, city, or county to which a
44 notice under subsection 1 is sent shall remit to the
45 treasurer of state the amount of property taxes
46 imposed in the wind energy conversion property
47 specified in the notice by the end of the third month
48 following the month in which the notice is sent.
49 Interest for late payment shall be assessed at the
50 rate specified in section 421.7 for each month,

Page 161

1 counting a part of a month a whole month, after the
2 due date. Failure of the school district, city, or
3 county to receive the notice is not a defense to the
4 payment of the amount specified in the notice or for
5 any interest for late payment.
6 3. A school district, city, or county that remits
7 payments to the treasurer of state pursuant to
8 subsection 2 in a fiscal year may adjust its budget or
9 certified budget, notwithstanding any provision of
10 law, to compensate for such payments.
11 Sec. 229. EFFECTIVE AND APPLICABILITY DATES.
12 1. Except for subsection 2, this division of this
13 Act applies to tax years beginning on or after January
14 1, 2004.
15 2. The section of this division of this Act
16 enacting new Code section 476B.10, takes effect
17 January 1, 2005.
18 DIVISION XVII
19 EFFECTIVE DATE
20 Sec. 230. EFFECTIVE DATE. Unless otherwise
21 provided in this Act, this Act takes effect July 1,
22 2003."
23 2. Title page, by striking lines 1 through 15 and
24 inserting the following: "An Act relating to economic
25 development, financial, taxation, and regulatory
26 matters, making and revising appropriations, modifying
27 penalties, providing a fee, and including effective,
28 applicability, and retroactive applicability
29 provisions."

Hoffman of Crawford offered amendment [H-1617](#), to the Senate amendment [H-1616](#), filed by him from the floor as follows:

H-1617

1 Amend the Senate amendment, [H-1616](#), to House File
2 683, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 3, by inserting after line 8 the
5 following:
6 "DEPARTMENT OF HUMAN SERVICES
7 Sec. __. COUNTY HOSPITALS. There is appropriated
8 from the general fund of the state to the department
9 of human services for the fiscal year beginning July
10 1, 2003, and ending June 30, 2004, the following
11 amount, or so much thereof as is necessary, for the
12 purpose designated:
13 For support of mental health care services provided
14 to persons who are elderly or poor by county hospitals

15 in counties having a population of two hundred twenty-
16 five thousand or more:
17 \$ 312,000"

18 2. Page 6, by inserting after line 7 the
19 following:

20 "Sec. ___. Section 7J.1, subsection 1, as enacted
21 by 2003 Iowa Acts, [Senate File 453](#), section 32, and
22 amended by 2003 Iowa Acts, [Senate File 458](#), section
23 85, is amended to read as follows:

24 1. DESIGNATION OF CHARTER AGENCIES – PURPOSE.

25 The governor may, by executive order, designate state
26 departments or agencies, as described in section 7E.5,
27 or the Iowa lottery authority established in chapter
28 99G, other than the department of administrative
29 services, if the department is established in law, or
30 the department of management, as a charter agency by
31 July 1, 2003. The designation of a charter agency
32 shall be for a period of five years which shall
33 terminate as of June 30, 2008. The purpose of
34 designating a charter agency is to grant the agency
35 additional authority as provided by this chapter while
36 reducing the total appropriations to the agency."

37 3. Page 9, by inserting after line 35 the
38 following:

39 "Sec. ___. Section 422E.3A, subsection 3,
40 paragraph a, as enacted by 2003 Iowa Acts, Senate File
41 445, is amended to read as follows:

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

49 Sec. ___. Section 422E.3A, subsection 3, paragraph
50 b, subparagraph (3), as enacted by 2003 Iowa Acts,

Page 2

1 [Senate File 445](#), is amended by striking the
2 subparagraph and inserting in lieu thereof the
3 following:

4 (3) "Statewide tax revenues per student" means
5 five hundred seventy-five dollars per student. The
6 general assembly shall review this amount annually to
7 determine its appropriateness.

8 Sec. ___. Section 422E.3A, subsection 5, as
9 enacted by 2003 Iowa Acts, [Senate File 445](#), is amended
10 to read as follows:

11 5. In the case of a deficiency in the fund to pay
12 the supplemental school infrastructure amounts in
13 full, the amount available in the fund less the sales

14 and services tax revenues for school infrastructure
 15 purposes attributed to each school district should be
 16 allocated based on the proportion of actual enrollment
 17 ~~in~~ of the district residing in a county where the
 18 sales and services tax for school infrastructure
 19 purposes has been imposed to the combined actual
 20 enrollment ~~in the counties where the sales and~~
 21 ~~services tax for school infrastructure purposes has~~
 22 ~~been imposed and, residing in such counties, of the~~
 23 school districts in the counties - ~~U~~that qualify for the
 24 supplemental school infrastructure amount. However, a
 25 school district shall not receive more than its
 26 supplemental school infrastructure amount. Any amount
 27 in excess of a school district's supplemental school
 28 infrastructure amount shall be distributed to the
 29 other school districts eligible to receive
 30 distributions pursuant to this subsection.
 31 Sec. __. Section 422E.3A, subsection 6,
 32 unnumbered paragraph 1, as enacted by 2003 Iowa Acts,
 33 [Senate File 445](#), is amended to read as follows:
 34 A school district ~~with less than two hundred fifty~~
 35 ~~actual enrollment or less than one hundred actual~~
 36 ~~enrollment in the high school~~ shall not expend the
 37 supplemental school infrastructure amount received for
 38 new construction or for payments for bonds issued for
 39 new construction against the supplemental school
 40 infrastructure amount without prior application to the
 41 department of education and receipt of a certificate
 42 of need pursuant to this subsection. However, a
 43 certificate of need is not required for the payment of
 44 outstanding bonds issued for new construction pursuant
 45 to section 296.1, before April 1, 2003. A certificate
 46 of need is also not required for repairing
 47 schoolhouses or buildings, equipment, technology, or
 48 transportation equipment for transporting students as
 49 provided in section 298.3, or for construction
 50 necessary for compliance with the federal Americans

Page 3

- 1 With Disabilities Act pursuant to 42 U.S.C. § 12101-
- 2 12117. In determining whether a certificate of need
- 3 shall be issued or denied, the department shall
- 4 consider all of the following:"
- 5 4. Page 10, by striking lines 32 through 49.
- 6 5. By striking page 11, line 34 through page 13,
- 7 line 8.
- 8 6. Page 16, by striking lines 9 through 17.
- 9 7. Page 17, by striking lines 41 and 42.
- 10 8. By striking page 18, line 7 through page 21,
- 11 line 26.
- 12 9. By striking page 29, line 27, through page 44,

13 line 4, and inserting the following:

14 DIVISION VII
15 ECONOMIC DEVELOPMENT APPROPRIATIONS

16 Sec. __. MARKETING APPROPRIATION.

17 1. There is appropriated from the grow Iowa values
18 fund created in section 15G.107, if enacted by 2003
19 Iowa Acts, [House File 692](#) or another Act, to the
20 department of economic development, for the fiscal
21 period beginning July 1, 2003, and ending June 30,
22 2006, the following amounts, or so much thereof as is
23 necessary, to be used for the purpose designated:

24 For implementing and administering the marketing
25 strategy approved under section 15G.108, if enacted by
26 2003 Iowa Acts, [House File 692](#) or another Act:
27 FY 2003-2004 \$ 2,500,000
28 FY 2004-2005 \$ 7,500,000
29 FY 2005-2006 \$ 10,000,000

30 2. Notwithstanding section 8.33, moneys that
31 remain unexpended at the end of a fiscal year shall
32 not revert to any fund but shall remain available for
33 expenditure for the designated purposes during the
34 succeeding fiscal year.

35 Sec. __. DEPARTMENT OF ECONOMIC DEVELOPMENT
36 APPROPRIATION.

37 1. There is appropriated from the grow Iowa values
38 fund created in section 15G.107, if enacted by 2003
39 Iowa Acts, [House File 692](#) or another Act, to the
40 department of economic development for the fiscal
41 period beginning July 1, 2003, and ending June 30,
42 2007, the following amounts, or so much thereof as is
43 necessary, to be used for the purpose designated:

44 For programs administered by the department of
45 economic development:
46 FY 2003-2004 \$ 45,000,000
47 FY 2004-2005 \$ 41,000,000
48 FY 2005-2006 \$ 44,000,000
49 FY 2006-2007 \$ 48,000,000

50 2. Notwithstanding section 8.33, moneys that

Page 4

1 remain unexpended at the end of a fiscal year shall
2 not revert to any fund but shall remain available for
3 expenditure for the designated purposes during the
4 succeeding fiscal year.

5 3. Each year that moneys are appropriated under
6 this section, the grow Iowa values board shall
7 allocate a percentage of the moneys for each of the
8 following types of activities:

- 9 a. Business start-ups.
- 10 b. Business expansion.
- 11 c. Business modernization.

12 d. Business attraction.
13 e. Business retention.
14 f. Marketing.
15 4. An applicant for moneys appropriated under this
16 section shall be required by the department to include
17 in the application a statement regarding the intended
18 return on investment. A recipient of moneys
19 appropriated under this section shall annually submit
20 a statement to the department regarding the progress
21 achieved on the intended return on investment stated
22 in the application. The department, in cooperation
23 with the department of revenue and finance, shall
24 develop a method of identifying and tracking each new
25 job created through financial assistance from moneys
26 appropriated under this section.
27 5. The department may use moneys appropriated
28 under this section to procure technical assistance
29 from either the public or private sector, for
30 information technology purposes, and for rail, air, or
31 river port transportation-related purposes. The use
32 of moneys appropriated for rail, air, or river port
33 transportation-related purposes must be directly
34 related to an economic development project and the
35 moneys must be used to leverage other financial
36 assistance moneys.
37 6. Of the moneys appropriated under this section,
38 the department may use one-half of one percent for
39 administrative purposes.
40 7. The grow Iowa values board is required to
41 approve or deny applications for financial assistance
42 from moneys appropriated under this section.
43 Sec. __. UNIVERSITY AND COLLEGE FINANCIAL
44 ASSISTANCE APPROPRIATION.
45 1. There is appropriated from the grow Iowa values
46 fund created in section 15G.107, if enacted by 2003
47 Iowa Acts, [House File 692](#) or another Act, to the grow
48 Iowa values board for the fiscal period beginning July
49 1, 2003, and ending June 30, 2007, the following
50 amounts, or so much thereof as is necessary, to be

Page 5

1 used for the purposes designated:
2 For financial assistance for institutions of higher
3 learning under the control of the state board of
4 regents and for accredited private institutions as
5 defined in section 261.9 for multiuse, goods
6 manufacturing processes approved by the food and drug
7 administration of the United States department of
8 health and human services, protein purification
9 facilities for plant, animal, and chemical
10 manufactured proteins; accelerating new business

11 creation; innovation accelerators and business parks;
 12 incubator facilities; upgrading food and drug
 13 administration drug approval laboratories in Iowa City
 14 to a larger multiclient, goods manufacturing processes
 15 facility; crop and animal livestock facilities for the
 16 growing of transgenic crops and livestock, protein
 17 extraction facilities, containment facilities, and
 18 bioanalytical, biochemical, chemical, and
 19 microbiological support facilities; a national center
 20 for food safety and security; and advanced laboratory
 21 space:
 22 FY 2003-2004 \$ 6,000,000
 23 FY 2004-2005 \$ 7,000,000
 24 FY 2005-2006 \$ 7,000,000
 25 FY 2006-2007 \$ 7,000,000

26 2. Notwithstanding section 8.33, moneys that
 27 remain unexpended at the end of a fiscal year shall
 28 not revert to any fund but shall remain available for
 29 expenditure for the designated purposes during the
 30 succeeding fiscal year.

31 3. In the distribution of moneys appropriated
 32 pursuant to this section, the grow Iowa values board
 33 shall examine the potential for using moneys
 34 appropriated pursuant to this section to leverage
 35 other moneys for financial assistance to accredited
 36 private institutions.

37 4. In awarding moneys appropriated pursuant to
 38 this section, the grow Iowa values board shall
 39 consider whether the purchase of suitable existing
 40 infrastructure is more cost-efficient than building
 41 new infrastructure.

42 5. An institution of higher learning under the
 43 control of the state board of regents may apply to use
 44 financial assistance moneys under this section for
 45 purposes of a public and private joint venture to
 46 acquire infrastructure assets or research facilities
 47 or to leverage moneys in a manner consistent with
 48 meeting the goals and performance measures provided in
 49 section 15G.106, if enacted by 2003 Iowa Acts, House
 50 File 692 or another Act.

Page 6

1 6. Of the moneys appropriated under this section
 2 and provided applications are submitted meeting the
 3 requirements of the grow Iowa values board, not less
 4 than \$10,000,000 in financial assistance shall be
 5 awarded to the university of Iowa, not less than
 6 \$10,000,000 in financial assistance shall be awarded
 7 to Iowa state university of science and technology,
 8 and not less than \$5,000,000 in financial assistance
 9 shall be awarded to the university of northern Iowa.

10 Sec. __. REHABILITATION PROJECT TAX CREDITS
11 APPROPRIATION.

12 1. There is appropriated from the grow Iowa values
13 fund created in section 15G.107, if enacted by 2003
14 Iowa Acts, [House File 692](#) or another Act, to the
15 general fund of the state, for the fiscal period
16 beginning July 1, 2005, and ending June 30, 2007, the
17 following amounts, or so much thereof as is necessary,
18 to be used for the purpose designated:

19 For payment of tax credits approved pursuant to	
20 section 404A.4 for projects located in certified	
21 cultural and entertainment districts:	
22 FY 2005-2006	\$ 500,000
23 FY 2006-2007	\$ 500,000

24 2. Notwithstanding section 8.33, moneys that
25 remain unexpended at the end of a fiscal year shall
26 not revert to any fund but shall remain available for
27 expenditure for the designated purposes during the
28 succeeding fiscal year.

29 Sec. __. LOAN AND CREDIT GUARANTEE FUND
30 APPROPRIATION.

31 1. There is appropriated from the grow Iowa values
32 fund created in section 15G.107, if enacted by 2003
33 Iowa Acts, [House File 692](#) or another Act, to the
34 department of economic development for the fiscal
35 period beginning July 1, 2003, and ending June 30,
36 2007, the following amounts, or so much thereof as is
37 necessary, to be used for the purpose designated:

38 For deposit in the loan and credit guarantee fund	
39 created in section 15E.227:	
40 FY 2003-2004	\$ 2,500,000
41 FY 2004-2005	\$ 5,000,000
42 FY 2005-2006	\$ 7,500,000
43 FY 2006-2007	\$ 7,500,000

44 2. Notwithstanding section 8.33, moneys that
45 remain unexpended at the end of a fiscal year shall
46 not revert to any fund but shall remain available for
47 expenditure for the designated purpose during the
48 succeeding fiscal year.

49 Sec. __. ENDOW IOWA TAX CREDITS.

50 1. There is appropriated from the grow Iowa values

Page 7

1 fund created in section 15G.107, if enacted by 2003
2 Iowa Acts, [House File 692](#) or another Act, to the
3 general fund of the state, for the fiscal period
4 beginning July 1, 2004, and ending June 30, 2007, the
5 following amounts, or so much thereof as is necessary,
6 to be used for the purpose designated:
7 For payment of endow Iowa tax credits authorized
8 pursuant to section 15E.305:

9 FY 2004-2005 \$ 250,000
 10 FY 2005-2006 \$ 250,000
 11 FY 2006-2007 \$ 500,000

12 2. Notwithstanding section 8.33, moneys that
 13 remain unexpended at the end of a fiscal year shall
 14 not revert to any fund but shall remain available for
 15 expenditure for the designated purposes during the
 16 succeeding fiscal year.

17 Sec. __. ENDOW IOWA GRANTS APPROPRIATION.

18 1. There is appropriated from the grow Iowa values
 19 fund created in section 15G.107, if enacted by 2003
 20 Iowa Acts, [House File 692](#) or another Act, to the
 21 department of economic development for the fiscal
 22 period beginning July 1, 2004, and ending June 30,
 23 2007, the following amounts, or so much thereof as is
 24 necessary, to be used for the purpose designated:

25 For endow Iowa grants to lead philanthropic
 26 entities pursuant to section 15E.304:
 27 FY 2004-2005 \$ 250,000
 28 FY 2005-2006 \$ 250,000
 29 FY 2006-2007 \$ 500,000

30 2. Notwithstanding section 8.33, moneys that
 31 remain unexpended at the end of a fiscal year shall
 32 not revert to any fund but shall remain available for
 33 expenditure for the designated purposes during the
 34 succeeding fiscal year.

35 Sec. __. STATE PARKS AND DESTINATION PARKS
 36 APPROPRIATION.

37 1. There is appropriated from the grow Iowa values
 38 fund created in section 15G.107, if enacted by 2003
 39 Iowa Acts, [House File 692](#) or another Act, to the grow
 40 Iowa values board for the fiscal period beginning July
 41 1, 2003, and ending June 30, 2007, the following
 42 amount, or so much thereof as is necessary, to be used
 43 for the purpose designated:

44 For the purpose of providing financial assistance
 45 for projects in targeted state parks and destination
 46 parks:
 47 FY 2003-2004 \$ 500,000
 48 FY 2004-2005 \$ 0
 49 FY 2005-2006 \$ 0
 50 FY 2006-2007 \$ 500,000

Page 8

1 2. Notwithstanding section 8.33, moneys that
 2 remain unexpended at the end of a fiscal year shall
 3 not revert to any fund but shall remain available for
 4 expenditure for the designated purposes during the
 5 succeeding fiscal year.

6 3. The department of natural resources, in
 7 cooperation with the department of economic

8 development, shall submit a plan to the grow Iowa
 9 values board for the expenditure of moneys
 10 appropriated under this section. The plan shall focus
 11 on improving state parks and destination parks for
 12 economic development purposes. Based on the report
 13 submitted, the grow Iowa values board shall provide
 14 financial assistance to the department of natural
 15 resources for support of state parks and destination
 16 parks.

17 Sec. __. IOWA CULTURAL TRUST FUND APPROPRIATION.

18 1. There is appropriated from the grow Iowa values
 19 fund created in section 15G.107, if enacted by 2003
 20 Iowa Acts, [House File 692](#) or another Act, to the
 21 office of the treasurer of state, for the fiscal
 22 period beginning July 1, 2003, and ending June 30,
 23 2007, the following amount, or so much thereof as is
 24 necessary, to be used for the purpose designated:

25 For deposit in the Iowa cultural trust fund created
 26 in section 303A.4:

27 FY 2003-2004	\$ 500,000
28 FY 2004-2005	\$ 0
29 FY 2005-2006	\$ 0
30 FY 2006-2007	\$ 500,000

31 2. Notwithstanding section 8.33, moneys that
 32 remain unexpended at the end of a fiscal year shall
 33 not revert to any fund but shall remain available for
 34 expenditure for the designated purposes during the
 35 succeeding fiscal year.

36 Sec. __. ANTICIPATED FEDERAL MONEYS –
 37 APPROPRIATION.

38 1. There is appropriated from the fund created by
 39 section 8.41, for the fiscal period beginning July 1,
 40 2003, and ending June 30, 2005, the following amounts
 41 to be used for the purpose designated:

42 For deposit in the grow Iowa values fund created in
 43 section 15G.107, if enacted by 2003 Iowa Acts, House
 44 File 692 or another Act:

45 FY 2003-2004	\$ 59,000,000
46 FY 2004-2005	\$ 41,000,000

47 2. Moneys appropriated in this section are moneys
 48 anticipated to be received from the federal government
 49 for state and local government fiscal relief under the
 50 federal Jobs and Growth Tax Relief Reconciliation Act

Page 9

1 of 2003 and shall be expended as provided in the
 2 federal law making the moneys available and in
 3 conformance with chapter 17A.

4 3. Notwithstanding section 8.33, moneys that
 5 remain unexpended at the end of a fiscal year shall
 6 not revert to any fund but shall remain available for

7 expenditure for the designated purposes during the
 8 succeeding fiscal year.
 9 Sec. __. STREAMLINED SALES AND USE TAX REVENUE –
 10 APPROPRIATION.

11 1. There is appropriated from the general fund of
 12 the state from moneys credited to the general fund of
 13 the state as a result of entering into the streamlined
 14 sales and use tax agreement, for the fiscal period
 15 beginning July 1, 2003, and ending June 30, 2010, the
 16 following amounts to be used for the purpose
 17 designated:

18 For deposit in the grow Iowa values fund created in
 19 section 15G.107, if enacted by 2003 Iowa Acts, House
 20 File 692 or another Act:

21 FY 2003-2004	\$ 5,000,000
22 FY 2004-2005	\$ 23,000,000
23 FY 2005-2006	\$ 75,000,000
24 FY 2006-2007	\$ 75,000,000
25 FY 2007-2008	\$ 75,000,000
26 FY 2008-2009	\$ 75,000,000
27 FY 2009-2010	\$ 75,000,000

28 2. For purposes of this section, "moneys credited
 29 to the general fund of the state as a result of
 30 entering into the streamlined sales and use tax
 31 agreement" means the amount of sales and use tax
 32 receipts credited to the general fund of the state
 33 during a fiscal year that exceeds by two percent or
 34 more the total sales and use tax receipts credited to
 35 the general fund of the state during the previous
 36 fiscal year.

37 a. If the moneys credited to the general fund of
 38 the state as a result of entering into the streamlined
 39 sales and use tax agreement during a fiscal year total
 40 less than the amount appropriated in this section, the
 41 appropriation in this section shall be reduced to
 42 equal the total amount of the moneys so credited.

43 b. If the appropriation for a fiscal year is
 44 reduced pursuant to paragraph "a", all appropriations
 45 made from the grow Iowa values fund for the same
 46 fiscal year shall be reduced proportionately to the
 47 amount reduced due to paragraph "a".

48 3. Notwithstanding section 8.33, moneys that
 49 remain unexpended at the end of a fiscal year shall
 50 not revert to any fund but shall remain available for

Page 10

1 expenditure for the designated purposes during the
 2 succeeding fiscal year.

3 DIVISION VIII
 4 WORKFORCE-RELATED ISSUES
 5 Sec. __. NEW SECTION. 260C.18A WORKFORCE

6 TRAINING AND ECONOMIC DEVELOPMENT FUNDS.

7 1. a. A workforce training and economic
8 development fund is created for each community
9 college. Moneys shall be deposited and expended from
10 a fund as provided under this section.

11 b. Moneys in the funds shall consist of any moneys
12 appropriated by the general assembly and any other
13 moneys available to and obtained or accepted by the
14 department of economic development from federal
15 sources or private sources for placement in the funds.
16 Notwithstanding section 8.33, moneys in the funds at
17 the end of each fiscal year shall not revert to any
18 other fund but shall remain in the funds for
19 expenditure in subsequent fiscal years.

20 2. On July 1 of each year for the fiscal year
21 beginning July 1, 2003, and for every fiscal year
22 thereafter, moneys from the grow Iowa values fund
23 created in section 15G.107, if enacted by 2003 Iowa
24 Acts, [House File 692](#) or another Act, are appropriated
25 to the department of economic development for deposit
26 in the workforce training and economic development
27 funds in amounts determined pursuant to subsection 3.
28 Moneys deposited in the funds and disbursed to
29 community colleges for a fiscal year shall be expended
30 for the following purposes, provided seventy percent
31 of the moneys shall be used on projects in the areas
32 of advanced manufacturing, information technology and
33 insurance, and life sciences which include the areas
34 of biotechnology, health care technology, and nursing
35 care technology:

36 a. Projects in which an agreement between a
37 community college and an employer located within the
38 community college's merged area meet all of the
39 requirements of the accelerated career education
40 program under chapter 260G. Notwithstanding section
41 260G.4B, projects funded with moneys from workforce
42 training and economic development funds shall be
43 approved by the grow Iowa values board established in
44 section 15G.102.

45 b. Projects in which an agreement between a
46 community college and a business meet all the
47 requirements of the Iowa jobs training Act under
48 chapter 260F. However, when moneys are provided
49 through the grow Iowa values fund for such projects,
50 section 260F.6, subsections 1 and 2, and section

Page 11

1 260F.8 shall not apply and projects shall be approved
2 by the grow Iowa values board.

3 c. For the development and implementation of
4 career academies designed to provide new career

5 preparation opportunities for high school students
6 that are formally linked with postsecondary career and
7 technical education programs. Moneys from workforce
8 training and economic development funds that are
9 expended for purposes of this paragraph shall be
10 approved by the grow Iowa values board established in
11 section 15G.102. For purposes of this section,
12 "career academy" means a program of study that
13 combines a minimum of two years of secondary education
14 with an associate degree, or the equivalent, career
15 preparatory program in a nonduplicative, sequential
16 course of study that is standards based, integrates
17 academic and technical instruction, utilizes work-
18 based and worksite learning where appropriate and
19 available, utilizes an individual career planning
20 process with parent involvement, and leads to an
21 associate degree or postsecondary diploma or
22 certificate in a career field that prepares an
23 individual for entry and advancement in a high-skill
24 and reward career field and further education. The
25 department of economic development, in conjunction
26 with the state board of education and the division of
27 community colleges and workforce preparation of the
28 department of education, shall adopt administrative
29 rules for the development and implementation of such
30 career academies pursuant to section 256.11,
31 subsection 5, paragraph "h", section 260C.1, and Title
32 II of Pub. L. No. 105-332, Carl D. Perkins Vocational
33 and Technical Education Act of 1998.
34 d. Programs and courses that provide vocational
35 and technical training, and programs for in-service
36 training and retraining under section 260C.1,
37 subsections 2 and 3.
38 e. Job retention projects under section 260F.9.
39 3. Of the moneys appropriated in this section, for
40 the fiscal period beginning July 1, 2003, and ending
41 June 30, 2006, the following amounts shall be
42 designated for the purposes of funding job retention
43 projects under section 260F.9:
44 a. One million dollars for the fiscal year
45 beginning July 1, 2003.
46 b. One million dollars for the fiscal year
47 beginning July 1, 2004.
48 c. One million dollars for the fiscal year
49 beginning July 1, 2005.
50 4. The maximum cumulative total amount of moneys

Page 12

1 that may be deposited in all the workforce training
2 and economic development funds for distribution to
3 community colleges in a fiscal year shall be

4 determined as follows:
5 a. Five million dollars for the fiscal year
6 beginning July 1, 2003.
7 b. Five million dollars for the fiscal year
8 beginning July 1, 2004.
9 c. Five million dollars for the fiscal year
10 beginning July 1, 2005.
11 d. Ten million dollars for the fiscal year
12 beginning July 1, 2006.
13 e. For the fiscal year beginning July 1, 2007, and
14 each succeeding fiscal year, the grow Iowa values
15 board shall make a determination if sufficient moneys
16 exist in the grow Iowa values fund to distribute to
17 community colleges.
18 Sec. __. NEW SECTION. 260F.9 JOB RETENTION
19 PROGRAM.
20 1. The department of economic development shall
21 administer the job retention program. The department
22 shall adopt rules pursuant to chapter 17A necessary
23 for the administration of this section. By January 15
24 of each year, the department shall submit a written
25 report to the general assembly and the governor
26 regarding the activities of the job retention program
27 during the previous calendar year.
28 2. A community college and the department may
29 enter into an agreement to establish a job retention
30 project. A job retention project agreement shall
31 include, but not be limited to, the following:
32 a. The date of the agreement.
33 b. The anticipated number of employees to be
34 trained.
35 c. The estimated cost of training.
36 d. A statement regarding the number of employees
37 employed by the participating business on the date of
38 the agreement which must equal at least the lesser of
39 one thousand employees or four percent or more of the
40 county's resident labor force based on the most recent
41 annual labor force statistics from the department of
42 workforce development.
43 e. A commitment that the participating business
44 shall invest at least fifteen million dollars to
45 retool the workplace and upgrade the facilities of the
46 participating business.
47 f. A commitment that the participating business
48 shall not move the business operation out of this
49 state or close the business operation for at least ten
50 years following the date of the agreement.

Page 13

1 g. Other criteria established by the department of
2 economic development.

3 3. A job retention project agreement entered into
 4 pursuant to this section must be approved by the board
 5 of trustees of the applicable community college, the
 6 department of economic development, and the
 7 participating business.

8 Sec. __. NEW SECTION. 260F.101 REPORTING.

9 A community college entering into an agreement
 10 pursuant to this chapter shall submit an annual
 11 written report by the end of each calendar year with
 12 the grow Iowa values board created in section 15G.102,
 13 if enacted by 2003 Iowa Acts, [House File 692](#) or
 14 another Act. The report shall provide information
 15 regarding how the agreement affects the achievement of
 16 the goals and performance measures provided in section
 17 15G.106, if enacted by 2003 Iowa Acts, [House File 692](#)
 18 or another Act.

19 Sec. __. Section 260G.3, subsection 2, Code 2003,
 20 is amended to read as follows:

21 2. An agreement may include reasonable and
 22 necessary provisions to implement the accelerated
 23 career education program. If an agreement that
 24 utilizes program job credits is entered into, the
 25 community college and the employer shall notify the
 26 department of revenue and finance as soon as possible.
 27 The community college shall also file a copy of the
 28 agreement with the department of economic development
 29 as required in section 260G.4B. The agreement shall
 30 provide for program costs, including deferred costs,
 31 which may be paid from any of the following sources:

32 a. Program job credits which the employer receives
 33 based on the number of program job positions agreed to
 34 by the employer to be available under the agreement.

35 b. Cash or in-kind contributions by the employer
 36 toward the program cost. At a minimum, the employer
 37 contribution shall be twenty percent of the program
 38 costs.

39 c. Tuition, student fees, or special charges fixed
 40 by the board of directors to defray program costs.

41 d. Guarantee by the employer of payments to be
 42 received under paragraphs "a" and "b".

43 e. Moneys from a workforce training and economic
 44 development fund created in section 260C.18A, based on
 45 the number of program job positions agreed to by the
 46 employer to be available under the agreement, the
 47 amount of which shall be calculated in the same manner
 48 as the program job credits provided for in section
 49 260G.4A.

50 Sec. __. NEW SECTION. 260G.101 REPORTING.

Page 14

1 A community college entering into an agreement

2 pursuant to this chapter shall submit an annual
3 written report by the end of each calendar year with
4 the grow Iowa values board created in section 15G.102,
5 if enacted by 2003 Iowa Acts, [House File 692](#) or
6 another Act. The report shall provide information
7 regarding how the agreement affects the achievement of
8 the goals and performance measures provided in section
9 15G.106, if enacted by 2003 Iowa Acts, [House File 692](#)
10 or another Act.

11 DIVISION IX

12 LOAN AND CREDIT GUARANTEE FUND

13 Sec. . NEW SECTION. 15E.227 LOAN AND CREDIT
14 GUARANTEE FUND.

15 1. A loan and credit guarantee fund is created and
16 established as a separate and distinct fund in the
17 state treasury. Moneys in the fund shall only be used
18 for purposes provided in this section. The moneys in
19 the fund are appropriated to the department to be used
20 for all of the following purposes:

21 a. Payment of claims pursuant to loan and credit
22 guarantee agreements entered into under this division.

23 b. Payment of administrative costs of the
24 department for actual and necessary administrative
25 expenses incurred by the department in administering
26 the program.

27 c. Purchase or buyout of superior or prior liens,
28 mortgages, or security interests.

29 d. Purchase of insurance to cover the default of
30 loans made pursuant to the requirements of the loan
31 and credit guarantee program.

32 2. Moneys in the loan and credit guarantee fund
33 shall consist of all of the following:

34 a. Moneys appropriated by the general assembly for
35 that purpose and any other moneys available to and
36 obtained or accepted by the department for placement
37 in the fund.

38 b. Proceeds from collateral assigned to the
39 department, fees for guarantees, gifts, and moneys
40 from any grant made to the fund by any federal agency.

41 c. Moneys appropriated from the grow Iowa values
42 fund created in section 15G.107, if enacted by 2003
43 Iowa Acts, [House File 692](#) or another Act.

44 3. Moneys in the fund are not subject to section
45 8.33. Notwithstanding section 12C.7, interest or
46 earnings on the moneys in the fund shall be credited
47 to the fund.

48 4. a. The department shall only pledge moneys in
49 the loan and credit guarantee fund and not any other
50 moneys of the department. In a fiscal year, the

Page 15

1 department may pledge an amount not to exceed the
2 total amount appropriated to the fund for the same
3 fiscal year to assure the repayment of loan and credit
4 guarantees or other extensions of credit made to or on
5 behalf of qualified businesses or targeted industry
6 businesses for eligible project costs.

7 b. The department shall not pledge the credit or
8 taxing power of this state or any political
9 subdivision of this state or make debts payable out of
10 any moneys except for those in the loan and credit
11 guarantee fund.

DIVISION X

UNIVERSITY-BASED RESEARCH UTILIZATION

PROGRAM APPROPRIATION

12
13
14
15 Sec. __. NEW SECTION. 262B.12 APPROPRIATION.

16 On July 1 of each year there is appropriated from
17 the general fund of the state to each university under
18 the control of the state board of regents, an amount
19 equal to the amount determined by the department of
20 economic development pursuant to section 262B.11,
21 subsection 4, paragraph "c", subparagraph (2), if
22 enacted by 2003 Iowa Acts, [House File 692](#) or another
23 Act.

DIVISION XI

ENDOW IOWA TAX CREDIT

24
25
26 Sec. __. NEW SECTION. 15E.305 ENDOW IOWA TAX
27 CREDIT.

28 1. For tax years beginning on or after January 1,
29 2003, a tax credit shall be allowed against the taxes
30 imposed in chapter 422, divisions II, III, and V, and
31 in chapter 432, and against the moneys and credits tax
32 imposed in section 533.24 equal to twenty percent of a
33 taxpayer's endowment gift to a qualified community
34 foundation. An individual may claim a tax credit
35 under this section of a partnership, limited liability
36 company, S corporation, estate, or trust electing to
37 have income taxed directly to the individual. The
38 amount claimed by the individual shall be based upon
39 the pro rata share of the individual's earnings from
40 the partnership, limited liability company, S
41 corporation, estate, or trust. A tax credit shall be
42 allowed only for an endowment gift made to a qualified
43 community foundation for a permanent endowment fund
44 established to benefit a charitable cause in this
45 state. Any tax credit in excess of the taxpayer's tax
46 liability for the tax year may be credited to the tax
47 liability for the following five years or until
48 depleted, whichever occurs first. A tax credit shall
49 not be carried back to a tax year prior to the tax
50 year in which the taxpayer claims the tax credit.

Page 16

1 2. The aggregate amount of tax credits authorized
2 pursuant to this section shall not exceed a total of
3 two million dollars. The maximum amount of tax
4 credits granted to a taxpayer shall not exceed five
5 percent of the aggregate amount of tax credits
6 authorized.

7 3. A tax credit shall not be transferable to any
8 other taxpayer.

9 4. A tax credit shall not be authorized pursuant
10 to this section after December 31, 2005.

11 5. The department shall develop a system for
12 registration and authorization of tax credits under
13 this section and shall control the distribution of all
14 tax credits to taxpayers providing an endowment gift
15 subject to this section. The department shall adopt
16 administrative rules pursuant to chapter 17A for the
17 qualification and administration of endowment gifts.

18 Sec. __. NEW SECTION. 422.11H ENDOW IOWA TAX
19 CREDIT.

20 The tax imposed under this division, less the
21 credits allowed under sections 422.12 and 422.12B,
22 shall be reduced by an endow Iowa tax credit
23 authorized pursuant to section 15E.305.

24 Sec. __. Section 422.33, Code 2003, is amended by
25 adding the following new subsection:

26 NEW SUBSECTION. 14. The taxes imposed under this
27 division shall be reduced by an endow Iowa tax credit
28 authorized pursuant to section 15E.305.

29 Sec. __. Section 422.60, Code 2003, is amended by
30 adding the following new subsection:

31 NEW SUBSECTION. 7. The taxes imposed under this
32 division shall be reduced by an endow Iowa tax credit
33 authorized pursuant to section 15E.305.

34 Sec. __. NEW SECTION. 432.12D ENDOW IOWA TAX
35 CREDIT.

36 The tax imposed under this chapter shall be reduced
37 by an endow Iowa tax credit authorized pursuant to
38 section 15E.305.

39 Sec. __. Section 533.24, Code 2003, is amended by
40 adding the following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. The moneys and credits
42 tax imposed under this section shall be reduced by an
43 endow Iowa tax credit authorized pursuant to section
44 15E.305.

45 Sec. __. EFFECTIVE AND RETROACTIVE APPLICABILITY
46 DATES. This division of this Act, being deemed of
47 immediate importance, takes effect upon enactment and
48 is retroactively applicable to January 1, 2003, for
49 tax years beginning on or after that date.

50 DIVISION XII

Page 17

1 REHABILITATION PROJECT TAX CREDITS

2 Sec. __. Section 404A.4, subsection 4, Code 2003,
3 is amended to read as follows:

4 4. The total amount of tax credits that may be
5 approved for a fiscal year under this chapter shall
6 not exceed two million four hundred thousand dollars.

7 For the fiscal years beginning July 1, 2005, and July
8 1, 2006, an additional five hundred thousand dollars
9 of tax credits may be approved each fiscal year for
10 purposes of projects located in cultural and
11 entertainment districts certified pursuant to section
12 303.3B, if enacted by 2003 Iowa Acts, House File 692
13 or another Act. Any of the additional tax credits
14 allocated for projects located in certified cultural
15 and entertainment districts that are not approved
16 during a fiscal year may be carried over to the
17 succeeding fiscal year. Tax credit certificates shall

18 be issued on the basis of the earliest awarding of
19 certifications of completion as provided in subsection
20 1. The departments of economic development and
21 revenue and finance shall each adopt rules to jointly
22 administer this subsection and shall provide by rule
23 for the method to be used to determine for which
24 fiscal year the tax credits are approved."

25 10. Page 44, by striking lines 10 through 12 and
26 inserting the following: "rebuild Iowa infrastructure
27 fund to the secure an advanced vision for education
28 fund created in section 422E.3A, for".

29 11. Page 44, by striking lines 23 through 25 and
30 inserting the following: "streamlined sales and use
31 tax agreement to the secure an advanced vision for
32 education fund created in section 422E.3A, the".

33 12. By striking page 155, line 14, through page
34 161, line 17.

35 13. Page 161, by inserting before line 18 the
36 following:

37 "DIVISION __
38 CAPITOL COMPLEX PARKING STRUCTURE
39 Sec. __. NEW SECTION. 18A.8 CAPITOL COMPLEX
40 PARKING STRUCTURE REVOLVING FUND.

41 A capitol complex parking structure revolving fund
42 is created in the state treasury. The capitol complex
43 parking structure revolving fund shall be administered
44 by the department of administrative services and shall
45 consist of moneys collected by the department as
46 parking fees, moneys appropriated to the fund by the
47 general assembly, and any other moneys obtained or
48 accepted by the department for deposit in the
49 revolving fund. The proceeds of the revolving fund
50 are appropriated to and shall be used by the

Page 18

1 department for costs associated with the management,
2 operation, and maintenance of the capitol complex
3 parking structure located at the intersection of
4 Pennsylvania and Grand avenues in Des Moines. The
5 department shall submit an annual report not later
6 than January 31 to the members of the general assembly
7 and the legislative services agency, of the activities
8 funded by and expenditures made from the revolving
9 fund during the preceding fiscal year. Section 8.33
10 does not apply to any moneys in the revolving fund
11 and, notwithstanding section 12C.7, subsection 2,
12 earnings or interest on moneys deposited in the
13 revolving fund shall be credited to the revolving
14 fund.

15 Sec. ___. CAPITOL COMPLEX PARKING STRUCTURE
16 MANAGEMENT – REQUEST FOR PROPOSALS. The department
17 of administrative services shall issue a request for
18 proposals for the management, operation, and
19 maintenance of the state-owned parking structure
20 located at the intersection of Pennsylvania and Grand
21 avenues in Des Moines. The request for proposals
22 shall include all of the following services:

23 1. The collection of parking fees and
24 administration of parking permits.

25 2. Daily janitorial maintenance and necessary
26 annual maintenance, pursuant to standards outlined in
27 the parking garage maintenance manual published by the
28 parking consultants council of the national parking
29 association.

30 3. Long-term structural maintenance.
31 Awarding of a contract for the management,
32 operation, and maintenance of the parking structure is
33 subject to approval by the general assembly.

34 Sec. ___. CAPITOL COMPLEX PARKING STRUCTURE –
35 EMPLOYEE PARKING FEES. The department of
36 administrative services shall establish reasonable
37 parking fees for state employees for the use of the
38 state-owned parking structure located at the
39 intersection of Pennsylvania and Grand avenues in Des
40 Moines. Parking fees shall not be established or
41 collected for use of the parking structure by members
42 of the general public. Such fees shall be deposited
43 in the capitol complex parking structure revolving
44 fund created in section 18A.8, as enacted by this
45 Act."

46 14. By renumbering, relettering, or redesignating
47 and correcting internal references as necessary.

Hoffman of Crawford offered amendment [H-1618](#), to amendment [H-1617](#) to the Senate amendment [H-1616](#) filed by him from the floor as follows:

H-1618

1 Amend the amendment, [H-1617](#), to the Senate
2 amendment, [H-1616](#), to [House File 683](#), as amended,
3 passed, and reprinted by the House, as follows:
4 1. Page 2, by striking lines 16 through 30 and
5 inserting the following: "allocated ~~based on the~~
6 ~~proportion of actual enrollment in the district to the~~
7 ~~combined actual enrollment in the counties where the~~
8 ~~sales and services tax for school infrastructure~~
9 ~~purposes has been imposed and the school districts in~~
10 ~~the counties qualify for the supplemental school~~
11 ~~infrastructure amount first to increase the school~~
12 ~~district with the lowest sales tax capacity per~~
13 ~~student to an amount equal to the school district or~~
14 ~~school districts with the next lowest sales tax~~
15 ~~capacity per student and then increase the school~~
16 ~~districts to an amount equal to the school district or~~
17 ~~school districts with the next lowest sales tax~~
18 ~~capacity per student and continue on in this manner~~
19 ~~until money is no longer available or all school~~
20 ~~districts reach their guaranteed school infrastructure~~
21 ~~amount."~~

Amendment [H-1618](#) was adopted.

The House stood at ease at 9:42 p.m., until the fall of the gavel.

The House resumed session at 10:24 p.m., Speaker Rants in the chair.

Jenkins of Black Hawk offered the following amendment [H-1620](#), to amendment [H-1617](#) to the Senate amendment [H-1616](#) filed by him from the floor and moved its adoption:

H-1620

1 Amend the amendment, [H-1617](#), to the Senate
2 amendment, [H-1616](#), to [House File 683](#), as amended,
3 passed, and reprinted by the House, as follows:
4 1. Page 10, by striking lines 40 through 44 and
5 inserting the following: "program under chapter
6 260G."
7 2. By striking page 10, line 48, through page 11,

8 line 2, and inserting the following: "chapter 260F."
9 3. Page 11, by striking lines 7 through 11 and
10 inserting the following: "technical education
11 programs. For purposes of this section,".
12 4. Page 12, by inserting after line 17 the
13 following:
14 "5. The department of economic development shall
15 allocate the moneys appropriated pursuant to this
16 section to the community college workforce training
17 and economic development funds utilizing the same
18 distribution formula used for the allocation of state
19 general aid to the community colleges.
20 6. Each community college shall do all of the
21 following:
22 a. Adopt a two-year workforce training and
23 economic development fund plan outlining the community
24 college's proposed use of moneys appropriated under
25 subsection 2.
26 b. Update the two-year plan annually.
27 c. Prepare an annual progress report on the two-
28 year plan's implementation.
29 d. Annually submit the two-year plan and progress
30 report to the department of economic development in a
31 manner prescribed by rules adopted by the department
32 pursuant to chapter 17A and annually file a copy of
33 the plan and progress report with the grow Iowa values
34 board. For the fiscal year beginning July 1, 2004,
35 and each fiscal year thereafter, a community college
36 shall not have moneys deposited in the workforce
37 training and economic development fund of that
38 community college unless the grow Iowa values board
39 approves the annual progress report of the community
40 college.
41 7. Any individual project using over one million
42 dollars of moneys from a workforce training and
43 economic development fund shall require prior approval
44 from the grow Iowa values board."

Amendment [H-1620](#) was adopted.

Division of amendment [H-1617](#), as amended, to the Senate amendment [H-1616](#) was requested as follows:

Pages 1 through 16 and page 17 lines 1 through 32 and page 17 line 35 through the remainder of the amendment, Division A.
Page 17 lines 33 and 34, Division B.

On motion by Hoffman of Crawford, amendment [H-1617A](#), as amended, was adopted.

Hoffman of Crawford moved the adoption of amendment [H-1617B](#).

Roll call was requested by Myers of Johnson and Reasoner of Union.

On the question "Shall amendment [H-1617B](#) be adopted?" ([H.F. 683](#))

The ayes were, 53:

Alons	Arnold	Baudler	Boal
Boddicker	Carroll	Chambers	De Boef
Dennis	Dix	Dolecheck	Drake
Elgin	Freeman	Gipp	Greiner
Hahn	Hansen	Hanson	Heaton
Hoffman	Horbach	Huseman	Huser
Hutter	Jacobs	Jenkins	Jones
Klemme	Kramer	Kurtenbach	Lalk
Lukan	Maddox	Manternach	Olson, S.
Paulsen	Raecker	Rasmussen	Rayhons
Roberts	Sands	Schickel	Struyk
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wilderdyeke
Mr. Speaker			
Rants			

The nays were, 42:

Bell	Berry	Bukta	Connors
Dandekar	Davitt	Eichhorn	Fallon
Ford	Gaskill	Granzow	Greimann
Heddens	Hogg	Hunter	Jochum
Kuhn	Lensing	Lykam	Mascher
McCarthy	Mertz	Miller	Murphy
Myers	Oldson	Olson, D.	Osterhaus
Petersen	Quirk	Reasoner	Shoultz
Stevens	Swaim	Taylor, D.	Taylor, T.
Thomas	Wendt	Whitaker	Whitead
Winckler	Wise		

Absent or not voting, 5:

Boggess	Cohoon	Foege	Frevert
Smith			

Amendment [H-1617B](#) was adopted.

Heaton of Henry offered the following amendment [H-1621](#), to the Senate amendment [H-1616](#), filed by him and Carroll of Poweshiek from the floor as follows:

H-1621

- 1 Amend the Senate amendment, [H-1616](#), to House File
- 2 683, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 3, by inserting before line 9 the
- 5 following:
- 6 "Sec. ___. 2003 Iowa Acts, [House File 667](#), section
- 7 13, subsection 2, is amended to read as follows:
- 8 2. The department may either continue or reprocure
- 9 the contract existing on June 30, 2003, with the
- 10 department's fiscal agent. If the department
- 11 initiates reprocurement of the contract, of the amount
- 12 appropriated in this Act for the medical assistance
- 13 program, up to \$500,00 may be used to begin the
- 14 implementation process."
- 15 2. By renumbering as necessary.

On motion by Heaton of Henry the following amendment [H-1622](#), to amendment [H-1621](#), to the Senate amendment [H-1616](#), filed by him from the floor, was adopted by unanimous consent.

H-1622

- 1 Amend the amendment, [H-1621](#), to the Senate
- 2 amendment, [H-1616](#), to [House File 683](#), as amended,
- 3 passed, and reprinted by the House as follows:
- 4 1. Page 1, line 13, by striking the figure
- 5 "\$500,00" and inserting the following: "\$500,000".

On motion by Heaton of Henry, amendment [H-1621](#), as amended was adopted.

Huser of Polk offered the following amendment [H-1619](#), to the Senate amendment [H-1616](#), filed by her from the floor and moved its adoption:

H-1619

- 1 Amend the Senate amendment, [H-1616](#), to House File
- 2 683, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 119, line 5, by striking the figure "15"
- 5 and inserting the following: "14".

Amendment [H-1619](#) was adopted.

On motion by Hoffman of Crawford the House concurred in the Senate amendment [H-1616](#), as amended.

Hoffman of Crawford moved that the bill, as amended by the Senate further amended and concurred in by the House, be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 683](#))

The ayes were, 53:

Alons	Arnold	Baudler	Boal
Boddicker	Carroll	Chambers	De Boef
Dennis	Dix	Dolecheck	Drake
Elgin	Freeman	Gipp	Granzow
Greiner	Hahn	Hansen	Hanson
Heaton	Hoffman	Horbach	Huseman
Hutter	Jacobs	Jenkins	Jones
Klemme	Kramer	Kurtenbach	Lalk
Lukan	Maddox	Manternach	Olson, S.
Paulsen	Raecker	Rasmussen	Roberts
Sands	Schickel	Swaim	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wilderdike
Mr. Speaker			
Rants			

The nays were, 42:

Bell	Berry	Bukta	Connors
Dandekar	Davitt	Eichhorn	Fallon
Ford	Gaskill	Greimann	Heddens
Hogg	Hunter	Huser	Jochum
Kuhn	Lensing	Lykam	Mascher
McCarthy	Mertz	Miller	Murphy
Myers	Oldson	Olson, D.	Osterhaus
Petersen	Quirk	Rayhons	Reasoner
Shoultz	Stevens	Struyk	Taylor, D.
Taylor, T.	Wendt	Whitaker	Whitead
Winckler	Wise		

Absent or not voting, 5:

Boggess	Cohoon	Foege	Frevert
Smith			

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 683](#) be immediately messaged to the Senate.

The House stood at ease at 12:17 a.m., until the fall of the gavel.

The House resumed session at 12:46 a.m., Speaker Rants in the chair.

SENATE AMENDMENT CONSIDERED

Carroll of Poweshiek called up for consideration [House File 692](#), a bill for an act relating to taxation of property and income and including effective date and applicability date provisions, amended by the Senate amendment [H-1615](#):

H-1615

1 Amend [House File 692](#), as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "DIVISION I
6 PROPERTY TAXATION
7 Section 1. Section 441.19, subsections 1 and 2,
8 Code 2003, are amended to read as follows:
9 1. Supplemental and optional to the procedure for
10 the assessment of property by the assessor as provided
11 in this chapter, the assessor may require from all
12 persons required to list their property for taxation
13 as provided by sections 428.1 and 428.2, a
14 supplemental return to be prescribed by the director
15 of revenue and finance upon which the person shall
16 list the person's property and any additions or
17 modifications completed in the prior year to a
18 structure located on the property. The supplemental
19 return shall be in substantially the same form as now
20 prescribed by law for the assessment rolls used in the
21 listing of property by the assessors. Every person
22 required to list property for taxation shall make a
23 complete listing of the property upon supplemental
24 forms and return the listing to the assessor ~~as~~
25 ~~promptly as possible~~ within thirty days of receiving

26 the assessment notice in section 441.23. The return
 27 shall be verified over the signature of the person
 28 making the return and section 441.25 applies to any
 29 person making such a return. The assessor shall make
 30 supplemental return forms available as soon as
 31 practicable after the first day of January of each
 32 year. The assessor shall make supplemental return
 33 forms available to the taxpayer by mail, or at a
 34 designated place within the taxing district.

35 2. Upon receipt of such supplemental return from
 36 any person the assessor shall prepare a roll assessing
 37 such person as hereinafter provided. In the
 38 preparation of such assessment roll the assessor shall
 39 be guided not only by the information contained in
 40 such supplemental roll, but by any other information
 41 the assessor may have or which may be obtained by the
 42 assessor as prescribed by the law relating to the
 43 assessment of property. The assessor shall not be
 44 bound by any values or square footage determinations
 45 or purchase prices as listed in such supplemental
 46 return, and may include in the assessment roll any
 47 property omitted from the supplemental return which in
 48 the knowledge and belief of the assessor should be
 49 listed as required by law by the person making the
 50 supplemental return. Upon completion of such roll the

Page 2

1 assessor shall deliver to the person submitting such
 2 supplemental return a copy of the assessment roll,
 3 either personally or by mail.

4 Sec. 2. NEW SECTION. 441.20 LEGISLATIVE INTENT.
 5 It is the intent of the general assembly that there
 6 be transparency in the property tax system. It is
 7 further the intent of the general assembly that
 8 property assessments for purposes of property taxation
 9 be equal and uniform within classes of property. It
 10 is further the intent of the general assembly to
 11 minimize the impact that maintenance and upkeep by the
 12 owner of property has on the assessment of that
 13 property and that there be predictability in increases
 14 of property assessments and that such predictability
 15 be based primarily on the actions of the property
 16 owner. It is further the intent of the general
 17 assembly to minimize the impact that increases in
 18 assessed value of property will have on property taxes
 19 paid and that any increases will be primarily the
 20 result of direct action taken by the local taxing
 21 authority in setting budget amounts rather than by
 22 increases in market value of property.

23 Sec. 3. Section 441.21, Code 2003, is amended by
 24 striking the section and inserting in lieu thereof the

25 following:

26 441.21 ASSESSMENT OF STRUCTURES.

27 1. All real property, except land, subject to
28 taxation shall be assessed on a value per square foot
29 basis according to the provisions of this section.

30 2. a. Subject to paragraph "b", for valuations
31 established as of January 1, 2006, and for subsequent
32 assessment years, the assessed value per square foot
33 of a residential structure shall be an amount equal to
34 the valuation of the structure as determined for the
35 assessment year beginning January 1, 2005, prior to
36 application of the assessment limitation for that
37 year, divided by the total number of square feet of
38 the structure as of January 1, 2005.

39 b. (1) The assessed value per square foot of an
40 existing residential structure purchased after January
41 1, 2005, shall be the purchase price of the structure
42 divided by the cumulative inflation factor established
43 for the assessment year following the year of
44 purchase, divided by the total number of square feet
45 of the structure as of January 1 of the assessment
46 year. The assessed value per square foot of a
47 residential structure newly constructed after January
48 1, 2005, shall be the market value of the structure,
49 as determined by the assessor, divided by the
50 cumulative inflation factor established for the

Page 3

1 assessment year following the year construction was
2 completed, divided by the total number of square feet
3 of the structure as of January 1 of the assessment
4 year. However, when valuing an addition that
5 substantially increases the square footage of a
6 structure, only that portion of the structure
7 comprising the addition shall be valued by the
8 assessor under this subparagraph.

9 (2) If additions or modifications to an existing
10 structure do not constitute a newly constructed
11 structure, the valuation of the structure shall only
12 increase if the square footage of the structure
13 increases. The increased valuation, if any, equals
14 the amount of increased square feet times the value
15 per square foot of the structure prior to the
16 additions or modifications.

17 3. a. Subject to paragraph "b" for valuations
18 established as of January 1, 2006, and for subsequent
19 assessment years, the assessed value per square foot
20 of a commercial or industrial structure shall be an
21 amount equal to the valuation of the structure as
22 determined for the assessment year beginning January
23 1, 2005, prior to application of the assessment

24 limitation for that year, divided by the total number
25 of square feet of the structure as of January 1, 2005.
26 b. (1) The assessed value per square foot of an
27 existing commercial or industrial structure purchased
28 after January 1, 2005, shall be the purchase price of
29 the structure divided by the cumulative inflation
30 factor established for the assessment year following
31 the year of purchase, divided by the total number of
32 square feet of the structure as of January 1 of the
33 assessment year. The assessed value per square foot
34 of a commercial or industrial structure newly
35 constructed after January 1, 2005, shall be the market
36 value of the structure, as determined by the assessor,
37 divided by the cumulative inflation factor established
38 for the assessment year following the year
39 construction was completed, divided by the total
40 number of square feet of the structure as of January 1
41 of the assessment year. However, when valuing an
42 addition that substantially increases the square
43 footage of a structure, only that portion of the
44 structure comprising the addition shall be valued by
45 the assessor under this subparagraph.
46 (2) If additions or modifications to an existing
47 structure do not constitute a newly constructed
48 structure, the valuation of the structure shall only
49 increase if the square footage of the structure
50 increases. The increased valuation, if any, equals

Page 4

1 the amount of increased square feet times the value
2 per square foot of the structure prior to the
3 additions or modifications.
4 4. a. Subject to paragraph "b" for valuations
5 established as of January 1, 2006, and for subsequent
6 assessment years, the assessed value per square foot
7 of an agricultural structure that is not an
8 agricultural dwelling shall be an amount equal to the
9 valuation of the structure as determined for the
10 assessment year beginning January 1, 2005, prior to
11 application of the assessment limitation for that
12 year, divided by the total number of square feet of
13 the structure as of January 1, 2005.
14 b. (1) The assessed value per square foot of an
15 existing agricultural structure purchased after
16 January 1, 2005, shall be the productivity value of
17 the structure divided by the cumulative inflation
18 factor established for the assessment year following
19 the year of purchase, divided by the total number of
20 square feet of the structure as of January 1 of the
21 assessment year. The assessed value per square foot
22 of an agricultural structure newly constructed after

23 January 1, 2005, shall be the productivity value of
24 the structure for the assessment year following the
25 year construction was completed, as determined by the
26 assessor, divided by the cumulative inflation factor
27 established for the assessment year following the year
28 construction was completed, divided by the total
29 number of square feet of the structure as of January 1
30 of the assessment year. However, when valuing an
31 addition that substantially increases the square
32 footage of a structure, only that portion of the
33 structure comprising the addition shall be valued by
34 the assessor under this subparagraph.

35 (2) If additions or modifications to an existing
36 structure do not constitute a newly constructed
37 structure, the valuation of the structure shall only
38 increase if the square footage of the structure
39 increases. The increased valuation, if any, equals
40 the amount of increased square feet times the value
41 per square foot of the structure prior to the
42 additions or modifications.

43 5. a. In determining the market value of newly
44 constructed property, except agricultural structures,
45 the assessor may determine the value of the property
46 using uniform and recognized appraisal methods
47 including its productive and earning capacity, if any,
48 industrial conditions, its cost, physical and
49 functional depreciation and obsolescence and
50 replacement cost, and all other factors which would

Page 5

1 assist in determining the fair and reasonable market
2 value of the property but the actual value shall not
3 be determined by use of only one such factor. The
4 following shall not be taken into consideration:
5 special value or use value of the property to its
6 present owner, and the goodwill or value of a business
7 that uses the property as distinguished from the value
8 of the property as property. However, in assessing
9 property that is rented or leased to low-income
10 individuals and families as authorized by section 42
11 of the Internal Revenue Code, as amended, and which
12 section limits the amount that the individual or
13 family pays for the rental or lease of units in the
14 property, the assessor shall use the productive and
15 earning capacity from the actual rents received as a
16 method of appraisal and shall take into account the
17 extent to which that use and limitation reduces the
18 market value of the property. The assessor shall not
19 consider any tax credit equity or other subsidized
20 financing as income provided to the property in
21 determining the market value. Upon adoption of

22 uniform rules by the department of revenue and finance
23 or covering assessments and valuations of such
24 properties, the valuation on such properties shall be
25 determined in accordance with such values for
26 assessment purposes to assure uniformity, but such
27 rules shall not be inconsistent with or change the
28 foregoing means of determining the market value.
29 b. The actual value of special purpose tooling,
30 which is subject to assessment and taxation as real
31 property under section 427A.1, subsection 1, paragraph
32 "e", but which can be used only to manufacture
33 property which is protected by one or more United
34 States or foreign patents, shall not exceed the fair
35 and reasonable exchange value between a willing buyer
36 and a willing seller, assuming that the willing buyer
37 is purchasing only the special purpose tooling and not
38 the patent covering the property which the special
39 purpose tooling is designed to manufacture nor the
40 rights to manufacture the patented property. For
41 purposes of this paragraph, special purpose tooling
42 includes dies, jigs, fixtures, molds, patterns, and
43 similar property. The assessor shall not take into
44 consideration the special value or use value to the
45 present owner of the special purpose tooling which is
46 designed and intended solely for the manufacture of
47 property protected by a patent in arriving at the
48 actual value of the special purpose tooling.
49 c. In determining the purchase price of a
50 structure, the assessor shall consider whether the

Page 6

1 sale was a fair and reasonable exchange in the year in
2 which the property was listed and valued between a
3 willing buyer and a willing seller, neither being
4 under any compulsion to buy or sell and each being
5 familiar with all the facts relating to the particular
6 property. Sale prices of the property or comparable
7 property in normal transactions reflecting market
8 value, and the probable availability or unavailability
9 of persons interested in purchasing the property,
10 shall be taken into consideration in determining
11 purchase price. In determining purchase price, sale
12 prices of property in abnormal transactions not
13 reflecting market value shall not be taken into
14 account, or shall be adjusted to eliminate the effect
15 of factors which distort market value, including but
16 not limited to sales to immediate family of the
17 seller, foreclosure or other forced sales, contract
18 sales, or discounted purchase transactions.
19 d. If a county enters into a contract before May
20 1, 2003, for a comprehensive revaluation by a private

21 appraiser and such revaluation is for the assessment
22 year beginning January 1, 2006, the valuations
23 determined under the comprehensive revaluation for
24 that assessment year shall be divided by the
25 cumulative inflation factor for the assessment year
26 beginning January 1, 2006, and that quotient shall be
27 considered the valuation of the property for the
28 assessment year beginning January 1, 2005.

29 6. Notwithstanding any other provision of this
30 section, the assessed value per square foot of a
31 structure times the total number of square feet of the
32 structure shall not exceed its fair and reasonable
33 market value for the assessment year, except for
34 agricultural structures which shall be valued
35 exclusively as provided in subsection 4.

36 7. For purposes of this section:

37 a. "Annual inflation factor" means an index,
38 expressed as a percentage, determined by the
39 department by January 15 of the assessment year for
40 which the factor is determined, which reflects the
41 purchasing power of the dollar as a result of
42 inflation during the twelve-month period ending
43 September 30 of the calendar year preceding the
44 assessment year for which the factor is determined.
45 In determining the annual inflation factor, the
46 department shall use the annual percent change, but
47 not less than zero percent, in the gross domestic
48 product price deflator computed for the calendar year
49 by the bureau of economic analysis of the United
50 States department of commerce and shall add all of

Page 7

1 that percent change to one hundred percent. The
2 annual inflation factor and the cumulative inflation
3 factor shall each be expressed as a percentage rounded
4 to the nearest one-tenth of one percent. The annual
5 inflation factor shall not be less than one hundred
6 percent. The annual inflation factor for the 2005
7 calendar year is one hundred percent.

8 b. "Cumulative inflation factor" means the product
9 of the annual inflation factor for the 2005 calendar
10 year and all annual inflation factors for subsequent
11 calendar years as determined pursuant to this
12 subsection. The cumulative inflation factor applies
13 to the assessment year beginning on January 1 of the
14 calendar year for which the latest annual inflation
15 factor has been determined.

16 c. "Newly constructed" includes, but is not
17 limited to, structural replacement, additions that
18 substantially increase the square footage, conversion
19 into another class of property, and conversion from

20 exempt property under section 427.1 to taxable
21 property. For commercial and industrial property,
22 "newly constructed" also includes an addition or
23 removal to a structure of personal property taxed as
24 real estate under chapter 427A.

25 d. "Structure" means any part of that which is
26 built or constructed, an edifice or building of any
27 kind, or any piece of work artificially built up or
28 composed of parts joined together in some definite
29 manner. For residential structures, structure
30 includes only those parts of the structure, including
31 basements and attics, that are or could be used as
32 living space. "Structure" does not include the land
33 beneath, or horizontal improvements relating to the
34 structure, such as sidewalks, sewers, or retaining
35 walls.

36 8. For the purpose of computing the debt
37 limitations for municipalities, political
38 subdivisions, and school districts, the term "actual
39 value" means the "actual value" as determined under
40 this section without application of any percentage
41 reduction and entered opposite each item, and as
42 listed on the tax list as provided in section 443.2,
43 as "actual value".

44 Whenever any board of review or other tribunal
45 changes the assessed value of property, all applicable
46 records of assessment shall be adjusted to reflect
47 such change in both assessed value and actual value of
48 such property.

49 9. The provisions of this chapter and chapters
50 443, 443A, and 444 shall be subject to legislative

Page 8

1 review at least once every five years. The review
2 shall be based upon a property tax status report
3 containing the recommendations of a property tax
4 implementation committee appointed to conduct a review
5 of the land tax, square footage tax, the baseline
6 assessment for the square footage tax, and other
7 related provisions, to be prepared with the assistance
8 of the departments of management and revenue and
9 finance. The report shall include recommendations for
10 changes or revisions based upon demographic changes
11 and property tax valuation fluctuations observed
12 during the preceding five-year interval, and a summary
13 of issues that have arisen since the previous review
14 and potential approaches for their resolution. The
15 first such report shall be submitted to the general
16 assembly no later than January 1, 2010, with
17 subsequent reports developed and submitted by January
18 1 at least every fifth year thereafter.

19 Sec. 4. NEW SECTION. 441.21A PROPERTY
20 CLASSIFICATIONS.
21 1. a. Agricultural land shall be valued at its
22 productivity value. The productivity value of
23 agricultural land shall be determined on the basis of
24 productivity and net earning capacity of the land
25 determined on the basis of its use for agricultural
26 purposes capitalized at a rate of seven percent and
27 applied uniformly among counties and among classes of
28 property. Any formula or method employed to determine
29 productivity and net earning capacity of land shall be
30 adopted in full by rule.
31 b. In counties or townships in which field work on
32 a modern soil survey has been completed since January
33 1, 1949, the assessor shall place emphasis upon the
34 results of the survey in spreading the valuation among
35 individual parcels of such agricultural land.
36 c. "Agricultural land" includes the land of a
37 vineyard.
38 2. a. "Residential property" includes all lands
39 and buildings which are primarily used or intended for
40 human habitation, including those buildings located on
41 agricultural land. Buildings used primarily or
42 intended for human habitation shall include the
43 dwelling as well as structures and improvements used
44 primarily as a part of, or in conjunction with, the
45 dwelling. This includes but is not limited to
46 garages, whether attached or detached, tennis courts,
47 swimming pools, guest cottages, and storage sheds for
48 household goods. Residential property located on
49 agricultural land shall include only buildings.
50 b. "Residential property" includes all land and

Page 9

1 buildings of multiple housing cooperatives organized
2 under chapter 499a and includes land and buildings
3 used primarily for human habitation which land and
4 buildings are owned and operated by organizations that
5 have received tax-exempt status under section
6 501(c)(3) of the Internal Revenue Code and rental
7 income from the property is not taxed as unrelated
8 business income under section 422.33, subsection 1A.
9 c. "Residential property" includes an apartment in
10 a horizontal property regime referred to in chapter
11 499B which is used or intended for use for human
12 habitation regardless of who occupies the apartment.
13 Existing structures shall not be converted to a
14 horizontal property regime unless applicable building
15 code requirements have been met.
16 d. Buildings for human habitation that are used as
17 commercial ventures, including but not limited to

18 hotels, motels, rest homes, and structures containing
 19 three or more separate living quarters shall not be
 20 considered residential property.
 21 Sec. 5. Section 441.23, Code 2003, is amended to
 22 read as follows:
 23 441.23 NOTICE OF VALUATION.
 24 If there has been an increase or decrease in the
 25 valuation of the property, or upon the written request
 26 of the person assessed, the assessor shall, at the
 27 time of making the assessment, inform the person
 28 assessed, in writing, of the valuation put upon the
 29 taxpayer's property, and notify the person, if the
 30 person feels aggrieved, to appear before the board of
 31 review and show why the assessment should be changed.
 32 However, if the valuation of ~~a class of~~ agricultural
 33 property is uniformly decreased, the assessor may
 34 notify the affected property owners by publication in
 35 the official newspapers of the county. The owners of
 36 real property shall be notified not later than April
 37 15 of any adjustment of the real property assessment.
 38 The notification shall include a supplemental return
 39 form for the person to list the person's property and
 40 any additions or modifications completed in the prior
 41 year to a structure located on the property, as
 42 required in section 441.19.
 43 Sec. 6. Section 441.24, Code 2003, is amended to
 44 read as follows:
 45 441.24 REFUSAL TO FURNISH STATEMENT.
 46 1. If a person refuses to furnish the verified
 47 statements required in connection with the assessment
 48 of property by the assessor, or to list the
 49 corporation's or person's property, the director of
 50 revenue and finance, or assessor, as the case may be,

Page 10

1 shall proceed to list and assess the property
 2 according to the best information obtainable, and
 3 shall add to the ~~taxable~~ agricultural land and square
 4 footage valuation one hundred percent thereof, which
 5 valuation and penalty shall be separately shown, and
 6 shall constitute the assessment; and if the
 7 agricultural land or square footage valuation of the
 8 property is changed by a board of review, or on appeal
 9 from a board of review, a like penalty shall be added
 10 to the valuation thus fixed.
 11 2. However, all or part of the penalty imposed
 12 under this section may be waived by the board of
 13 review upon application to the board by the assessor
 14 or the property owner. The waiver or reduction in the
 15 penalty shall be allowed only on the agricultural land
 16 or the square footage valuation of ~~real property~~ the

17 structure against which the penalty has been imposed.

18 Sec. 7. Section 441.26, unnumbered paragraph 3,
19 Code 2003, is amended to read as follows:

20 The notice in ~~1984~~ 2007 and each odd-numbered year
21 thereafter shall contain a statement that ~~the~~
22 agricultural property assessments and property
23 assessed pursuant to section 441.21, subsection 2,
24 paragraph "b", subparagraph (1), and subsection 3,
25 paragraph "b", subparagraph (1), are subject to
26 equalization pursuant to an order issued by the
27 director of revenue and finance, that the county
28 auditor shall give notice on or before October 15 by
29 publication in an official newspaper of general
30 circulation to any ~~class of agricultural~~ property
31 affected by the equalization order, and that the board
32 of review shall be in session from October 15 to
33 November 15 to hear protests of affected property
34 owners or taxpayers whose valuations have been
35 adjusted by the equalization order.

36 Sec. 8. Section 441.26, unnumbered paragraphs 4
37 and 5, Code 2003, are amended to read as follows:

38 The assessment rolls shall be used in listing the
39 property, the number of structures, and the total
40 square footage of the structures by class of property,
41 and showing the values affixed to agricultural land
42 and the assessed value per square foot affixed to ~~the~~
43 ~~property~~ the structures by class of property of all
44 persons assessed. The rolls shall be made in
45 duplicate. The duplicate roll shall be signed by the
46 assessor, detached from the original and delivered to
47 the person assessed if there has been an increase or
48 decrease in the valuation of the property. If there
49 has been no change in the evaluation, the information
50 on the roll may be printed on computer stock paper and

Page 11

1 preserved as required by this chapter. If the person
2 assessed requests in writing a copy of the roll, the
3 copy shall be provided to the person. The pages of
4 the assessor's assessment book shall contain columns
5 ruled and headed for the information required by this
6 chapter and that which the director of revenue and
7 finance deems essential in the equalization work of
8 the director. The assessor shall return all
9 assessment rolls and schedules to the county auditor,
10 along with the completed assessment book, as provided
11 in this chapter, and the county auditor shall
12 carefully keep and preserve the rolls, schedules and
13 book for a period of five years from the time of its
14 filing in the county auditor's office.
15 Beginning with valuations for January 1, ~~1977~~ 2006,

16 and each succeeding year, for each parcel of
17 agricultural property and for each structure entered
18 in the assessment book, the assessor shall list the
19 classification of the property.

20 Sec. 9. Section 441.35, subsection 1, Code 2003,
21 is amended by striking the subsection.

22 Sec. 10. Section 441.35, unnumbered paragraph 2,
23 Code 2003, is amended by striking the unnumbered
24 paragraph.

25 Sec. 11. Section 441.36, Code 2003, is amended to
26 read as follows:

27 441.36 CHANGE OF ASSESSMENT – NOTICE.

28 All changes in assessments authorized by the board
29 of review, and reasons therefor, shall be entered in
30 the minute book kept by ~~said the~~ board and on the
31 assessment roll. ~~Said The~~ minute book shall be filed
32 with the assessor after the adjournment of the board
33 of review and shall at all times be open to public
34 inspection. In case the value of any specific
35 property or structure or the entire assessment of any
36 person, partnership, or association is increased, or
37 new property or a new structure is added by the board,
38 the clerk shall give immediate notice thereof by mail
39 to each at the post-office address shown on the
40 assessment rolls, and at the conclusion of the action
41 of the board therein the clerk shall post an
42 alphabetical list of those whose assessments are thus
43 raised and added, in a conspicuous place in the office
44 or place of meeting of the board, and enter upon the
45 records a statement that such posting has been made,
46 which entry shall be conclusive evidence of the giving
47 of the notice required. The board shall hold an
48 adjourned meeting, with at least five days intervening
49 after the posting of ~~said the~~ notices, before final
50 action with reference to the raising of assessments or

Page 12

1 the adding of property or structures to the rolls is
2 taken, and the posted notices shall state the time and
3 place of holding such adjourned meeting, which time
4 and place shall also be stated in the proceedings of
5 the board.

6 Sec. 12. Section 441.37, subsection 1, paragraphs
7 a and b, Code 2003, are amended to read as follows:

8 a. That ~~said the~~ assessment is not equitable as
9 compared with assessments of other like property or
10 structures in the taxing district. When this ground
11 is relied upon as the basis of a protest the legal
12 description and assessments of a representative number
13 of comparable ~~properties~~ structures, as described by
14 the aggrieved taxpayer shall be listed on the protest,

15 otherwise ~~said~~ the protest shall not be considered on
16 this ground.

17 b. That the property or structure is assessed for
18 more than the value authorized by law, stating the
19 specific amount which the protesting party believes
20 the property or structure to be overassessed, and the
21 amount which the party considers to be its actual
22 value and the amount the party considers a fair
23 assessment.

24 Sec. 13. Section 441.39, Code 2003, is amended to
25 read as follows:

26 441.39 TRIAL ON APPEAL.

27 The court shall hear the appeal in equity and
28 determine anew all questions arising before the board
29 which relate to the liability of the property or
30 structure to assessment or the amount thereof. The
31 court shall consider all of the evidence and there
32 shall be no presumption as to the correctness of the
33 ~~valuation of~~ assessment appealed from. Its decision
34 shall be certified by the clerk of the court to the
35 county auditor, and the assessor, who shall correct
36 the assessment books accordingly.

37 Sec. 14. Section 441.42, Code 2003, is amended to
38 read as follows:

39 441.42 APPEAL ON BEHALF OF PUBLIC.

40 Any officer of a county, city, township, drainage
41 district, levee district, or school district
42 interested or a taxpayer thereof may in like manner
43 make complaint before ~~said~~ the board of review in
44 respect to the assessment of any property or structure
45 in the township, drainage district, levee district or
46 city and an appeal from the action of the board of
47 review in fixing the amount of assessment on any
48 property or structure concerning which such complaint
49 is made, may be taken by any of such aforementioned
50 officers.

Page 13

1 Such appeal is in addition to the appeal allowed to
2 the person whose property or structure is assessed and
3 shall be taken in the name of the county, city,
4 township, drainage district, levee district, or school
5 district interested, and tried in the same manner,
6 except that the notice of appeal shall also be served
7 upon the owner of the property or structure concerning
8 which the complaint is made and affected thereby or
9 person required to return said property or structure
10 for assessment.

11 Sec. 15. Section 441.43, Code 2003, is amended to
12 read as follows:

13 441.43 POWER OF COURT.

14 Upon trial of any appeal from the action of the
15 board of review fixing the amount of assessment upon
16 any property or structure concerning which complaint
17 is made, the court may increase, decrease, or affirm
18 the amount of the assessment appealed from.

19 Sec. 16. Section 441.45, subsections 1 and 2, Code
20 2003, are amended to read as follows:

21 1. The number of acres of land and the aggregate
22 taxable values of the agricultural land, exclusive of
23 ~~city lots,~~ returned by the assessors, as corrected by
24 the board of review.

25 2. The aggregate values of structures and the
26 taxable square footage values of real estate
27 structures by class in each township and city in the
28 county and the aggregate value of agricultural land in
29 each township and city in the county, returned as
30 corrected by the board of review.

31 Sec. 17. Section 441.47, Code 2003, is amended by
32 adding the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. For the assessment year
34 beginning January 1, 2007, and for all subsequent
35 assessment years, only property classified as
36 agricultural property and property assessed pursuant
37 to section 441.21, subsection 2, paragraph "b",
38 subparagraph (1), and subsection 3, paragraph "b",
39 subparagraph (1), shall be subject to equalization by
40 the director of revenue and finance under this section
41 and sections 441.48 and 441.49.

42 Sec. 18. NEW SECTION. 441.47a EQUALIZATION OF
43 INFLATION FACTORS.

44 The director of revenue and finance on or about
45 August 15, 2007, and every two years thereafter, shall
46 order the equalization of the assessed value per
47 square foot resulting from the application of the
48 cumulative inflation factor in the several assessing
49 jurisdictions in each case as may be necessary to
50 bring such values as fixed by the assessor in cases of

Page 14

1 purchases of property and newly constructed property
2 to the values determined for the assessment year
3 beginning January 1, 2005. In equalizing the effects
4 of the application of the cumulative inflation factor,
5 the department shall make use of reports issued by
6 Iowa state university of science and technology which
7 reports shall more precisely indicate, on a county-by-
8 county basis, annual and cumulative inflation factors
9 for each county. If the cumulative inflation factor
10 for an assessing jurisdiction as reported by Iowa
11 state university of science and technology is five
12 percent above or below the cumulative inflation factor

13 as defined in section 441.21, subsection 7, the
14 director shall notify the assessor by mail of the
15 equalization of the effects of the cumulative
16 inflation factor for the assessing jurisdiction. The
17 assessor shall recompute the assessments made pursuant
18 to section 441.21, subsection 2, paragraph "b",
19 subparagraph (1), subsection 3, paragraph "b",
20 subparagraph (1), and subsection 4, paragraph "b",
21 subparagraph (1), by applying the equalized inflation
22 factor. The assessor shall send notice of the
23 equalized assessments to all affected property owners.

24 Sec. 19. Section 441.50, Code 2003, is amended to
25 read as follows:

26 441.50 APPRAISERS EMPLOYED.

27 The conference board shall have power to employ
28 appraisers or other technical or expert help to assist
29 in the ~~valuation~~ assessment of property as provided in
30 section 441.21, the cost thereof to be paid in the
31 same manner as other expenses of the assessor's
32 office. The conference board may certify for levy
33 annually an amount not to exceed forty and one-half
34 cents per thousand dollars of assessed value of
35 taxable property for the purpose of establishing a
36 special appraiser's fund, to be used only for such
37 purposes. From time to time the conference board may
38 direct the transfer of any unexpended balance in the
39 special appraiser's fund to the assessment expense
40 fund.

41 Sec. 20. Section 443.1, Code 2003, is amended to
42 read as follows:

43 443.1 CONSOLIDATED TAX.

44 All square footage taxes which are uniform
45 throughout any township or school district shall be
46 formed into a single tax and entered upon the tax list
47 in a single column, to be known as a consolidated tax,
48 and each receipt shall show the percentage levied for
49 each separate fund. The land tax shall be separately
50 stated and each receipt shall show the percentage

Page 15

1 levied for each separate fund.

2 Sec. 21. Section 443.2, Code 2003, is amended to
3 read as follows:

4 443.2 TAX LIST.

5 Before the first day of July in each year, the
6 county auditor shall transcribe the assessments of the
7 townships and cities into a book or record, to be
8 known as the tax list, properly ruled and headed, with
9 separate columns, in which shall be entered the names
10 of the taxpayers, descriptions of lands, number of
11 acres and value, numbers of city lots, their size in

12 acres, and value, and each description of the square
 13 footage tax and the land tax, with a column for polls
 14 and one for payments, and shall complete it by
 15 entering the amount due on each installment,
 16 separately, and carrying out the total of both
 17 installments. The total of all columns of each page
 18 of each book or other record shall balance with the
 19 tax totals. After computing the amount of land tax
 20 and square footage tax due and payable on each
 21 property, the county auditor shall round the total
 22 amount of ~~tax~~ taxes due and payable on the property to
 23 the nearest even whole dollar.

24 The county auditor shall list the aggregate actual
 25 value and the aggregate taxable value of all taxable
 26 property within the county and each political
 27 subdivision including property subject to the
 28 statewide property tax imposed under section 437A.18
 29 on the tax list in order that the actual value of the
 30 taxable property within the county or a political
 31 subdivision may be ascertained and shown by the tax
 32 list for the purpose of computing the debt-incurring
 33 capacity of the county or political subdivision. As
 34 used in this section, "actual value" is the value
 35 determined under section 441.21, subsections 1 to 3,
 36 Code 2005, prior to the reduction to a percentage of
 37 actual value as otherwise provided in section 441.21,
 38 Code 2005. "Actual value" of property subject to
 39 statewide property tax is the assessed value under
 40 section 437A.18.

41 Sec. 22. Section 443.3, Code 2003, is amended to
 42 read as follows:

43 443.3 CORRECTION – TAX APPORTIONED.

44 At the time of transcribing ~~said~~ the assessments
 45 into the tax list, the county auditor shall correct
 46 all transfers up to date and place the legal
 47 descriptions of all real estate in the name of the
 48 owner at ~~said~~ that date as shown by the transfer book
 49 in the auditor's office. At the end of the list for
 50 each township or city the auditor shall make an

Page 16

1 abstract thereof, and apportion the consolidated tax
 2 among the respective funds to which it belongs,
 3 according to the amounts levied for each. The auditor
 4 shall apportion the land tax as prescribed in section
 5 443A.2.

6 Sec. 23. Section 443.6, Code 2003, is amended to
 7 read as follows:

8 443.6 CORRECTIONS BY AUDITOR.

9 The auditor may correct any error in the assessment
 10 or tax list, and the assessor or auditor may list for

11 ~~taxation any omitted land and may~~ assess and list for
12 ~~taxation any omitted property structure.~~

13 Sec. 24. Section 443.7, Code 2003, is amended to
14 read as follows:

15 443.7 NOTICE.

16 Before listing for taxation any omitted land and
17 before assessing and listing for taxation any omitted
18 property structure, the assessor or auditor shall
19 notify by mail the person in whose name the property
20 land or structure is taxed, to appear before the
21 assessor or auditor at the assessor's or auditor's
22 office within ten days from the date of the notice and
23 show cause, if any, why the correction or assessment
24 should not be made.

25 Sec. 25. Section 443.9, Code 2003, is amended to
26 read as follows:

27 443.9 ADJUSTMENT OF ACCOUNTS.

28 If such correction or assessment is made after the
29 books or other records approved by the ~~state~~ auditor
30 ~~of state~~ have passed into the hands of the treasurer,
31 the treasurer shall be charged or credited therefor as
32 the case may be. In the event such listing of omitted
33 land or listing and assessment of omitted ~~property~~
34 structure is made by the assessor after the tax
35 records have passed into the hands of the auditor or
36 treasurer, such correction or assessment shall be
37 entered on the records by the auditor or treasurer.

38 Sec. 26. Section 443.12, Code 2003, is amended to
39 read as follows:

40 443.12 CORRECTIONS BY TREASURER.

41 When ~~property land or a structure~~ subject to
42 taxation is withheld, overlooked, or from any other
43 cause is not listed, or is not listed and assessed,
44 the county treasurer shall, when apprised thereof, at
45 any time within two years from the date at which such
46 listing and assessment should have been made, demand
47 of the person, firm, corporation, or other party by
48 whom the same should have been listed, or to whom it
49 should have been listed and assessed, or of the
50 administrator thereof, the amount the ~~property land or~~

Page 17

1 structure should have been taxed in each year the same
2 was so withheld or overlooked and not listed or not
3 listed and assessed, together with six percent
4 interest thereon from the time the taxes would have
5 become due and payable had such ~~property land~~ been
6 listed or such structure been listed and assessed.

7 Sec. 27. Section 443.13, Code 2003, is amended to
8 read as follows:

9 443.13 ACTION BY TREASURER - APPORTIONMENT.

10 Upon failure to pay such sum within thirty days,
 11 with all accrued interest, the treasurer shall cause
 12 an action to be brought in the name of the treasurer
 13 for the use of the proper county, to be prosecuted by
 14 the county attorney, or such other person as the board
 15 of supervisors may appoint, and when such ~~property~~
 16 land has been fraudulently withheld from listing or
 17 such structure fraudulently withheld from listing and
 18 assessment, there shall be added to the sum found to
 19 be due a penalty of fifty percent upon the amount,
 20 which shall be included in the judgment. The amount
 21 thus recovered shall be by the treasurer apportioned
 22 ratably as the taxes would have been if they had been
 23 paid according to law.

24 Sec. 28. Section 443.14, Code 2003, is amended to
 25 read as follows:

26 443.14 DUTY OF TREASURER.

27 The treasurer shall assess any ~~real property~~
 28 structure and shall list the acreage of any land
 29 subject to taxation which may have been omitted by the
 30 assessor, board of review, or county auditor, and
 31 collect taxes thereon, and in such cases shall note,
 32 opposite the tract or lot assessed, the words "by
 33 treasurer".

34 Sec. 29. Section 443.15, Code 2003, is amended to
 35 read as follows:

36 443.15 TIME LIMIT.

37 The assessment shall be made within two years after
 38 the tax list shall have been delivered to the
 39 treasurer for collection, and not afterwards, if the
 40 ~~property land or structure~~ is then owned by the person
 41 who should have paid the tax.

42 Sec. 30. Section 443.17, Code 2003, is amended to
 43 read as follows:

44 443.17 PRESUMPTION OF TWO-YEAR OWNERSHIP.

45 In any action or proceeding, now pending or
 46 hereafter brought, to recover taxes upon ~~property land~~
 47 not listed or agricultural land or a structure not
 48 listed and assessed for taxation during the lifetime
 49 of any decedent, it shall be presumed that any
 50 property, any evidence of ownership of property, and

Page 18

1 any evidence of a promise to pay, owned by a decedent
 2 at the date of the decedent's death, had been acquired
 3 and owned by such decedent more than two years before
 4 the date of the decedent's death; and the burden of
 5 proving that any such property had been acquired by
 6 such decedent less than two years before the date of
 7 the decedent's death shall be upon the heirs,
 8 legatees, and legal representatives of any such

9 decedent.

10 Sec. 31. Section 443.18, Code 2003, is amended to
11 read as follows:

12 443.18 REAL ESTATE – DUTY OF OWNER.

13 In all cases where ~~real-estate land~~ subject to
14 taxation has not been listed or agricultural land or a
15 structure subject to taxation has not been listed and
16 assessed, the owner, or an agent of the owner, shall
17 have the same done by the treasurer, and pay the taxes
18 thereon; and if the owner fails to do so the treasurer
19 shall list or list and assess the same and collect the
20 tax assessed as the treasurer does other taxes.

21 Sec. 32. Section 443.19, Code 2003, is amended to
22 read as follows:

23 443.19 IRREGULARITIES, ERRORS AND OMISSIONS –
24 EFFECT.

25 ~~No a~~ failure of the owner to have such ~~property~~
26 land listed or agricultural land or structure listed
27 and assessed or to have the errors in the listing or
28 assessment corrected, and ~~no an~~ irregularity, error or
29 omission in the listing of such land or listing and
30 assessment of such ~~property agricultural land or~~
31 structure, shall not affect in any manner the legality
32 of the taxes levied thereon, or affect any right or
33 title to such ~~real-estate property~~ which would have
34 accrued to any party claiming or holding under and by
35 virtue of a deed executed by the treasurer as provided
36 by this title, had the listing and assessment of such
37 property been in all respects regular and valid.

38 Sec. 33. Section 443.21, Code 2003, is amended to
39 read as follows:

40 443.21 ASSESSMENTS CERTIFIED TO COUNTY AUDITOR.

41 All assessors and assessing bodies, including the
42 department of revenue and finance having authority
43 over the listing of land or listing and assessment of
44 ~~property agricultural land and structures~~ for tax
45 purposes shall certify to the county auditor of each
46 county the number of acres of land and the assessed
47 values of agricultural land and structures for all the
48 taxable property in such county as finally equalized
49 ~~and~~ determined, and the same shall be transcribed onto
50 the tax lists as required by section 443.2.

Page 19

1 Sec. 34. Section 443.22, Code 2003, is amended to
2 read as follows:

3 443.22 UNIFORM ASSESSMENTS MANDATORY.

4 All assessors and assessing bodies, including the
5 department of revenue and finance having authority
6 over the listing of land and listing and assessment of
7 ~~property agricultural land and structures~~ for tax

8 purposes, shall comply with sections 428.4, 428.29,
9 434.15, 438.13, 441.21, and 441.45. The department of
10 revenue and finance, having authority over the listing
11 and assessments, shall exercise its powers and perform
12 its duties under section 421.17 and other applicable
13 laws so as to require the uniform and consistent
14 application of ~~said that~~ section.

15 Sec. 35. NEW SECTION. 443A.1 LAND TAX.

16 Effective for the fiscal year beginning July 1,
17 2007, and all subsequent fiscal years, a land tax
18 shall be imposed against each acre or portion of an
19 acre of land in a county.

20 Sec. 36. NEW SECTION. 443A.2 APPORTIONMENT OF
21 LAND TAX.

22 1. The land tax for each county shall be
23 apportioned as follows:

24 In the unincorporated area of the county, the land
25 tax shall be distributed to the county, the school
26 district located in the unincorporated area of the
27 county, and other taxing entities located in the
28 unincorporated area of the county in the same
29 proportion that property taxes levied in the
30 unincorporated area of the county for the fiscal year
31 beginning July 1, 2006, were allocated to those
32 entities.

33 In the incorporated areas of the county, the land
34 tax shall be distributed to the city, the county, each
35 school district located within the city, and other
36 taxing entities located within the city in the same
37 proportion that property taxes levied in the city for
38 the fiscal year beginning July 1, 2006, were allocated
39 to those entities.

40 2. The city finance committee and the county
41 finance committee shall jointly determine the
42 adjustments to be made to the allocation of the land
43 tax in the case of boundary adjustments made to a
44 taxing district on or after January 1, 2006.

45 3. After the auditor has computed the amount of
46 land tax to be distributed to each taxing district,
47 the auditor shall compute the rate of tax to be levied
48 upon the square footage valuation of structures
49 pursuant to chapter 444.

50 Sec. 37. Section 444.1, Code 2003, is amended to

Page 20

1 read as follows:

2 444.1 BASIS FOR AMOUNT OF TAX.

3 In all taxing districts in the state, including
4 townships, school districts, cities and counties, when
5 by law then existing the people are authorized to
6 determine by vote, or officers are authorized to

7 estimate or determine, a rate of taxation required for
8 any public purpose, such rate shall in all cases be
9 estimated and based upon the amount of land tax
10 available to the district and the adjusted taxable
11 square footage valuation of such taxing district for
12 the preceding calendar year.

13 Sec. 38. Section 444.2, Code 2003, is amended to
14 read as follows:

15 444.2 AMOUNTS CERTIFIED IN DOLLARS.

16 When an authorized square footage tax rate within a
17 taxing district, including townships, school
18 districts, cities and counties, has been thus
19 determined as provided by law, the officer or officers
20 charged with the duty of certifying the authorized
21 rate to the county auditor or board of supervisors
22 shall, before certifying the rate, compute upon the
23 adjusted taxable square footage valuation of the
24 taxing district for the preceding fiscal year, the
25 amount of tax the rate will raise, stated in dollars,
26 and shall certify the computed amount in dollars and
27 not by rate, to the county auditor and board of
28 supervisors and shall further certify the percentage
29 of such amount to be levied against each class of
30 property.

31 Sec. 39. Section 444.3, Code 2003, is amended to
32 read as follows:

33 444.3 COMPUTATION OF SQUARE FOOTAGE RATE.

34 When the square footage valuations for the several
35 taxing districts shall have been adjusted by the
36 several boards for the current year, and the amount of
37 land tax to be distributed to each taxing district has
38 been deducted from the dollar amounts certified in
39 section 444.2 for each taxing district, the county
40 auditor shall thereupon apply such a rate, ~~not~~
41 ~~exceeding the rate authorized by law, or rates~~ as will
42 raise the amount required for such taxing district,
43 and when combined with the land tax amount will raise
44 an amount not exceeding the dollar amount authorized
45 by law for the taxing district, and ~~no~~ will not raise
46 a larger amount. For purposes of computing the square
47 footage rate under this section, the adjusted taxable
48 square footage valuation of the property of a taxing
49 district does not include the valuation of property of
50 a railway corporation or its trustee which corporation

Page 21

1 has been declared bankrupt or is in bankruptcy
2 proceedings. Nothing in the preceding sentence
3 exempts the property of such railway corporation or
4 its trustee from taxation and the rate computed under
5 this section shall be levied on the taxable property

6 of such railway corporation or its trustee.

7 The square footage tax rate shall be expressed in
 8 dollars and cents per one hundred dollars of valuation
 9 per square foot.

10 Sec. 40. NEW SECTION. 444.9 COMPUTATION OF TAX.

11 The amount of tax imposed on any taxable property
 12 is the sum of the amounts computed in subsections 1
 13 and 2.

14 1. LAND TAX. The product of the land tax rate
 15 times the number of acres or portion of an acre of the
 16 taxable property.

17 2. SQUARE FOOTAGE TAX. The product of the square
 18 footage tax rate times the valuation per square foot
 19 of the taxable structure times the number of square
 20 feet of the taxable structure. The square footage tax
 21 shall be computed separately for each structure
 22 located on the land.

23 Sec. 41. PROPERTY TAX IMPLEMENTATION COMMITTEE.

24 1. On or before July 1, 2003, the department of
 25 revenue and finance, in consultation with the
 26 department of management, shall initiate and
 27 coordinate the establishment of a property tax
 28 implementation committee and provide staffing
 29 assistance to the committee. The property tax
 30 implementation committee shall include four members of
 31 the general assembly, one each appointed by the
 32 majority leader of the senate, the speaker of the
 33 house of representatives, the minority leader of the
 34 senate, and the minority leader of the house of
 35 representatives. The committee shall also include
 36 members appointed by the department of revenue and
 37 finance representing the department of revenue and
 38 finance, the department of management, counties,
 39 cities, school districts, local assessors, commercial
 40 property taxpayers, industrial property taxpayers,
 41 residential property taxpayers, and agricultural
 42 property taxpayers, and other appropriate
 43 stakeholders. The department may consider
 44 participation on the committee of former state
 45 officials with expertise in budget and tax policy.
 46 The chairpersons of the committee shall be those
 47 members of the general assembly appointed by the
 48 majority leader of the senate and the speaker of the
 49 house of representatives.

50 2. The committee shall study and make

Page 22

1 recommendations relating to the land tax, square
 2 footage tax, the baseline assessment for the square
 3 footage tax, and other related provisions. The
 4 committee shall also study and make recommendations on

5 issues relating to implementation of a land tax and
6 square footage tax, including, but not limited to,
7 whether or not maximum square footage rates and land
8 tax rates should be imposed and, if such rates are
9 recommended, the imposition of rates that have a
10 revenue neutral impact on classes of property, the
11 property tax financing portion of the school funding
12 formula, treatment of current property tax credits and
13 exemptions under a land tax and square footage tax and
14 continued state reimbursement of any credits or
15 exemptions, implementation of urban revitalization and
16 urban renewal programs under the land tax and square
17 footage tax, implementation of a payment in lieu of
18 taxes program for local government services, and
19 maintenance of equity among classes of taxpayers and
20 among taxpayers within the same class. The property
21 tax implementation committee shall also study the role
22 of property taxes in funding local government services
23 and the types of services currently funded by property
24 taxes.

25 3. The property tax implementation committee shall
26 direct three counties and cities within those counties
27 to submit data as prescribed by the committee. The
28 department of revenue and finance, in consultation
29 with the department of management, shall select the
30 three counties and the cities within those counties
31 that will be required to provide data to the
32 committee. The committee shall devise a system for
33 testing the data, including the necessary computer
34 hardware and software to allow the selected counties
35 and cities to prepare projected budgets, to determine
36 the rates for the land tax and the square footage tax
37 for those projected budgets, and to provide a sampling
38 of the effect on the various classes of property in
39 those jurisdictions. The committee shall use the data
40 and the results of the projections to resolve, and
41 make recommendations relating to, the issues described
42 in subsection 2, and related issues, in a revenue
43 neutral manner that will not result in a shift of
44 property tax burden between classes of property. The
45 committee shall submit to the general assembly by
46 October 31, 2003, October 31, 2004, and October 31,
47 2005, a report for each of those years resolving the
48 issues in subsection 2 and other related issues for
49 implementation of this Act. The reports shall include
50 detailed estimates of the cost to the counties and

Page 23

1 cities of providing the data and an estimate of the
2 cost of statewide implementation of this Act.
3 Sec. 42. EFFECTIVE AND APPLICABILITY DATES.

4 1. The section of this division of this Act
5 establishing the property tax implementation
6 committee, being deemed of immediate importance, takes
7 effect upon enactment.

8 2. The remainder of this division of this Act
9 takes effect July 1, 2005, and applies to assessment
10 years beginning on or after January 1, 2006, and
11 applies to tax collections for fiscal years beginning
12 on or after July 1, 2007.

13 Sec. 43. FUTURE REPEAL. This division of this Act
14 is repealed effective June 30, 2005.

15 DIVISION II

16 INDIVIDUAL INCOME TAX

17 2004-2006 TAX YEARS

18 Sec. 44. Section 422.5, subsection 1, paragraphs a
19 through i, Code 2003, are amended to read as follows:

20 For tax years beginning
21 in the calendar year:
22 2004 2005 2006

23 a. On all taxable income from
24 zero through one thousand dollars,
25 ~~thirty six hundredths of one~~
26 ~~percent:35% .34% .33%~~

27 b. On all taxable income exceeding
28 one thousand dollars but not
29 exceeding two thousand dollars;
30 ~~seventy two hundredths of one~~
31 ~~percent:71% .68% .65%~~

32 c. On all taxable income exceeding
33 two thousand dollars but not
34 exceeding four thousand dollars,
35 ~~two and forty three hundredths~~
36 ~~percent: 2.39% 2.30% 2.21%~~

37 d. On all taxable income exceeding
38 four thousand dollars but not
39 exceeding nine thousand dollars,
40 ~~four and one half percent: 4.42% 4.25% 4.09%~~

41 e. On all taxable income exceeding
42 nine thousand dollars but not
43 exceeding fifteen thousand
44 dollars, ~~six and twelve hundredths~~
45 ~~percent: 6.01% 5.78% 5.56%~~

46 f. On all taxable income exceeding
47 fifteen thousand dollars but not
48 exceeding twenty thousand
49 dollars, ~~six and forty eight hundredths~~
50 ~~percent: 6.36% 6.12% 5.88%~~

Page 24

1 g. On all taxable income exceeding
2 twenty thousand dollars but not

3 exceeding thirty thousand
4 dollars, ~~six and eight tenths~~
5 percent: ~~6.68%~~ 6.42% ~~6.17%~~
6 h. On all taxable income exceeding
7 thirty thousand dollars but not
8 exceeding forty-five thousand
9 dollars, ~~seven and ninety two hundredths~~
10 percent: ~~7.78%~~ 7.48% ~~7.19%~~
11 i. On all taxable income exceeding
12 forty-five thousand dollars, ~~eight~~
13 ~~and ninety eight hundredths~~
14 percent: ~~8.82%~~ 8.48% ~~8.15%~~
15 Sec. 45. EFFECTIVE AND APPLICABILITY DATE
16 PROVISIONS. This division of this Act takes effect
17 January 1, 2004, for tax years beginning on or after
18 January 1, 2004, but before January 1, 2007.
19 DIVISION III
20 INDIVIDUAL INCOME TAX
21 2007 AND SUBSEQUENT TAX YEARS
22 Sec. 46. Section 422.5, subsection 1, paragraphs a
23 through i, Code 2003, are amended to read as follows:
24 For tax years beginning
25 in the calendar year:
26 2007 and subsequent
27 calendar years
28 a. On all taxable income from
29 zero through one thousand dollars,
30 ~~thirty six hundredths of one~~
31 percent: ~~.31%~~
32 b. On all taxable income exceeding
33 one thousand dollars but not
34 exceeding two thousand dollars,
35 ~~seventy two hundredths of one~~
36 percent: ~~.61%~~
37 c. On all taxable income exceeding
38 two thousand dollars but not
39 exceeding four thousand dollars,
40 ~~two and forty three hundredths~~
41 percent: ~~2.06%~~
42 d. On all taxable income exceeding
43 four thousand dollars but not
44 exceeding nine thousand dollars,
45 ~~four and one half percent:~~ ~~3.81%~~
46 e. On all taxable income exceeding
47 nine thousand dollars but not
48 exceeding fifteen thousand
49 dollars, ~~six and twelve hundredths~~
50 percent: ~~5.19%~~

1 f. On all taxable income exceeding

2 fifteen thousand dollars but not
 3 exceeding twenty thousand
 4 dollars, ~~six and forty eight hundredths~~
 5 percent: 5.49%
 6 g. On all taxable income exceeding
 7 twenty thousand dollars but not
 8 exceeding thirty thousand
 9 dollars, ~~six and eight tenths~~
 10 percent: 5.76%
 11 h. On all taxable income exceeding
 12 thirty thousand dollars but not
 13 exceeding forty-five thousand
 14 dollars, ~~seven and ninety two hundredths~~
 15 percent: 6.71%
 16 i. On all taxable income exceeding
 17 forty-five thousand dollars, ~~eight~~
 18 ~~and ninety eight hundredths~~
 19 percent: 7.61%
 20 Sec. 47. EFFECTIVE AND APPLICABILITY DATE
 21 PROVISIONS. This division of this Act takes effect
 22 January 1, 2007, for tax years beginning on or after
 23 January 1, 2007.

24 DIVISION IV
 25 INDIVIDUAL INCOME TAX
 26 2007 AND SUBSEQUENT TAX YEARS

27 Sec. 48. Section 422.4, subsection 1, paragraphs b
 28 and c, Code 2003, are amended to read as follows:
 29 b. "Cumulative inflation factor" means the product
 30 of the annual inflation factor for the ~~1988~~ 2007
 31 calendar year and all annual inflation factors for
 32 subsequent calendar years as determined pursuant to
 33 this subsection. The cumulative inflation factor
 34 applies to all tax years beginning on or after January
 35 1 of the calendar year for which the latest annual
 36 inflation factor has been determined.
 37 c. The annual inflation factor for the ~~1988~~ 2007
 38 calendar year is one hundred percent.
 39 Sec. 49. Section 422.4, subsection 16, Code 2003,
 40 is amended to read as follows:
 41 16. ~~The words "taxable~~ "Taxable income" mean means
 42 the net income as defined in section 422.7 minus the
 43 deductions allowed by section 422.9, in the case of
 44 individuals; ~~in.~~ In the case of estates or trusts,
 45 the words "taxable income" mean means the taxable
 46 income, (without a deduction for personal exemption),
 47 as computed for federal income tax purposes under the
 48 Internal Revenue Code, but with the adjustments
 49 specified in section 422.7 ~~plus the Iowa income tax~~
 50 deducted in computing the federal taxable income and

Page 26

1 ~~minus federal income taxes as provided in section~~
2 ~~422.9.~~

3 Sec. 50. Section 422.5, subsection 1, Code 2003,
4 as amended by 2003 Iowa Acts, [Senate File 442](#), section
5 4, is amended by striking the subsection and inserting
6 in lieu thereof the following:

7 1. a. A tax is imposed upon every resident and
8 nonresident of the state which tax shall be levied,
9 collected, and paid annually upon and with respect to
10 the entire taxable income at rates as follows:

11 (1) On all taxable income from zero through eight
12 thousand dollars, two and five hundredths percent.

13 (2) On all taxable income exceeding eight thousand
14 dollars but not exceeding one hundred thousand
15 dollars, four and sixty-five hundredths percent.

16 (3) On all taxable income exceeding one hundred
17 thousand dollars, four and nine-tenths percent.

18 b. (1) The tax imposed upon the taxable income of
19 a nonresident shall be computed by reducing the amount
20 determined pursuant to paragraph "a" by the amounts of
21 nonrefundable credits under this division and by
22 multiplying this resulting amount by a fraction of
23 which the nonresident's net income allocated to Iowa,
24 as determined in section 422.8, subsection 2,
25 paragraph "a", is the numerator and the nonresident's
26 total net income computed under section 422.7 is the
27 denominator. This provision also applies to
28 individuals who are residents of Iowa for less than
29 the entire tax year.

30 (2) The tax imposed upon the taxable income of a
31 resident shareholder in an S corporation which has in
32 effect for the tax year an election under subchapter S
33 of the Internal Revenue Code and carries on business
34 within and without the state may be computed by
35 reducing the amount determined pursuant to paragraph
36 "a" by the amounts of nonrefundable credits under this
37 division and by multiplying this resulting amount by a
38 fraction of which the resident's net income allocated
39 to Iowa, as determined in section 422.8, subsection 2,
40 paragraph "b", is the numerator and the resident's
41 total net income computed under section 422.7 is the
42 denominator. If a resident shareholder has elected to
43 take advantage of this subparagraph, and for the next
44 tax year elects not to take advantage of this
45 subparagraph, the resident shareholder shall not
46 reelect to take advantage of this subparagraph for the
47 three tax years immediately following the first tax
48 year for which the shareholder elected not to take
49 advantage of this subparagraph, unless the director
50 consents to the reelection. This subparagraph also

Page 27

1 applies to individuals who are residents of Iowa for
2 less than the entire tax year.

3 Sec. 51. Section 422.5, subsection 2, Code 2003,
4 is amended by striking the subsection and inserting in
5 lieu thereof the following:

6 2. a. However, if the married persons' filing
7 jointly or separately on a combined return, unmarried
8 head of household's, or surviving spouse's net income
9 exceeds thirteen thousand five hundred dollars or nine
10 thousand dollars in the case of all other persons, the
11 regular tax imposed under this division shall be the
12 lesser of the product of eight percent times the
13 portion of the net income in excess of thirteen
14 thousand five hundred dollars or nine thousand
15 dollars, as applicable, or the regular tax liability
16 computed without regard to this paragraph.

17 b. Paragraph "a" does not apply to estates and
18 trusts. Married taxpayers electing to file separately
19 shall compute the alternate tax described in paragraph
20 "a" using the total net income of the husband and
21 wife. The alternate tax described in paragraph "a"
22 does not apply if one spouse elects to carry back or
23 carry forward the loss as provided in section 422.9,
24 subsection 3. A person who is claimed as a dependent
25 by another person as defined in section 422.12 shall
26 not receive the benefit of paragraph "a" if the person
27 claiming the dependent has net income exceeding
28 thirteen thousand five hundred dollars or nine
29 thousand dollars as applicable or the person claiming
30 the dependent and the person's spouse have combined
31 net income exceeding thirteen thousand five hundred
32 dollars or nine thousand dollars as applicable.

33 Sec. 52. Section 422.5, subsection 5, Code 2003,
34 is amended to read as follows:

35 5. Upon determination of the latest cumulative
36 inflation factor, the director shall multiply each
37 dollar amount set forth in subsection 1, paragraphs
38 ~~"a" through "i" of this section~~ paragraph "a", by this
39 cumulative inflation factor, shall round off the
40 resulting product to the nearest one dollar, and shall
41 incorporate the result into the income tax forms and
42 instructions for each tax year.

43 Sec. 53. Section 422.5, subsection 7, Code 2003,
44 is amended by striking the subsection.

45 Sec. 54. Section 422.7, Code 2003, as amended by
46 2003 Iowa Acts, [Senate File 442](#), section 5, and House
47 File 674, sections 5 and 6, is amended by striking the
48 section and inserting in lieu thereof the following:

49 422.7 "NET INCOME" – HOW COMPUTED.

50 The term "net income" means the adjusted gross

Page 28

1 income before the net operating loss deduction as
2 properly computed for federal income tax purposes
3 under the Internal Revenue Code, with the following
4 adjustments:

5 1. The adjusted gross income is adjusted by adding
6 the sum of the following:

7 a. Add the amount of federal income tax refunds
8 received in a tax year beginning on or after January
9 1, 2007, but before January 1, 2010, to the extent
10 that the federal income tax was deducted on an Iowa
11 individual income tax return for a tax year beginning
12 prior to January 1, 2007.

13 b. Add interest and dividends from foreign
14 securities and from securities of state and other
15 political subdivisions exempt from federal income tax
16 under the Internal Revenue Code.

17 c. Add interest and dividends from regulated
18 investment companies exempt from federal income tax
19 under the Internal Revenue Code.

20 d. Add, to the extent not already included, income
21 from the sale of obligations of the state and its
22 political subdivisions. Income from the sale of these
23 obligations is exempt from the taxes imposed by this
24 division only if the law authorizing these obligations
25 specifically exempts the income from the sale from the
26 state individual income tax.

27 e. Add the amount resulting from the cancellation
28 of a participation agreement refunded to the taxpayer
29 as a participant in the Iowa educational savings plan
30 trust under chapter 12D to the extent previously
31 deducted as a contribution to the trust.

32 2. The adjusted gross income is adjusted by
33 subtracting the sum of the following:

34 a. Subtract the amount of federal income taxes
35 paid or accrued, as the case may be, in a tax year
36 beginning on or after January 1, 2007, but before
37 January 1, 2010, to the extent the federal tax payment
38 is for a tax year beginning prior to January 1, 2007.

39 b. Subtract interest and dividends from federal
40 securities.

41 c. Subtract the loss on the sale or exchange of a
42 share of a regulated investment company held for six
43 months or less to the extent the loss was disallowed
44 under section 852(b)(4)(B) of the Internal Revenue
45 Code.

46 d. (1) Subtract, to the extent included, the
47 amount of additional social security benefits taxable
48 under the Internal Revenue Code for tax years
49 beginning on or after January 1, 1994. The amount of
50 social security benefits taxable as provided in

Page 29

1 section 86 of the Internal Revenue Code, as amended up
2 to and including January 1, 1993, continues to apply
3 for state income tax purposes for tax years beginning
4 on or after January 1, 1994.

5 (2) Married taxpayers, who file a joint federal
6 income tax return and who elect to file separate
7 returns or who elect separate filing on a combined
8 return for state income tax purposes, shall allocate
9 between the spouses the amount of benefits subtracted
10 under subparagraph (1) from net income in the ratio of
11 the social security benefits received by each spouse
12 to the total of these benefits received by both
13 spouses.

14 e. (1) For a person who is disabled, or is fifty-
15 five years of age or older, or is the surviving spouse
16 of an individual or a survivor having an insurable
17 interest in an individual who would have qualified for
18 the exemption under this paragraph for the tax year,
19 subtract, to the extent included, the total amount of
20 a governmental or other pension or retirement pay,
21 including, but not limited to, defined benefit or
22 defined contribution plans, annuities, individual
23 retirement accounts, plans maintained or contributed
24 to by an employer, or maintained or contributed to by
25 a self-employed person as an employer, and deferred
26 compensation plans or any earnings attributable to the
27 deferred compensation plans, up to a maximum of six
28 thousand dollars for a person, other than a husband or
29 wife, who files a separate state income tax return and
30 up to a maximum of twelve thousand dollars for a
31 husband and wife who file a joint state income tax
32 return.

33 (2) However, a surviving spouse who is not
34 disabled or fifty-five years of age or older can only
35 exclude the amount of pension or retirement pay
36 received as a result of the death of the other spouse.
37 a husband and wife filing separate state income tax
38 returns or separately on a combined return are allowed
39 a combined maximum exclusion under this paragraph "e"
40 of up to the amount allowed for a husband and wife who
41 file a joint state income tax return. The exclusion
42 shall be allocated to the husband or wife in the
43 proportion that each spouse's respective pension and
44 retirement pay received bears to total combined
45 pension and retirement pay received.

46 f. Notwithstanding the method for computing income
47 from an installment sale under section 453 of the
48 Internal Revenue Code, as defined in section 422.3,
49 the method to be used in computing income from an
50 installment sale shall be the method under section 453

Page 30

1 of the Internal Revenue Code, as amended up to and
2 including January 1, 2000. A taxpayer affected by
3 this paragraph shall make adjustments in the adjusted
4 gross income pursuant to rules adopted by the
5 director.

6 The adjustment to net income provided in this
7 paragraph "f" is repealed for tax years beginning on
8 or after January 1, 2002. However, to the extent that
9 a taxpayer using the accrual method of accounting
10 reported the entire capital gain from the sale or
11 exchange of property on the Iowa return for the tax
12 year beginning in the 2001 calendar year and the
13 capital gain was reported on the installment method on
14 the federal income tax return, any additional
15 installment from the capital gain reported for federal
16 income tax purposes is not to be included in net
17 income in tax years beginning on or after January 1,
18 2002.

19 g. Subtract, if the taxpayer is the owner of an
20 individual development account certified under chapter
21 541a at any time during the tax year, all of the
22 following:

23 (1) Contributions made to the account by persons
24 and entities, other than the taxpayer, as authorized
25 in chapter 541A.

26 (2) The amount of any savings refund authorized
27 under section 541A.3, subsection 1.

28 (3) Earnings from the account.

29 h. (1) Subtract the maximum contribution that may
30 be deducted for income tax purposes as a participant
31 in the Iowa educational savings plan trust pursuant to
32 section 12D.3, subsection 1, paragraph "a".

33 (2) Subtract, to the extent included, income from
34 interest and earnings received from the Iowa
35 educational savings plan trust created in chapter 12D.

36 (3) Subtract, to the extent not deducted for
37 federal income tax purposes, the amount of any gift,
38 grant, or donation made to the Iowa educational
39 savings plan trust for deposit in the endowment fund
40 of that trust.

41 i. Subtract, to the extent included, active duty
42 pay received by a person in the national guard or
43 armed forces military reserve for services performed
44 on or after August 2, 1990, pursuant to military
45 orders related to the Persian Gulf Conflict.

46 j. Subtract, to the extent included, active duty
47 pay received by a person in the national guard or
48 armed forces military reserve for service performed on
49 or after November 21, 1995, pursuant to military
50 orders related to peacekeeping in Bosnia-Herzegovina.

Page 31

1 k. Subtract, to the extent included, the
2 following:

3 (1) Payments made to the taxpayer because of the
4 taxpayer's status as a victim of persecution for
5 racial, ethnic, or religious reasons by Nazi Germany
6 or any other Axis regime or as an heir of such victim.

7 (2) Items of income attributable to, derived from,
8 or in any way related to assets stolen from, hidden
9 from, or otherwise lost to a victim of persecution for
10 racial, ethnic, or religious reasons by Nazi Germany
11 or any other Axis regime immediately prior to, during,
12 and immediately after World War II, including, but not
13 limited to, interest on the proceeds receivable as
14 insurance under policies issued to a victim of
15 persecution for racial, ethnic, or religious reasons
16 by Nazi Germany or any other Axis regime by European
17 insurance companies immediately prior to and during
18 World War II. However, income from assets acquired
19 with such assets or with the proceeds from the sale of
20 such assets shall not be subtracted. This
21 subparagraph shall only apply to a taxpayer who was
22 the first recipient of such assets after recovery of
23 the assets and who is a victim of persecution for
24 racial, ethnic, or religious reasons by Nazi Germany
25 or any other Axis regime or is an heir of such victim.

26 l. Subtract, to the extent included, active duty
27 pay received by a person in the national guard or
28 armed forces military reserve for service performed on
29 or after January 1, 2003, pursuant to military orders
30 related to Operation Iraqi Freedom, Operation Noble
31 Eagle, and Operation Enduring Freedom.

32 m. Subtract, not to exceed one thousand five
33 hundred dollars, the overnight transportation, meals,
34 and lodging expenses, to the extent not reimbursed,
35 incurred by the taxpayer for travel away from home of
36 more than one hundred miles for the performance of
37 services by the taxpayer as a member of the national
38 guard or armed forces military reserve.

39 n. Subtract, to the extent included, military
40 student loan repayments received by the taxpayer
41 serving on active duty in the national guard or armed
42 forces military reserve or on active duty status in
43 the armed forces.

44 o. Subtract, to the extent not otherwise excluded,
45 the amount of the death gratuity payable under 10
46 U.S.C. § 1475-1491 for deaths occurring after
47 September 10, 2001.

48 3. a. In determining the amount of federal income
49 tax refunds or taxes paid or accrued under subsection
50 1 or 2, for tax years beginning in the 2001 calendar

Page 32

1 year, the amount shall not be adjusted by the amount
2 received during the tax year of the advanced refund of
3 the rate reduction tax credit provided pursuant to the
4 federal Economic Growth and Tax Relief Reconciliation
5 Act of 2001, Pub. L. No. 107-16, and the advanced
6 refund of such credit shall not be subject to taxation
7 under this division.

8 b. In determining the amount of federal income tax
9 refunds or taxes paid or accrued under subsection 1 or
10 2, for tax years beginning in the 2002 calendar year,
11 the amount shall not be adjusted by the amount of the
12 rate reduction credit received during the tax year to
13 the extent that the credit is attributable to the rate
14 reduction credit provided pursuant to the federal
15 Economic Growth and Tax Relief Reconciliation Act of
16 2001, Pub. L. No. 107-16, and the amount of such
17 credit shall not be taxable under this division.

18 4. The additional first-year depreciation
19 allowance authorized in section 168(k) of the Internal
20 Revenue Code, as enacted by Pub. L. No. 107-147,
21 section 101, does not apply in computing net income
22 for state tax purposes. If the taxpayer has taken
23 such deduction in computing federal adjusted gross
24 income, the following adjustments shall be made:
25 a. Add the total amount of depreciation taken on
26 all property for which the election under section
27 168(k) of the Internal Revenue Code was made for the
28 tax year.

29 b. Subtract an amount equal to depreciation taken
30 on such property for the tax year using the modified
31 accelerated cost recovery system depreciation method
32 applicable under section 168 of the Internal Revenue
33 Code without regard to section 168(k).

34 c. Any other adjustments to gains or losses to
35 reflect the adjustments made in paragraphs "a" and "b"
36 pursuant to rules adopted by the director.

37 Sec. 55. Section 422.8, subsection 2, paragraph a,
38 Code 2003, is amended to read as follows:

39 a. Nonresident's net income allocated to Iowa is
40 the net income, or portion of net income, which is
41 derived from a business, trade, profession, or
42 occupation carried on within this state or income from
43 any property, trust, estate, or other source within
44 Iowa. However, income derived from a business, trade,
45 profession, or occupation carried on within this state
46 and income from any property, trust, estate, or other
47 source within Iowa shall not include distributions
48 from pensions, including defined benefit or defined
49 contribution plans, annuities, individual retirement
50 accounts, and deferred compensation plans or any

Page 33

1 earnings attributable thereto so long as the
2 distribution is directly related to an individual's
3 documented retirement and received while the
4 individual is a nonresident of this state. If a
5 business, trade, profession, or occupation is carried
6 on partly within and partly without the state, only
7 the portion of the net income which is fairly and
8 equitably attributable to that part of the business,
9 trade, profession, or occupation carried on within the
10 state is allocated to Iowa for purposes of section
11 422.5, subsection 1, paragraph "j" ~~"b"~~, and section
12 422.13 and income from any property, trust, estate, or
13 other source partly within and partly without the
14 state is allocated to Iowa in the same manner, except
15 that annuities, interest on bank deposits and
16 interest-bearing obligations, and dividends are
17 allocated to Iowa only to the extent to which they are
18 derived from a business, trade, profession, or
19 occupation carried on within the state.

20 Sec. 56. Section 422.8, subsection 4, Code 2003,
21 is amended by striking the subsection.

22 Sec. 57. Section 422.9, subsection 1, Code 2003,
23 is amended to read as follows:

24 1. An optional standard deduction, ~~after deduction~~
25 ~~of federal income tax~~, equal to one thousand two
26 hundred thirty dollars for a married person who files
27 separately or a single person or equal to three
28 thousand thirty dollars for a husband and wife who
29 file a joint return, a surviving spouse, or an
30 unmarried head of household. ~~The optional standard~~
31 ~~deduction shall not exceed the amount remaining after~~
32 ~~deduction of the federal income tax.~~

33 Sec. 58. Section 422.9, subsection 2, paragraph b,
34 Code 2003, is amended by striking the paragraph.

35 Sec. 59. Section 422.9, subsections 6 and 7, Code
36 2003, are amended by striking the subsections.

37 Sec. 60. Section 422.11B, subsection 1, Code 2003,
38 is amended to read as follows:

39 1. There is allowed as a credit against the tax
40 determined in section 422.5, subsection 1, paragraphs
41 "a" through "j" for a tax year an amount equal to the
42 minimum tax credit for that tax year.

43 The minimum tax credit for a tax year is the
44 excess, if any, of the adjusted net minimum tax
45 imposed for all prior tax years beginning on or after
46 January 1, 1987, ~~but before January 1, 2007~~, over the
47 amount allowable as a credit under this section for
48 those prior tax years.

49 If a minimum tax credit is available to a tax
50 period beginning on or after January 1, 2007, the

Page 34

1 credit can be carried over to tax years beginning on
2 or after January 1, 2007, but before January 1, 2010.
3 The minimum tax credit is limited to the tax
4 determined in section 422.5, subsection 1, paragraphs
5 "a" and "b".

6 Sec. 61. Section 422.13, subsection 1, paragraph
7 c, and subsection 1A, Code 2003, are amended to read
8 as follows:

9 c. However, if that part of the net income of a
10 nonresident which is allocated to Iowa pursuant to
11 section 422.8, subsection 2, is less than one thousand
12 dollars the nonresident is not required to make and
13 sign a return ~~except when the nonresident is subject~~
14 ~~to the state alternative minimum tax imposed pursuant~~
15 ~~to section 422.5, subsection 1, paragraph "k".~~

16 1A. Notwithstanding any other provision in this
17 section, a resident of this state is not required to
18 make and file a return if the person's net income is
19 equal to or less than the appropriate dollar amount
20 listed in section 422.5, subsection 2, upon which tax
21 is not imposed. A nonresident of this state is not
22 required to make and file a return if the person's
23 total net income in section 422.5, subsection 1,
24 paragraph ~~"j"~~, "b", is equal to or less than the
25 appropriate dollar amount provided in section 422.5,
26 subsection 2, upon which tax is not imposed. For
27 purposes of this subsection, the amount of a lump sum
28 distribution subject to separate federal tax shall be
29 included in net income for purposes of determining if
30 a resident is required to file a return and the
31 portion of the lump sum distribution that is allocable
32 to Iowa is included in total net income for purposes
33 of determining if a nonresident is required to make
34 and file a return.

35 Sec. 62. Section 422.21, unnumbered paragraph 5,
36 Code 2003, is amended to read as follows:

37 The director shall determine for the ~~1989~~ 2008 and
38 each subsequent calendar year the annual and
39 cumulative inflation factors for each calendar year to
40 be applied to tax years beginning on or after January
41 1 of that calendar year. The director shall compute
42 the new dollar amounts as specified to be adjusted in
43 section 422.5 by the latest cumulative inflation
44 factor and round off the result to the nearest one
45 dollar. The annual and cumulative inflation factors
46 determined by the director are not rules as defined in
47 section 17A.2, subsection 11. The director shall
48 determine for the 1990 calendar year and each
49 subsequent calendar year the annual and cumulative
50 standard deduction factors to be applied to tax years

Page 35

1 beginning on or after January 1 of that calendar year.
2 The director shall compute the new dollar amounts of
3 the standard deductions specified in section 422.9,
4 subsection 1, by the latest cumulative standard
5 deduction factor and round off the result to the
6 nearest ten dollars. The annual and cumulative
7 standard deduction factors determined by the director
8 are not rules as defined in section 17A.2, subsection
9 11.

10 Sec. 63. Section 422.11B, Code 2003, is repealed.

11 COORDINATING AMENDMENTS

12 Sec. 64. Section 12D.9, subsection 2, Code 2003,
13 is amended to read as follows:

14 2. State income tax treatment of the Iowa
15 educational savings plan trust shall be as provided in
16 section 422.7, ~~subsections 32, 33, and 34~~ subsection
17 1, paragraph "e", and subsection 2, paragraph "h", and
18 section 422.35, subsection 14.

19 Sec. 65. Section 217.39, Code 2003, is amended to
20 read as follows:

21 217.39 PERSECUTED VICTIMS OF WORLD WAR II –
22 REPARATIONS – HEIRS.

23 Notwithstanding any other law of this state,
24 payments paid to and income from lost property of a
25 victim of persecution for racial, ethnic, or religious
26 reasons by Nazi Germany or any other Axis regime or as
27 an heir of such victim which is exempt from state
28 income tax as provided in section 422.7, subsection ~~35~~
29 2, paragraph "k", shall not be considered as income or
30 an asset for determining the eligibility for state or
31 local government benefit or entitlement programs. The
32 proceeds are not subject to recoupment for the receipt
33 of governmental benefits or entitlements, and liens,
34 except liens for child support, are not enforceable
35 against these sums for any reason.

36 Sec. 66. Section 422.120, subsection 1, paragraph
37 b, subparagraph (3), Code 2003, is amended to read as
38 follows:

39 (3) The annual index factor for the 1997 calendar
40 year is one hundred percent. For ~~each subsequent the~~
41 1998 through 2006 calendar year years, the annual
42 index factor equals the annual inflation factor for
43 that calendar year as computed in section 422.4 for
44 purposes of the individual income tax. For the 2007
45 calendar year and each subsequent calendar year the
46 annual index factor shall be determined by the
47 department by October 15 of the calendar year
48 preceding the calendar year for which the factor is
49 determined, which reflects the purchasing power of the
50 dollar as a result of inflation during the fiscal year

Page 36

1 ending in the calendar year preceding the calendar
2 year for which the factor is determined. In
3 determining the annual index factor, the department
4 shall use the annual percent change, but not less than
5 zero percent, in the gross domestic product price
6 deflator computed for the second quarter of the
7 calendar year by the bureau of economic analysis of
8 the United States department of commerce and shall add
9 all of that percent change to one hundred percent.
10 The annual index factor and the cumulative index
11 factor shall each be expressed as a percentage rounded
12 to the nearest one-tenth of one percent. The annual
13 index factor shall not be less than one hundred
14 percent.

15 Sec. 67. Section 425.23, subsection 4, paragraph
16 b, Code 2003, is amended to read as follows:

17 b. The annual adjustment factor for the 1998 base
18 year is one hundred percent. For ~~each subsequent the~~
19 1999 through 2006 base year years, the annual
20 adjustment factor equals the annual inflation factor
21 for the calendar year, in which the base year begins,
22 as computed in section 422.4 for purposes of the
23 individual income tax. For the 2007 base year and
24 each subsequent base year, the annual adjustment
25 factor equals the annual index factor, in which the
26 base year begins, as computed in section 422.120,
27 subsection 1, for purposes of the livestock production
28 tax credit.

29 Sec. 68. Section 450.4, subsection 8, Code 2003,
30 is amended to read as follows:

31 8. On the value of that portion of any lump sum or
32 installment payments which are received by a
33 beneficiary under an annuity which was purchased under
34 an employee's pension or retirement plan which was
35 excluded from net income ~~as set forth in~~ under section
36 ~~422.7, subsection 31.~~

37 Sec. 69. Section 541A.2, subsection 7, unnumbered
38 paragraph 1, Code 2003, is amended to read as follows:

39 An individual development account closed in
40 accordance with this subsection is not subject to the
41 limitations and benefits provided by this chapter but
42 is subject to state tax in accordance with the
43 provisions of section 422.7, subsection ~~2~~ 2,
44 paragraph "g", and section 450.4, subsection 6. An
45 individual development account may be closed for any
46 of the following reasons:

47 Sec. 70. Section 541A.3, subsection 2, Code 2003,
48 is amended to read as follows:

49 2. Income earned by an individual development
50 account is not subject to state tax, in accordance

Page 37

1 with the provisions of section 422.7, subsection ~~2~~ 2,
2 paragraph "g".

3 Sec. 71. Division III of this Act is repealed.

4 CONTINGENT EFFECTIVE AND APPLICABILITY DATE PROVISION

5 Sec. 72.

6 1. This division of this Act takes effect upon
7 ratification prior to January 1, 2007, of an amendment
8 to the Constitution of the State of Iowa requiring a
9 three-fifths majority vote of each house of the
10 general assembly in order to pass a bill that amends
11 the state individual income tax by raising the rate or
12 rates of the individual income tax or of an amendment
13 to the Constitution of the State of Iowa requiring a
14 statewide referendum in order to approve a bill that
15 amends the state individual income tax by raising the
16 rate or rates of the individual income tax.

17 2. If this division of this Act takes effect as
18 provided in subsection 1, this division of this Act,
19 except as provided in subsection 3, applies to tax
20 years beginning on or after January 1, 2007.

21 3. The section of this division of this Act
22 repealing section 422.11B applies to tax years
23 beginning on or after January 1, 2010.

24 DIVISION V

25 SALES AND USE TAX STUDIES

26 Sec. 73. INDUSTRIAL PROCESSING EXEMPTION STUDY

27 COMMITTEE. On or before July 1, 2003, the department
28 of revenue and finance shall initiate and coordinate
29 the establishment of an industrial processing
30 exemption study committee and provide staffing
31 assistance to the committee. It is the intent of the
32 general assembly that the committee shall include
33 representatives of the department of revenue and
34 finance, department of management, industrial
35 producers including manufacturers, fabricators,
36 printers and publishers, and an association that
37 specifically represents business tax issues, and other
38 stakeholders.

39 The industrial processing exemption under the sales
40 and use tax is a significant exemption for business.
41 The committee shall study and make legislative and
42 administrative recommendations relating to Iowa's
43 processing exemption to ensure maximum utilization by
44 Iowa's industries.

45 The committee shall study and make recommendations
46 regarding all of the following:

47 1. The current sales and use tax industrial
48 processing exemption.

49 2. The corresponding administrative rules,
50 including a review and recommendation of an

Page 38

1 administrative rules process relating to the
2 industrial processing exemption prior to filing with
3 the administrative rules review committee.
4 3. Other states' industrial processing exemptions.
5 4. Recommendations for change for issues including
6 effectiveness and competitiveness.
7 5. Development of additional publications to
8 improve compliance.
9 The committee shall annually report to the general
10 assembly by January 1 of each year through January 1,
11 2013.
12 Sec. 74. IOWA SALES, SERVICES, AND USE TAX STUDY
13 COMMITTEE. On or before July 1, 2003, the department
14 of revenue and finance shall initiate and coordinate
15 the establishment of a state sales, services, and use
16 tax study committee and provide staffing assistance to
17 the committee. It is the intent of the general
18 assembly that the committee shall include
19 representatives of the department of revenue and
20 finance, department of management, an association of
21 Iowa farmers and other agricultural interests, retail
22 associations, contractors, taxpayers, an association
23 that specifically represents business tax issues, and
24 other stakeholders, two members of the general
25 assembly, and a representative of the governor's
26 office.
27 The committee shall study the current sales,
28 services, and use tax law. Programs funded through
29 special features of the tax code often escape regular
30 review. It is intended that the study committee shall
31 review the current sales, services, and use tax
32 exemptions to improve government accountability.
33 The committee shall study and make recommendations
34 regarding all of the following:
35 1. Retaining or eliminating current sales,
36 services, and use tax exemptions or providing new
37 exemptions. Such decisions shall be based at least
38 partially on the issues of effectiveness and
39 competitiveness and their impact on economic behavior.
40 2. Tax simplification and consistency issues in
41 applying the tax, including recordkeeping burdens on
42 retailers and application by the department of revenue
43 and finance.
44 3. Streamlining sales tax implementation in Iowa.
45 4. The tax rate.
46 5. Comparison of Iowa sales, services, and use tax
47 structure with other states.
48 The committee shall report to the general assembly
49 by January 1, 2004. The report shall provide
50 rationale for each decision made by the study

Page 39

1 committee.

2 Sec. 75. EFFECTIVE DATE. This division of this
3 Act, being deemed of immediate importance, takes
4 effect July 1, 2003.

5 DIVISION VI

6 GROW IOWA BOARD AND FUND

7 Sec. 76. Section 15.108, subsection 9, Code 2003,
8 is amended by adding the following new paragraph:
9 NEW PARAGRAPH. g. Administer the marketing
10 strategy selected pursuant to section 15G.108.

11 Sec. 77. NEW SECTION. 15G.101 DEFINITIONS.
12 As used in this chapter, unless the context
13 otherwise requires:

14 1. "Board" means the grow Iowa board established
15 in section 15G.102.

16 2. "Department" means the Iowa department of
17 economic development created in section 15.105.

18 3. "Director" means the director of the department
19 of economic development.

20 4. "Fund" means the grow Iowa fund created in
21 section 15G.107.

22 5. "Grow Iowa geographic regions" means the
23 geographic regions defined in section 15G.105.

24 Sec. 78. NEW SECTION. 15G.102 GROW IOWA BOARD.

25 1. The grow Iowa board is established consisting
26 of nine voting members. The grow Iowa board shall be
27 located for administrative purposes within the
28 department and the director shall provide office
29 space, staff assistance, and necessary supplies and
30 equipment for the board. The director shall budget
31 moneys to pay the compensation and expenses of the
32 board. In performing its functions, the board is
33 performing a public function on behalf of the state
34 and is a public instrumentality of the state.

35 2. a. The members of the board shall be appointed
36 as follows:

37 (1) Five individuals appointed by the governor,
38 subject to confirmation by the senate.

39 (2) Four individuals appointed by the legislative
40 council.

41 b. All appointments shall comply with sections
42 69.16 and 69.16A.

43 c. At least one member of the board shall be from
44 each grow Iowa geographic region.

45 d. Each of the following areas of expertise shall
46 be represented by at least one member of the board who
47 has professional experience in that area of expertise:

48 (1) Accounting and finance.

49 (2) Business development for employers with less
50 than two hundred employees and sales of less than ten

Page 40

1 million dollars per year.
2 (3) Insurance.
3 (4) Economics.
4 (5) Personnel.
5 e. All members of the board shall be actively
6 employed in the private, for-profit sector of the
7 economy.
8 f. The board membership shall be balanced between
9 representation by employers with less than two hundred
10 employees and employers with two hundred or more
11 employees.
12 3. The chairperson and vice chairperson shall be
13 elected by the members of the board from the
14 membership of the board. In the case of the absence
15 or disability of the chairperson and vice chairperson,
16 the members of the board shall elect a temporary
17 chairperson by a majority vote of those members who
18 are present and voting, provided a quorum is present.
19 4. The members of the board shall be appointed to
20 three-year staggered terms and the terms shall
21 commence and end as provided in section 69.19. If a
22 vacancy occurs, a successor shall be appointed in the
23 same manner and subject to the same qualifications as
24 the original appointment to serve the unexpired term.
25 5. A majority of the board constitutes a quorum.
26 6. A member of the board shall abstain from voting
27 on the provision of financial assistance to a project
28 which is located in the county in which the member of
29 the board resides.
30 7. The members of the board are entitled to
31 receive reimbursement for actual expenses incurred
32 while engaged in the performance of official duties.
33 a board member may also be eligible to receive
34 compensation as provided in section 7E.6.
35 Sec. 79. NEW SECTION. 15G.103 BOARD DUTIES.
36 The board shall do all of the following:
37 1. Organize.
38 2. Receive advice and recommendations from the
39 grow Iowa investment board, the economic development
40 marketing board, and the grow Iowa review commission.
41 3. Provide advice and recommendations to the
42 department and the Iowa economic development board for
43 making appropriations from and administering the grow
44 Iowa fund. A recommendation made by the grow Iowa
45 board to the department or the Iowa economic
46 development board shall be either approved or denied
47 by the department or the Iowa economic development
48 board.
49 4. Assist the department in implementing programs
50 and activities in a manner designed to achieve the

Page 41

1 goals set out in section 15G.106.

2 5. By December 15 of each year, submit a written
3 report to the general assembly reviewing the
4 activities of the board during the calendar year. The
5 report shall include information necessary for the
6 review of the goals and performance measures set out
7 in section 15G.106. State agencies and other entities
8 receiving moneys from the fund shall cooperate with
9 and assist the board in compilation of the report.

10 6. Adopt administrative rules pursuant to chapter
11 17a necessary to administer this chapter. This
12 delegation shall be construed narrowly.

13 Sec. 80. NEW SECTION. 15G.104 GROW IOWA
14 INVESTMENT BOARD.

15 1. A grow Iowa investment board is established
16 consisting of three members and is located for
17 administrative purposes within the department. The
18 director of the department shall provide office space,
19 staff assistance, and necessary supplies and equipment
20 for the board. The director shall budget moneys to
21 pay the compensation and expenses of the board. In
22 performing its functions, the board is performing a
23 public function on behalf of the state and is a public
24 instrumentality of the state.

25 2. a. Membership of the grow Iowa investment
26 board shall include all of the following:

27 (1) One member appointed by the governor from a
28 list of three banking representatives provided by the
29 superintendent of banking. This member shall serve a
30 three-year term.

31 (2) One member appointed by the governor from a
32 list of entrepreneurs provided jointly by the Iowa
33 association of business and industry and the national
34 federation of independent business. This member shall
35 serve a three-year term.

36 (3) The entrepreneur of the year as selected by
37 the Iowa small business development centers shall be
38 offered a one-year membership on the investment board.
39 If the entrepreneur of the year declines to serve on
40 the investment board, a member shall be appointed by
41 the governor from the list provided pursuant to
42 subparagraph (2) for the one-year term.

43 b. The chairperson and vice chairperson of the
44 grow Iowa investment board shall be elected by and
45 from the investment board members. The terms of the
46 members shall commence and end as provided by section
47 69.19. If a vacancy occurs, a successor shall be
48 appointed in the same manner and subject to the same
49 qualifications as the original appointment to serve
50 the unexpired term. A majority of the investment

Page 42

1 board constitutes a quorum.

2 3. The grow Iowa investment board, after a
3 thorough review, shall determine whether a proposed
4 project using moneys from the grow Iowa fund is
5 practical and shall provide recommendations to the
6 grow Iowa board regarding any moneys proposed to be
7 expended from the grow Iowa fund, with the exception
8 of moneys appropriated for purposes of the loan and
9 credit guarantee program and regarding whether a
10 proposed project is practical. The recommendations
11 shall be based on whether the expenditure would make
12 the achievement of the goals in accordance with the
13 performance measures set out in section 15G.106 more
14 likely. The recommendations may include conditions or
15 that proposed expenditure be rejected. The grow Iowa
16 board shall consider the recommendations of the grow
17 Iowa investment board and shall make an independent
18 recommendation to the department and the Iowa economic
19 development board regarding the expenditure. The
20 recommendations of the grow Iowa board shall include
21 the recommendations made by the grow Iowa investment
22 board.

23 4. The members of the board are entitled to
24 receive reimbursement for actual expenses incurred
25 while engaged in the performance of official duties.
26 a board member may also be eligible to receive
27 compensation as provided in section 7E.6.

28 Sec. 81. NEW SECTION. 15G.104a GROW IOWA REVIEW
29 COMMISSION.

30 1. A grow Iowa review commission is established
31 consisting of three members and is located for
32 administrative purposes within the department. The
33 director of the department shall provide office space,
34 staff assistance, and necessary supplies and equipment
35 for the review commission. The director shall budget
36 moneys to pay the compensation and expenses of the
37 commission, including the actual expenses of the
38 auditor of state incurred while engaged in the
39 performance of official commission duties. In
40 performing its functions, the review commission is
41 performing a public function on behalf of the state
42 and is a public instrumentality of the state.

43 2. Membership of the review commission shall
44 include the auditor of state, an economist for the
45 Iowa state university cooperative extension service in
46 agriculture and home economics appointed by the
47 president of the senate after consultation with the
48 minority leader of the senate, and a private sector
49 economist with broad experience reviewing and
50 analyzing the Iowa economy and the economy of the

Page 43

1 upper midwest appointed by the speaker of the house of
2 representatives after consultation with the minority
3 leader of the house of representatives. The
4 appointments shall comply with sections 69.16 and
5 69.16A. The chairperson of the review commission
6 shall be the auditor of state. The members shall be
7 appointed to three-year staggered terms and the terms
8 shall commence and end as provided by section 69.19.
9 If a vacancy occurs, a successor shall be appointed in
10 the same manner and subject to the same qualifications
11 as the original appointment to serve the unexpired
12 term. A majority of the review commission constitutes
13 a quorum. For purposes of this subsection, "upper
14 midwest" includes the states of Iowa, Kansas,
15 Minnesota, Missouri, Nebraska, North Dakota, and South
16 Dakota.

17 3. The review commission shall analyze all annual
18 reports of the grow Iowa board for purposes of
19 determining if the goals and performance measures set
20 out in section 15G.106 have been met. By January 1,
21 2007, the review commission shall submit a report to
22 the grow Iowa board, the department, and the general
23 assembly. The report shall include findings, itemized
24 by grow Iowa geographic regions, regarding whether the
25 goals and performance measures were met. The report
26 shall also include recommendations regarding the
27 continuation, elimination, or modification of any
28 programs receiving moneys from the grow Iowa fund and
29 whether moneys should continue to be appropriated to
30 and from the grow Iowa fund. The recommendations
31 shall be based on whether the goals in accordance with
32 the performance measures are being achieved.

33 4. The members of the commission, including the
34 auditor of state, are entitled to receive
35 reimbursement for actual expenses incurred while
36 engaged in the performance of official duties. A
37 commission member may also be eligible to receive
38 compensation as provided in section 7E.6.

39 Sec. 82. NEW SECTION. 15G.105 GROW IOWA
40 GEOGRAPHIC REGIONS.

41 For purposes of applying the goals and performance
42 measurements, the state shall be divided into five
43 grow Iowa geographic regions. The regions shall be
44 the following:

45 1. The northwest region shall include the counties
46 of Lyon, Osceola, Dickinson, Emmet, Kossuth,
47 Winnebago, Sioux, O'Brien, Clay, Palo Alto, Hancock,
48 Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt,
49 Wright, Woodbury, Ida, Sac, Calhoun, Webster, and
50 Hamilton.

Page 44

1 2. The northeast region shall include the counties
2 of Worth, Mitchell, Howard, Winneshiek, Allamakee,
3 Cerro Gordo, Floyd, Chickasaw, Fayette, Clayton,
4 Franklin, Butler, Bremer, Hardin, Grundy, Black Hawk,
5 Buchanan, Delaware, Dubuque, Tama, Benton, Linn,
6 Jones, and Jackson.

7 3. The southeast region shall include the counties
8 of Poweshiek, Iowa, Johnson, Cedar, Clinton, Scott,
9 Muscatine, Mahaska, Keokuk, Washington, Louisa,
10 Monroe, Wapello, Jefferson, Henry, Des Moines,
11 Appanoose, Davis, Van Buren, and Lee.

12 4. The southwest region shall include the counties
13 of Monona, Crawford, Carroll, Greene, Harrison,
14 Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair,
15 Mills, Montgomery, Adams, Union, Clarke, Lucas,
16 Fremont, Page, Taylor, Ringgold, Decatur, and Wayne.

17 5. The central region shall include the counties
18 of Boone, Story, Marshall, Dallas, Polk, Jasper,
19 Madison, Warren, and Marion.

20 Sec. 83. NEW SECTION. 15G.106 GOALS –
21 PERFORMANCE MEASURES.

22 1. In performing the duties provided in this
23 chapter, chapter 15, and chapter 15E, the grow Iowa
24 board, the grow Iowa investment board, the economic
25 development marketing board, the grow Iowa review
26 commission, and the department shall achieve the goals
27 of expanding and stimulating the state economy,
28 increasing the wealth of Iowans, and increasing the
29 population of the state. For purposes of this
30 section, "upper midwest region" includes the states of
31 Iowa, Kansas, Minnesota, Missouri, Nebraska, North
32 Dakota, and South Dakota.

33 2. Goal achievement shall be examined on a
34 regional basis using the grow Iowa geographic regions
35 and not on a statewide basis. The performance of the
36 grow Iowa geographic regions shall be compared to the
37 performance of the state, the upper midwest region,
38 and the United States. The baseline year shall be the
39 calendar year 2000. In each grow Iowa geographic
40 region, the goal shall be to increase the baseline
41 performance measures listed in subsections 3, 4, and
42 5, by thirty percent.

43 3. a. In determining whether the goal of
44 expanding and stimulating the state economy has been
45 met, the following performance measures shall be
46 considered:

- 47 (1) An increase in Iowa's gross domestic product.
- 48 (2) a net increase in business start-ups.
- 49 (3) a net increase in business expansion.
- 50 (4) a net increase in business modernization.

Page 45

1 (5) a net increase in attracting new businesses to
2 the state.

3 (6) a net increase in business retention.

4 (7) a net increase in job creation and retention.

5 (8) a decrease in Iowa of the ratio of the
6 government wage earnings as a percentage share of the
7 earnings of private industry in Iowa at a rate at
8 least equal to the ratio of the upper midwest region.

9 b. By December 15 of each year, the department
10 shall submit a report to the grow Iowa review
11 commission and the grow Iowa board that identifies
12 information pertinent to the performance measures in
13 paragraph "a", subparagraphs (3), (4), and (6), that
14 the department gains through interviews with
15 businesses in the state that close all or a portion of
16 operations in the state. By December 15 of each year,
17 based on the same interviews, the department shall
18 submit a report to the general assembly providing
19 suggested amendments to the Code of Iowa and the Iowa
20 administrative code designed to stimulate and expand
21 the state's economy.

22 c. By December 15 of each year the department
23 shall submit a report to the grow Iowa review
24 commission and the grow Iowa board that identifies
25 lost sale reports information pertinent to the
26 performance measures in paragraph "a", subparagraphs
27 (2) and (5), which indicate that the state has not
28 been successful in the performance measures in
29 paragraph "a", subparagraphs (2) and (5).

30 d. For purposes of the performance measure in
31 paragraph "a", subparagraph (7), the department of
32 economic development, in consultation with the
33 department of workforce development and the auditor of
34 state, shall determine an average annual job creation
35 and retention rate based on the ten years prior to
36 2003. During the fiscal years beginning July 1, 2003,
37 July 1, 2004, and July 1, 2005, the department of
38 economic development shall report the job creation and
39 retention rate of those businesses that receive moneys
40 originating from the grow Iowa fund and the job
41 creation and retention rate of those businesses that
42 do not receive moneys originating from the grow Iowa
43 fund. The ten-year average annual job creation and
44 retention rate shall be compared to the job creation
45 and retention rates determined under this paragraph
46 for the fiscal years beginning July 1, 2003, July 1,
47 2004, and July 1, 2005. The department of economic
48 development shall assist the department of workforce
49 development in maintaining detailed employment
50 statistics on businesses that receive moneys

Page 46

1 originating from the grow Iowa fund, on businesses
2 that do not receive moneys originating from the grow
3 Iowa fund, and on industries in Iowa that those
4 businesses represent. The auditor of state shall
5 audit the reliability and validity of the statistics
6 compiled pursuant to this paragraph.

7 4. In determining whether the goal of increasing
8 the wealth of Iowans has been met, the following
9 performance measures shall be considered:

10 a. The per capita personal income in Iowa shall
11 equal or exceed the average per capita personal income
12 for the upper midwest region.

13 b. The average earnings per job in Iowa shall
14 equal or exceed the average earnings per job in the
15 upper midwest region.

16 c. The average manufacturing earnings per employee
17 in Iowa shall equal or exceed the average
18 manufacturing earnings per employee in the upper
19 midwest region.

20 d. The average service earnings per employee in
21 Iowa shall equal or exceed the average service
22 earnings per employee in the upper midwest region.

23 e. The average earnings per employee in the
24 financial, insurance, and real estate industries in
25 Iowa shall equal or exceed the average earnings per
26 employee in the financial, insurance, and real estate
27 industries in the upper midwest region.

28 5. In determining whether the goal of increasing
29 the population of the state has been met, the
30 following performance measures shall be considered:

31 a. The net increase in new residents in the state
32 gained through attracting new businesses to the state.

33 b. The increase in the retention of high school
34 graduates and college graduates from private and
35 public colleges and universities in the state after
36 graduation.

37 c. The ability to retain fifty percent of all
38 undergraduate graduates of universities under the
39 control of the state board of regents in the state
40 after graduation.

41 d. The net population growth of Iowa equals or
42 exceeds the population growth in the upper midwest
43 region.

44 Sec. 84. NEW SECTION. 15G.107 GROW IOWA FUND.
45 a grow Iowa fund is created in the state treasury
46 under the control of the grow Iowa board consisting of
47 moneys appropriated to the grow Iowa board. Moneys in
48 the fund are not subject to section 8.33.
49 Notwithstanding section 12C.7, interest or earnings on
50 moneys in the fund shall be credited to the fund. The

Page 47

1 fund shall be administered by the grow Iowa board,
2 which shall make expenditures from the fund consistent
3 with this chapter and pertinent Acts of the general
4 assembly.

5 Sec. 85. NEW SECTION. 15G.108 ECONOMIC
6 DEVELOPMENT MARKETING BOARD – MARKETING STRATEGIES.

7 1. a. An economic development marketing board is
8 established consisting of seven members and is located
9 for administrative purposes within the department.

10 The director of the department shall provide office
11 space, staff assistance, and necessary supplies and
12 equipment for the board. The director shall budget
13 moneys to pay the compensation and expenses of the
14 board. In performing its functions, the board is
15 performing a public function on behalf of the state
16 and is a public instrumentality of the state.

17 b. The membership of the board shall be as
18 follows:

19 (1) Three members with significant demonstrated
20 experience in marketing or advertising appointed by
21 the governor.

22 (2) Four members with significant demonstrated
23 experience in marketing or advertising appointed by
24 the legislative council.

25 c. The appointments made by the governor shall
26 comply with sections 69.16 and 69.16a and shall be
27 subject to confirmation by the senate.

28 d. The chairperson and vice chairperson of the
29 board shall be elected by and from the board members
30 listed in paragraph "b". In case of the absence or
31 disability of the chairperson and vice chairperson,
32 the members of the board shall elect a temporary
33 chairperson by a majority vote of those members who
34 are present and voting.

35 e. The members shall be appointed to three-year
36 staggered terms and the terms shall commence and end
37 as provided by section 69.19. If a vacancy occurs, a
38 successor shall be appointed to serve the unexpired
39 term. A successor shall be appointed in the same
40 manner and subject to the same qualifications as the
41 original appointment to serve the unexpired term.

42 f. A majority of the board constitutes a quorum.

43 2. The board shall administer and implement the
44 approval process for marketing strategies provided in
45 subsection 3.

46 3. The economic development marketing board shall
47 accept proposals for marketing strategies for purposes
48 of selecting a strategy for the department to
49 administer. The marketing strategies shall be
50 designed to market Iowa as a lifestyle, increase the

Page 48

1 population of the state, increase the wealth of
2 Iowans, and expand and stimulate the state economy.
3 The economic development marketing board shall submit
4 a recommendation regarding the proposal to the grow
5 Iowa board. In selecting a marketing strategy for
6 recommendation, the economic development marketing
7 board shall base the selection on the goals and
8 performance measures provided in section 15G.106. The
9 grow Iowa board shall either approve or deny the
10 recommendation.

11 4. The department shall implement and administer
12 the marketing strategy approved by the grow Iowa board
13 as provided in subsection 3. The department shall
14 provide the economic development marketing board with
15 assistance in implementing administrative functions of
16 the board and provide technical assistance to the
17 board.

18 5. The members of the board are entitled to
19 receive reimbursement for actual expenses incurred
20 while engaged in the performance of official duties.
21 a board member may also be eligible to receive
22 compensation as provided in section 7E.6.

23 Sec. 86. NEW SECTION. 15G.109 FUTURE
24 CONSIDERATION.

25 Not later than February 1, 2007, the legislative
26 services agency shall prepare and deliver to the
27 secretary of the senate and the chief clerk of the
28 house of representatives identical bills that repeal
29 the provisions of this chapter. It is the intent of
30 this section that the general assembly shall bring the
31 bill to a vote in either the senate or the house of
32 representatives expeditiously. It is further the
33 intent of this chapter that if the bill is approved by
34 the first house in which it is considered, it shall
35 expeditiously be brought to a vote in the second
36 house.

37 DIVISION VII

38 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES 39 FINANCIAL ASSISTANCE PROGRAM

40 Sec. 87. Section 15E.111, subsection 1, Code 2003,
41 is amended to read as follows:

42 1. a. The department shall establish a value-
43 added agricultural products and processes financial
44 assistance program. The department shall consult with
45 ~~the Iowa corn growers association and the Iowa soybean~~
46 ~~association Iowa commodity groups.~~ The purpose of the
47 program is to encourage the increased utilization of
48 agricultural commodities produced in this state. The
49 program shall assist in efforts to revitalize rural
50 regions of this state, by committing resources to

Page 49

1 provide financial assistance to new or existing value-
2 added production facilities. The department of
3 economic development may consult with other state
4 agencies regarding any possible future environmental,
5 health, or safety issues linked to technology related
6 to the biotechnology industry. In awarding financial
7 assistance, the department shall prefer producer-
8 owned, value-added businesses and public and private
9 joint ventures involving an institution of higher
10 learning under the control of the state board of
11 regents or a private college or university acquiring
12 assets, research facilities, and leveraging moneys in
13 a manner that meets the goals of the grow Iowa fund
14 and shall commit resources to assist the following:
15 a. (1) Facilities which are involved in the
16 development of new innovative products and processes
17 related to agriculture. The facility must do either
18 of the following: produce a good derived from an
19 agricultural commodity, if the good is not commonly
20 produced from an agricultural commodity; or use a
21 process to produce a good derived from an agricultural
22 process, if the process is not commonly used to
23 produce the good.
24 b. (2) Renewable fuel production facilities. As
25 used in this section, "renewable fuel" means an energy
26 source which is derived from an organic compound
27 capable of powering machinery, including an engine or
28 power plant.
29 (3) Agricultural business facilities in the
30 agricultural biotechnology industry, agricultural
31 biomass industry, and alternative energy industry.
32 For purposes of this subsection:
33 (a) "Agricultural biomass industry" means
34 businesses that utilize agricultural commodity crops,
35 agricultural by-products, or animal feedstock in the
36 production of chemicals, protein products, or other
37 high-value products.
38 (b) "Agricultural biotechnology industry" means
39 businesses that utilize scientifically enhanced plants
40 or animals that can be raised by producers and used in
41 the production of high-value products.
42 (c) "Alternative energy industry" includes
43 businesses involved in the production of ethanol,
44 including gasoline with a mixture of seventy percent
45 or more ethanol, biodiesel, biomass, hydrogen, or in
46 the production of wind energy.
47 (4) Facilities that add value to Iowa agricultural
48 commodities through further processing and development
49 of organic products and emerging markets.
50 (5) Producer-owned, value-added businesses.

Page 50

1 education of producers and management boards in value-
2 added businesses, and other activities that would
3 support the infrastructure in the development of
4 value-added agriculture. Public and private joint
5 ventures involving an institution of higher learning
6 under the control of the state board of regents or a
7 private college or university to acquire assets,
8 research facilities, and leverage moneys in a manner
9 that meets the goals of the grow Iowa fund. For
10 purposes of this subsection, "producer-owned, valued-
11 added business" means a person who holds an equity
12 interest in the agricultural business and is
13 personally involved in the production of crops or
14 livestock on a regular, continuous, and substantial
15 basis.

16 b. Financial assistance awarded under this section
17 may be in the form of a loan, loan guarantee, grant,
18 production incentive payment, or a combination of
19 financial assistance. The department shall not award
20 more than twenty-five percent of the amount allocated
21 to the value-added agricultural products and processes
22 financial assistance fund during any fiscal year to
23 support a single person. The department may finance
24 any size of facility. However, the department ~~shall~~
25 may reserve up to fifty percent of the total amount
26 allocated to the fund, for purposes of assisting
27 persons requiring ~~one~~ five hundred thousand dollars or
28 less in financial assistance. The amount shall be
29 reserved until the end of the third quarter of the
30 fiscal year. The department shall not provide
31 financial assistance to support a value-added
32 production facility if the facility or a person owning
33 a controlling interest in the facility has
34 demonstrated a continuous and flagrant disregard for
35 the health and safety of its employees or the quality
36 of the environment. Evidence of such disregard shall
37 include a history of serious or uncorrected violations
38 of state or federal law protecting occupational health
39 and safety or the environment, including but not
40 limited to serious or uncorrected violations of
41 occupational safety and health standards enforced by
42 the division of labor services of the department of
43 workforce development pursuant to chapter 84A, or
44 rules enforced by the department of natural resources
45 pursuant to chapter 455B or 459, subchapters II and
46 III.

47 DIVISION VIII
48 ENDOW IOWA GRANTS

49 Sec. 88. NEW SECTION. 15E.301 SHORT TITLE.
50 This division shall be known as and may be cited as

Page 51

1 the "Endow Iowa Program Act".
2 Sec. 89. NEW SECTION. 15E.302 PURPOSE.
3 The purpose of this division is to enhance the
4 quality of life for citizens of this state through
5 increased philanthropic activity by providing capital
6 to new and existing citizen groups of this state
7 organized to establish endowment funds that will
8 address community needs. The purpose of this division
9 is also to encourage individuals, businesses, and
10 organizations to invest in community foundations.
11 Sec. 90. NEW SECTION. 15E.303 DEFINITIONS.
12 As used in this division, unless the context
13 otherwise requires:
14 1. "Board" means the governing board of the lead
15 philanthropic entity identified by the department
16 pursuant to section 15E.304.
17 2. "Business" means a business operating within
18 the state and includes individuals operating a sole
19 proprietorship or having rental, royalty, or farm
20 income in this state and includes a consortium of
21 businesses.
22 3. "Community affiliate organization" means a
23 group of five or more community leaders or advocates
24 organized for the purpose of increasing philanthropic
25 activity in an identified community or geographic area
26 in this state with the intention of establishing a
27 community affiliate endowment fund.
28 4. "Endowment gift" means an irrevocable
29 contribution to a permanent endowment held by a
30 qualified community foundation.
31 5. "Lead philanthropic entity" means the entity
32 identified by the department pursuant to section
33 15E.304.
34 6. "Qualified community foundation" means a
35 community foundation organized or operating in this
36 state that meets or exceeds the national standards
37 established by the national council on foundations.
38 Sec. 91. NEW SECTION. 15E.304 ENDOW IOWA GRANTS.
39 1. The department shall identify a lead
40 philanthropic entity for purposes of encouraging the
41 development of qualified community foundations in this
42 state. A lead philanthropic entity shall meet all of
43 the following qualifications:
44 a. The entity shall be a nonprofit entity which is
45 exempt from federal income taxation pursuant to
46 section 501(c)(3) of the Internal Revenue Code.
47 b. The entity shall be a statewide organization
48 with membership consisting of organizations, such as
49 community, corporate, and private foundations, whose
50 principal function is the making of grants within the

Page 52

1 state of Iowa.
2 c. The entity shall have a minimum of forty
3 members and that membership shall include qualified
4 community foundations.
5 2. A lead philanthropic entity may receive a grant
6 from the department. The board shall use the grant
7 moneys to award endow Iowa grants to new and existing
8 qualified community foundations and to community
9 affiliate organizations that do all of the following:
10 a. Provide the board with all information required
11 by the board.
12 b. Demonstrate a dollar-for-dollar funding match
13 in a form approved by the board.
14 c. Identify a qualified community foundation to
15 hold all funds. A qualified community foundation
16 shall not be required to meet this requirement.
17 d. Provide a plan to the board demonstrating the
18 method for distributing grant moneys received from the
19 board to organizations within the community or
20 geographic area as defined by the qualified community
21 foundation or the community affiliate organization.
22 3. Endow Iowa grants awarded to new and existing
23 qualified community foundations and to community
24 affiliate organizations shall not exceed twenty-five
25 thousand dollars per foundation or organization unless
26 a foundation or organization demonstrates a multiple
27 county or regional approach. Endow Iowa grants may be
28 awarded on an annual basis with not more than three
29 grants going to one county in a fiscal year.
30 4. In ranking applications for grants, the board
31 shall consider a variety of factors including the
32 following:
33 a. The demonstrated need for financial assistance.
34 b. The potential for future philanthropic activity
35 in the area represented by or being considered for
36 assistance.
37 c. The proportion of the funding match being
38 provided.
39 d. For community affiliate organizations, the
40 demonstrated need for the creation of a community
41 affiliate endowment fund in the applicant's geographic
42 area.
43 e. The identification of community needs and the
44 manner in which additional funding will address those
45 needs.
46 f. The geographic diversity of awards.
47 5. Of any moneys received by a lead philanthropic
48 entity from the state, not more than five percent of
49 such moneys shall be used by the entity for
50 administrative purposes.

Page 53

1 Sec. 92. NEW SECTION. 15E.306 REPORTS – AUDITS.

2 By January 31 of each year, the lead philanthropic
3 entity, in cooperation with the department, shall
4 publish an annual report of the activities conducted
5 pursuant to this division during the previous calendar
6 year and shall submit the report to the governor and
7 the general assembly. The annual report shall include
8 a listing of endowment funds and the amount of tax
9 credits authorized by the department.

10 Sec. 93. EFFECTIVE AND RETROACTIVE APPLICABILITY
11 DATES. This division of this Act, being deemed of
12 immediate importance, takes effect upon enactment and
13 is retroactively applicable to January 1, 2003, for
14 tax years beginning on or after that date.

15 DIVISION IX

16 TECHNOLOGY TRANSFER ADVISORS

17 Sec. 94. NEW SECTION. 7.23 TECHNOLOGY TRANSFER
18 ADVISOR.

19 Two technology transfer advisors shall be appointed
20 by the governor, serve at the pleasure of the
21 governor, and be located at offices at the university
22 of Iowa and Iowa state university of science and
23 technology. A technology transfer advisor is not a
24 state agency and is not subject to chapter 17A. A
25 technology transfer advisor shall do all of the
26 following:

27 1. Facilitate the transfer of technology developed
28 at the university of Iowa, the university of northern
29 Iowa, Iowa state university of science and technology,
30 community colleges, and private colleges and
31 universities.

32 2. Coordinate the technology transfer activities
33 at each of the public and private universities to
34 encourage the implementation of best practices in
35 technology transfer, establish measures of
36 performance, and design programs of continuous quality
37 improvement for each technology transfer office.

38 3. Establish technology transfer goals for the
39 state.

40 4. Provide technical assistance to Iowa-based
41 entrepreneurs associated with or unrelated to the
42 universities under the control of the state board of
43 regents regarding technology transfer-related issues.
44 The technical assistance shall include assistance in
45 the areas of patents and licensing, business
46 development and management, finance, production,
47 sales, and marketing.

48 5. Receive the technology transfer-related report
49 submitted by the state board of regents pursuant to
50 section 262.9, subsection 31.

Page 54

1 6. To ensure economic growth, serve as a
2 coordinator between Iowa-based businesses and
3 businesses intending to locate in Iowa.
4 Sec. 95. Section 15.108, Code 2003, is amended by
5 adding the following new subsection:
6 NEW SUBSECTION. 12. TECHNOLOGY TRANSFER ADVISORS.
7 The department shall cooperate with and provide
8 staffing support to the technology transfer advisors
9 appointed pursuant to section 7.23.
10 Sec. 96. Section 262.9, Code 2003, is amended by
11 adding the following new subsections:
12 NEW SUBSECTION. 29. Actively encourage and
13 promote the transfer of technology and research at
14 universities under the control of the board to
15 commercial application, including the start-up of
16 business entities.
17 NEW SUBSECTION. 30. Give preference and technical
18 support to those faculty members and staff members
19 desiring to obtain licenses for intellectual property
20 rights created in whole or in part by the faculty
21 member or staff member. However, such preference
22 shall not be construed to be a right accruing to that
23 faculty member or staff member.
24 NEW SUBSECTION. 31. By January 15 of each year,
25 submit a report to the governor, through the
26 technology transfer advisors, and the general assembly
27 containing information from the previous calendar year
28 regarding all of the following:
29 a. Patents secured or applied for by each
30 university under the control of the board delineated
31 by university and by faculty member and staff member
32 responsible for the research or activity that resulted
33 in the patent. In the initial report filed by January
34 15, 2004, the board shall include an inventory of
35 patent portfolios with details concerning which
36 patents are creating financial benefit and the amount
37 of financial benefit and which patents are not
38 creating financial benefit and the amount invested in
39 those patents.
40 b. Research grants secured by each university
41 under the control of the board from both public and
42 private sources delineated by university and by
43 faculty member and staff member. The board shall also
44 include the same information for grant applications
45 that are denied.
46 c. The number of faculty members and staff members
47 at each university under the control of the board
48 involved in a start-up company.
49 d. The number of grant applications for research
50 received by each university under the control of the

Page 55

1 board for start-up companies, the number of
2 applications approved, and the number of applications
3 denied.

4 e. The number of agreements entered into by
5 faculty members and staff members at each university
6 under the control of the board with foundations
7 affiliated with the universities relating to business
8 start-ups.

9 f. An accounting of the financial gain received by
10 each university under the control of the board
11 relating to patents sold, royalties received,
12 licensing fees, and any other remuneration received by
13 the university related to technology transfer.

14 g. The number of professional employees at each
15 university under the control of the board who assist
16 in the transfer of technology and research to
17 commercial application.

18 DIVISION X

19 IOWa ECONOMIC DEVELOPMENT

20 LOAN AND CREDIT GUARANTEE FUND

21 Sec. 97. NEW SECTION. 15E.221 SHORT TITLE.

22 This division shall be known and may be cited as
23 the "Iowa Economic Development Loan and Credit
24 Guarantee Fund Act".

25 Sec. 98. NEW SECTION. 15E.222 LEGISLATIVE
26 FINDING – PURPOSES.

27 1. The general assembly finds all of the
28 following:

29 a. That small and medium-sized businesses, in
30 general, and certain targeted industry businesses and
31 other qualified businesses, in particular, may not
32 qualify for conventional financing.

33 b. That the limited availability of credit for
34 export transactions limits the ability of small and
35 medium-sized businesses in this state to compete in
36 international markets.

37 c. That, to enhance competitiveness and foster
38 economic development, this state must focus on growth
39 in certain specific targeted industry businesses and
40 other qualified businesses, especially during a time
41 of war.

42 d. That the challenge for the public economic
43 sector is to create an atmosphere conducive to
44 economic growth, in conjunction with financial
45 institutions in the private sector, which fill the
46 gaps in credit availability and export finance, and
47 that allow the private sector to identify the lending
48 opportunities and foster decision making at the local
49 level.

50 2. The general assembly declares the purposes of

Page 56

1 this division to be all of the following:

- 2 a. To create incentives and assistance to increase
3 the flow of private capital to targeted industry
4 businesses and other qualified businesses.
5 b. To promote industrial modernization and
6 technology adoption.
7 c. To encourage the retention and creation of
8 jobs.
9 d. To encourage the export of goods and services
10 sold by Iowa businesses in national and international
11 markets.

12 Sec. 99. NEW SECTION. 15E.223 DEFINITIONS.

13 As used in this division, unless the context
14 otherwise requires:

- 15 1. "Financial institution" means an institution
16 listed in section 422.61, subsection 1, or such other
17 financial institution as defined by the department for
18 purposes of this division.
19 2. "Program" means the loan and credit guarantee
20 program established in this division.
21 3. "Qualified business" means an existing or
22 proposed business entity with an annual average number
23 of employees not exceeding two hundred employees.
24 "Qualified business" does not include businesses
25 engaged primarily in retail sales, real estate, or the
26 provision of health care or other professional
27 services. "Qualified business" includes professional
28 services businesses that provide services to targeted
29 industry businesses or other entities within and
30 outside of this state.

- 31 4. "Targeted industry business" means an existing
32 or proposed business entity, including an emerging
33 small business or qualified business which is operated
34 for profit and which has a primary business purpose of
35 doing business in at least one of the targeted
36 industries designated by the department which include
37 life sciences, software and information technology,
38 advanced manufacturing, value-added agriculture, and
39 any other industry designated as a targeted industry
40 by the loan and credit guarantee advisory board.

41 Sec. 100. NEW SECTION. 15E.224 LOAN AND CREDIT
42 GUARANTEE PROGRAM.

- 43 1. The department shall, with the advice of the
44 loan and credit guarantee advisory board, establish
45 and administer a loan and credit guarantee program.
46 The department, pursuant to agreements with financial
47 institutions, shall provide loan and credit
48 guarantees, or other forms of credit guarantees for
49 qualified businesses and targeted industry businesses
50 for eligible project costs. A loan or credit

Page 57

1 guarantee provided under the program may stand alone
2 or may be used in conjunction with or to enhance other
3 loans or credit guarantees, offered by private, state,
4 or federal entities. However, the department shall
5 not in any manner directly or indirectly pledge the
6 credit of the state. Eligible project costs include
7 expenditures for productive equipment and machinery,
8 working capital for operations and export
9 transactions, research and development, marketing, and
10 such other costs as the department may so designate.

11 2. A loan or credit guarantee or other form of
12 credit guarantee provided under the program to a
13 participating financial institution for a single
14 qualified business or targeted industry business shall
15 not exceed one million dollars in value. Loan or
16 credit guarantees or other forms of credit guarantees
17 provided under the program to more than one
18 participating financial institution for a single
19 qualified business or targeted industry business shall
20 not exceed ten million dollars in value.

21 3. In administering the program, the department
22 shall consult and cooperate with financial
23 institutions in this state and with the loan and
24 credit guarantee advisory board. Administrative
25 procedures and application procedures, as practicable,
26 shall be responsive to the needs of qualified
27 businesses, targeted industry businesses, and
28 financial institutions, and shall be consistent with
29 prudent investment and lending practices and criteria.

30 4. Each participating financial institution shall
31 identify and underwrite potential lending
32 opportunities with qualified businesses and targeted
33 industry businesses. Upon a determination by a
34 participating financial institution that a qualified
35 business or targeted industry business meets the
36 underwriting standards of the financial institution,
37 subject to the approval of a loan or credit guarantee,
38 the financial institution shall submit the
39 underwriting information and a loan or credit
40 guarantee application to the department.

41 5. The department, with the advice of the loan and
42 credit guarantee advisory board, shall adopt a loan or
43 credit guarantee application procedure for a financial
44 institution on behalf of a qualified business or
45 targeted industry business.

46 6. Upon approval of a loan or credit guarantee,
47 the department shall enter into a loan or credit
48 guarantee agreement with the participating financial
49 institution. The agreement shall specify all of the
50 following:

Page 58

1 a. The fee to be charged to the financial
2 institution.
3 b. The evidence of debt assurance of, and security
4 for, the loan or credit guarantee.
5 c. A loan or credit guarantee that does not exceed
6 fifteen years.
7 d. Any other terms and conditions considered
8 necessary or desirable by the department.
9 7. The department, with the advice of the loan and
10 credit guarantee advisory board, may adopt loan and
11 credit guarantee application procedures that allow a
12 qualified business or targeted industry business to
13 apply directly to the department for a preliminary
14 guarantee commitment. A preliminary guarantee
15 commitment may be issued by the department subject to
16 the qualified business or targeted industry business
17 securing a commitment for financing from a financial
18 institution. The application procedures shall specify
19 the process by which a financial institution may
20 obtain a final loan and credit guarantee.
21 Sec. 101. NEW SECTION. 15E.225 TERMS – FEES.
22 1. When entering into a loan or credit guarantee
23 agreement, the department, with the advice of the loan
24 and credit guarantee advisory board, shall establish
25 fees and other terms for participation in the program
26 by qualified businesses and targeted industry
27 businesses.
28 2. The department, with due regard for the
29 possibility of losses and administrative costs and
30 with the advice of the loan and credit guarantee
31 advisory board, shall set fees and other terms at
32 levels sufficient to assure that the program is self-
33 financing.
34 3. For a preliminary guarantee commitment, the
35 department may charge a qualified business or targeted
36 industry business a preliminary guarantee commitment
37 fee. The application fee shall be in addition to any
38 other fees charged by the department under this
39 section and shall not exceed one thousand dollars for
40 an application.
41 Sec. 102. NEW SECTION. 15E.226 LOAN AND CREDIT
42 GUARANTEE ADVISORY BOARD.
43 The department, in consultation with the
44 superintendent of banking, shall establish a loan and
45 credit guarantee advisory board. The advisory board
46 shall provide the department with technical advice
47 regarding the administration of the program, including
48 the adoption of administrative rules pursuant to
49 chapter 17A. The advisory board shall review and
50 provide recommendations regarding all applications

Page 59

1 under the program. Members of the advisory board are
2 entitled to receive reimbursement for actual expenses
3 incurred while engaged in the performance of official
4 duties. Advisory board members may also be eligible
5 to receive compensation as provided in section 7E.6.
6 The director of the department shall budget moneys to
7 pay the compensation and expenses of the advisory
8 board. The provisions of this section relating to the
9 adoption of administrative rules shall be construed
10 narrowly.

11 DIVISION XI

12 ECONOMIC DEVELOPMENT ASSISTANCE AND DATA COLLECTION
13 Sec. 103. NEW SECTION. 15E.118 BUSINESS START-UP
14 INFORMATION – INTERNET WEB SITE.

15 The department shall provide information through an
16 internet web site and a toll-free telephone service to
17 assist persons interested in establishing a commercial
18 facility or engaging in a commercial activity. The
19 information shall include all of the following:

- 20 1. Assistance, information, and guidance for
21 start-up businesses.
- 22 2. Information gathered by the department pursuant
23 to section 15E.17, subsection 2.
- 24 3. Personal and corporate income tax information.
- 25 4. Information regarding financial assistance and
26 incentives available to businesses.
- 27 5. Workforce availability in the state presented
28 in a regional format.

29 Sec. 104. NEW SECTION. 15E.119 ECONOMIC
30 DEVELOPMENT-RELATED DATA COLLECTION.

31 1. The department shall interview any business
32 that considered locating in Iowa but decided to locate
33 elsewhere. The department shall attempt to determine
34 factors that affected the location decision of the
35 business.

36 2. The department shall interview any business
37 that closes major operations in the state or dissolves
38 the business's corporate status in an effort to
39 identify factors that led to the closure or
40 dissolution.

41 3. By January 15 of each year, the department
42 shall submit a written report to the general assembly
43 that summarizes the information collected pursuant to
44 this section and provides suggested amendments to the
45 Code of Iowa and the Iowa administrative code designed
46 to stimulate and expand the state's economy.

47 Sec. 105. INTERNET WEB SITE DEVELOPMENT. In
48 developing the internet web site required in section
49 15E.118, the department of economic development shall
50 examine similar efforts in other states and

Page 60

1 incorporate the best practices.

2 DIVISION XII

3 CULTURAL AND ENTERTAINMENT DISTRICTS

4 Sec. 106. NEW SECTION. 303.3B CULTURAL AND
5 ENTERTAINMENT DISTRICTS.

6 1. The department of cultural affairs shall
7 establish and administer a cultural and entertainment
8 district certification program. The program shall
9 encourage the growth of communities through the
10 development of areas within a city or county for
11 public and private uses related to cultural and
12 entertainment purposes.

13 2. A city or county may create and designate a
14 cultural and entertainment district subject to
15 certification by the department of cultural affairs,
16 in consultation with the department of economic
17 development. A cultural and entertainment district
18 shall consist of a geographic area not exceeding one
19 square mile in size. A cultural and entertainment
20 district certification shall remain in effect for ten
21 years following the date of certification. Two or
22 more cities or counties may apply jointly for
23 certification of a district that extends across a
24 common boundary. Through the adoption of
25 administrative rules, the department of cultural
26 affairs shall develop a certification application for
27 use in the certification process. The provisions of
28 this subsection relating to the adoption of
29 administrative rules shall be construed narrowly.

30 3. The department of cultural affairs shall
31 encourage development projects and activities located
32 in certified cultural and entertainment districts
33 through incentives under cultural grant programs
34 pursuant to section 303.3, chapter 303A, and any other
35 grant programs.

36 DIVISION XIII

37 WORKFORCE ISSUES

38 Sec. 107. NEW SECTION. 15A.10 JOB RETENTION –
39 INCENTIVES.

40 1. In order to assure the retention of existing
41 jobs that would otherwise be lost, the director of the
42 department of economic development may authorize
43 incentives and assistance provided to a business under
44 this section for a period not to exceed ten years upon
45 finding the following:

46 a. The business currently employing, at one place
47 of business, at least one thousand employees is likely
48 to close or substantially reduce employment.

49 b. The business agrees to remain in the state for
50 at least ten years and invest at least fifteen million

Page 61

- 1 dollars to retool or upgrade facilities.
2 2. Incentives and assistance that may be
3 authorized by the director include any of the
4 following:
5 a. New jobs credit from withholding, as provided
6 in section 15.331.
7 b. Sales, services, and use tax refund, as
8 provided in section 15.331A.
9 c. Investment tax credit, as provided in section
10 15.333.
11 d. Research activities tax credit, as provided in
12 section 15.335.
13 3. A business shall enter into an agreement with
14 the department and the city or county specifying the
15 terms and conditions that must be met in exchange for
16 the incentives and assistance authorized in this
17 section. The agreement shall specify how the
18 incentives will be repaid in the event the business
19 fails to meet or maintain the terms and conditions of
20 the agreement.

21 DIVISION XIV

22 UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM
23 Sec. 108. NEW SECTION. 262B.11 UNIVERSITY-BASED
24 RESEARCH UTILIZATION PROGRAM.

- 25 1. The department of economic development shall
26 establish and administer a university-based research
27 utilization program for purposes of encouraging the
28 utilization of university-based research, primarily in
29 the area of high technology, in new or existing
30 businesses. The program shall include the three
31 universities under the control of the state board of
32 regents and all accredited private universities
33 located in the state.
34 2. A new or existing business that utilizes a
35 technology developed by an employee at a university
36 under the control of the state board of regents may
37 apply to the department of economic development for
38 approval to participate in the university-based
39 research utilization program. The department shall
40 approve an applicant if the applicant meets all of the
41 following criteria:
42 a. The applicant utilizes a technology developed
43 by an employee at a university under the control of
44 the state board of regents, provided that the
45 technology has received a patent after the effective
46 date of this Act. If the applicant has been in
47 existence more than one year prior to applying, the
48 applicant shall organize a separate company to utilize
49 the technology. For purposes of this section, the
50 separate company shall be considered the applicant

Page 62

1 and, if approved, the approved business.
2 b. The applicant develops a five-year business
3 plan approved by the department. The plan shall
4 include information concerning the applicant's Iowa
5 employment goals and projected impact on the Iowa
6 economy. The department shall only approve plans
7 showing sufficient potential impact on Iowa employment
8 and economic development.
9 c. The applicant meets a minimum-size business
10 standard determined by the department.
11 d. The applicant provides annual reports to the
12 department that include employment statistics for the
13 applicant and the total taxable wages paid to Iowa
14 employees and reported to the department of revenue
15 and finance pursuant to section 422.16.
16 3. A business approved under the program and the
17 university employee responsible for the development of
18 the technology utilized by the approved business shall
19 be eligible for a tax credit. The credit shall be
20 allowed against the taxes imposed in chapter 422,
21 divisions II and III. An individual may claim a tax
22 credit under this section of a partnership, limited
23 liability company, S corporation, estate, or trust
24 electing to have income taxed directly to the
25 individual. The amount claimed by the individual
26 shall be based upon the pro rata share of the
27 individual's earnings from the partnership, limited
28 liability company, S corporation, estate, or trust. A
29 tax credit shall not be claimed under this subsection
30 unless a tax credit certificate issued by the
31 department of economic development is attached to the
32 taxpayer's tax return for the tax year for which the
33 tax credit is claimed. The amount of a tax credit
34 allowed under this subsection shall equal the amount
35 listed on a tax credit certificate issued by the
36 department of economic development pursuant to
37 subsection 4. A tax credit certificate shall not be
38 transferable. Any tax credit in excess of the
39 taxpayer's liability for the tax year may be credited
40 to the taxpayer's tax liability for the following five
41 years or until depleted, whichever occurs first. A
42 tax credit shall not be carried back to a tax year
43 prior to the tax year in which the taxpayer redeems
44 the tax credit.
45 4. For the five tax years following the tax year
46 in which a business is approved under the program, the
47 department of revenue and finance shall provide the
48 department of economic development with information
49 required by the department of economic development
50 from each tax return filed by the approved business.

Page 63

1 Upon receiving the tax return-related information, the
2 department of economic development shall do all of the
3 following:
4 a. Review the information provided by the
5 department of revenue and finance pursuant to this
6 subsection and the annual report submitted by the
7 applicant pursuant to subsection 2, paragraph "d". If
8 the department determines that the business activities
9 of the applicant are not providing the benefits to
10 Iowa employment and economic development projected in
11 the applicant's approved five-year business plan, the
12 department shall not issue tax credit certificates for
13 that year to the applicant or university employee and
14 shall determine any related university share to be
15 equal to zero for that year.
16 b. Effective for the fiscal year beginning July 1,
17 2004, and for subsequent fiscal years, issue a tax
18 credit certificate to the approved business and the
19 university employee responsible for the development of
20 the technology utilized by the approved business in an
21 amount determined pursuant to subsection 5. A tax
22 credit certificate shall contain the taxpayer's name,
23 address, tax identification number, the amount of the
24 tax credit, and other information required by the
25 department of revenue and finance.
26 c. (1) Determine the university share which is
27 equal to the value of thirty percent of the tax
28 liability of the approved business for purposes of
29 making an appropriation pursuant to section 262B.12,
30 if enacted by 2003 Iowa Acts, [House File 683](#) or
31 another Act, to the university where the technology
32 utilized by the approved business was developed. A
33 university share shall not exceed two hundred twenty-
34 five thousand dollars per year per technology
35 utilized. For each technology utilized, the aggregate
36 university share over a five-year period shall not
37 exceed six hundred thousand dollars.
38 (2) The department shall maintain records for each
39 university during each fiscal year regarding the
40 university share each university is entitled to
41 receive through the appropriation in section 262B.12,
42 if enacted by 2003 Iowa Acts, [House File 683](#) or
43 another Act. A university shall be entitled to
44 receive the total university share for that particular
45 university during the previous fiscal year.
46 d. For the fiscal year beginning July 1, 2004, not
47 more than two million dollars worth of certificates
48 shall be issued pursuant to paragraph "b". For the
49 fiscal year beginning July 1, 2005, and every fiscal
50 year thereafter, not more than ten million dollars

Page 64

1 worth of certificates shall be issued pursuant to
2 paragraph "b".

3 5. The tax credit certificates issued by the
4 department for each of the five years following the
5 tax year in which the business is approved under the
6 program shall be for the following amounts:

7 a. For the approved business, the value of the tax
8 credit certificate shall equal thirty percent of the
9 tax liability of the approved business. The value of
10 a certificate issued to an approved business shall not
11 exceed two hundred twenty-five thousand dollars. The
12 total aggregate value of certificates issued over a
13 five-year period to an approved business shall not
14 exceed six hundred thousand dollars.

15 b. For the university employee responsible for the
16 development of the technology utilized by the approved
17 business, the value of the tax credit certificate
18 shall equal ten percent of the tax liability of the
19 approved business. If more than one employee is
20 responsible for the development of the technology, the
21 value equal to ten percent of the tax liability of the
22 approved business shall be divided equally and
23 individual tax credit certificates shall be issued to
24 each employee responsible for the development of the
25 technology. Each year, the total value of a
26 certificate or certificates issued for a utilized
27 technology shall not exceed seventy-five thousand
28 dollars. For each technology utilized, the total
29 aggregate value of certificates issued over a five-
30 year period to the university employee responsible for
31 the development of the technology shall not exceed two
32 hundred thousand dollars.

33 6. The department of economic development shall
34 notify the department of revenue and finance when a
35 tax credit certificate is issued pursuant to
36 subsection 4. The notification shall include the name
37 and tax identification number appearing on any tax
38 credit certificate.

39 Sec. 109. NEW SECTION. 422.11H UNIVERSITY-BASED
40 RESEARCH UTILIZATION PROGRAM TAX CREDIT.

41 The taxes imposed under this division, less the
42 credits allowed under sections 422.12 and 422.12B,
43 shall be reduced by a university-based research
44 utilization program tax credit authorized pursuant to
45 section 262B.11.

46 Sec. 110. Section 422.33, Code 2003, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 14. The taxes imposed under this
49 division shall be reduced by a university-based
50 research utilization program tax credit authorized

Page 65

1 pursuant to section 262B.11.

2 DIVISION XV

3 FUTURE REPEAL

4 Sec. 111. The divisions of this Act designated the
5 grow Iowa board and fund, the value-added agricultural
6 products and processes financial assistance program,
7 the endow Iowa grants, the technology transfer
8 advisors, the Iowa economic development loan and
9 credit guarantee fund, the economic development
10 assistance and data collection, the cultural and
11 entertainment districts, the workforce issues, and the
12 university-based research utilization program, are
13 repealed effective June 30, 2010.

14 DIVISION XVI

15 LIABILITY REFORM

16 Sec. 112. Section 668.12, Code 2003, is amended to
17 read as follows:

18 668.12 LIABILITY FOR PRODUCTS – ~~STATE OF THE ART~~
19 ~~DEFENSE DEFENSES.~~

20 1. In any action brought pursuant to this chapter
21 against an assembler, designer, supplier of
22 specifications, distributor, manufacturer, or seller
23 for damages arising from an alleged defect in the
24 design, testing, manufacturing, formulation,
25 packaging, warning, or labeling of a product, a
26 percentage of fault shall not be assigned to such
27 persons if they plead and prove that the product
28 conformed to the state of the art in existence at the
29 time the product was designed, tested, manufactured,
30 formulated, packaged, provided with a warning, or
31 labeled.

32 2. Nothing contained in ~~this section~~ subsection 1
33 shall diminish the duty of an assembler, designer,
34 supplier of specifications, distributor, manufacturer
35 or seller to warn concerning subsequently acquired
36 knowledge of a defect or dangerous condition that
37 would render the product unreasonably dangerous for
38 its foreseeable use or diminish the liability for
39 failure to so warn.

40 3. An assembler, designer, supplier of
41 specifications, distributor, manufacturer, or seller
42 shall not be subject to liability under a theory of
43 civil conspiracy unless the person knowingly and
44 voluntarily entered into an agreement, express or
45 implied, to participate in a common plan with the
46 intent to commit a tortious act upon another. Mere
47 membership in a trade or industrial association or
48 group is not, in and of itself, evidence of such an
49 agreement.

50 Sec. 113. Section 668A.1, subsection 1, Code 2003,

Page 66

1 is amended to read as follows:

2 1. In a trial of a claim involving the request for
3 punitive or exemplary damages, the court shall
4 instruct the jury to answer special interrogatories
5 or, if there is no jury, shall make findings,
6 indicating all of the following:

7 a. ~~Whether, by a preponderance of clear,
8 convincing, and satisfactory evidence, the conduct of
9 the defendant from which the claim arose constituted
10 willful and wanton disregard for the rights or safety
11 of another.~~

12 b. Whether the conduct of the defendant was
13 directed specifically at the claimant, or at the
14 person from which the claimant's claim is derived.

15 b. Whether, by a preponderance of clear and
16 convincing evidence, the conduct of the defendant from
17 which the claim arose constituted actual malice.

18 Sec. 114. NEW SECTION. 668A.2 DEFINITIONS.

19 As used in this chapter, the following terms shall
20 have the following meanings:

21 1. "Clear and convincing evidence" means evidence
22 which leaves no serious or substantial doubt about the
23 correctness of the conclusions drawn from the
24 evidence. It is more than a preponderance of
25 evidence, but less than beyond a reasonable doubt.

26 2. "Malice" means either conduct which is
27 specifically intended by the defendant to cause
28 tangible or intangible serious injury to the plaintiff
29 or conduct that is carried out by the defendant both
30 with a flagrant indifference to the rights of the
31 plaintiff and with a subjective awareness that such
32 conduct will result in tangible serious injury.

33 Sec. 115. NEW SECTION. 668A.3 AWARD OF PUNITIVE
34 OR EXEMPLARY DAMAGES – PROOF – STANDARD.

35 Punitive or exemplary damages shall only be awarded
36 where the plaintiff proves by clear and convincing
37 evidence that the plaintiff's harm was the result of
38 actual malice. This burden of proof shall not be
39 satisfied by proof of any degree of negligence,
40 including gross negligence.

41 Sec. 116. APPLICABILITY. This division of this
42 Act, relating to liability reform, applies to cases
43 filed on or after July 1, 2003.

44 DIVISION XVII

45 WORKERS' COMPENSATION

46 Sec. 117. Section 85.34, subsection 2, unnumbered
47 paragraph 1, Code 2003, is amended to read as follows:
48 Compensation for permanent partial disability shall
49 begin at the termination of the healing period
50 provided in subsection 1. The compensation shall be

Page 67

1 in addition to the benefits provided by sections 85.27
2 and 85.28. The compensation shall be based only upon
3 the extent of the disability related to the injury
4 received and upon the basis of eighty percent per week
5 of the employee's average spendable weekly earnings,
6 but not more than a weekly benefit amount, rounded to
7 the nearest dollar, equal to one hundred eighty-four
8 percent of the statewide average weekly wage paid
9 employees as determined by the department of workforce
10 development under section 96.19, subsection 36, and in
11 effect at the time of the injury. The minimum weekly
12 benefit amount shall be equal to the weekly benefit
13 amount of a person whose gross weekly earnings are
14 thirty-five percent of the statewide average weekly
15 wage. For all cases of permanent partial disability
16 compensation shall be paid as follows:

17 Sec. 118. Section 85.34, subsection 2, paragraph
18 u, Code 2003, is amended by adding the following new
19 unnumbered paragraph after unnumbered paragraph 2 as
20 follows:

21 NEW UNNUMBERED PARAGRAPH. When an employee makes a
22 claim for benefits under this subsection, the employer
23 is not liable for that portion of the employee's
24 present disability caused by a prior work-related
25 injury or illness that was sustained by the employee
26 while the employee was employed by a different
27 employer. When an employee's present disability
28 includes disability caused by a prior work-related
29 injury or illness that was sustained by the employee
30 while in the employ of the same employer, the employer
31 is liable for compensating all of the employee's work-
32 related disability sustained by the employee while in
33 the employ of the employer, except that any portion of
34 the disability that was previously compensated by the
35 employer shall be deducted from the employer's
36 obligation to pay benefits for the employee's present
37 disability. If an employee's present disability is
38 reduced by a portion of disability sustained from
39 prior work-related injuries or illnesses for which the
40 employee has already been compensated by the same
41 employer, then the employee shall receive compensation
42 for the remaining disability caused by the present
43 work-related injury or illness plus an additional ten
44 percent of the amount of the increase in disability.

45 Sec. 119. APPLICABILITY. This division of this
46 Act, relating to workers' compensation, applies to an
47 injury occurring on or after July 1, 2003.

48 DIVISION XVIII
49 FINANCIAL SERVICES

50 Sec. 120. Section 537.2502, subsections 3 and 6,

Page 68

1 Code 2003, are amended to read as follows:
2 3. A delinquency charge shall not be collected
3 under subsection 1, paragraph "a", on an installment
4 ~~which that~~ is paid in full within ten days after its
5 scheduled or deferred installment due date even though
6 an earlier maturing installment or a delinquency or
7 deferral charge on an earlier installment may not have
8 been paid in full. For purposes of this subsection,
9 payments associated with a precomputed transaction are
10 applied first to current installments and then to
11 delinquent installments.

12 6. A delinquency charge shall not be collected
13 under subsection 4 on a payment ~~which~~ associated with
14 a precomputed transaction that is paid in full on or
15 before its scheduled or deferred due date even though
16 an earlier maturing payment or a delinquency or
17 deferred charge on an earlier payment has not been
18 paid in full. For purposes of this subsection,
19 payments are applied first to amounts due for the
20 current billing cycle and then to delinquent payments.

21 Sec. 121. Section 537.2601, subsection 1, Code
22 2003, is amended to read as follows:

23 1. ~~Except as provided in subsection 2, with With~~
24 respect to a credit transaction other than a consumer
25 credit transaction, the parties may contract for the
26 payment by the debtor of any finance or other charge
27 as permitted by law. ~~Except with respect to debt~~
28 ~~obligations issued by a government, governmental~~
29 ~~agency or instrumentality, in calculating any finance~~
30 ~~charge contracted for, any month may be counted as~~
31 ~~one twelfth of a year, but a day is to be counted as~~
32 ~~one three hundred sixty fifth of a year.~~

33 DIVISION XIX

34 UNEMPLOYMENT COMPENSATION SURCHARGE

35 Sec. 122. Section 96.7, subsection 12, paragraph
36 a, Code 2003, is amended to read as follows:

37 a. An employer other than a governmental entity or
38 a nonprofit organization, subject to this chapter,
39 shall pay an administrative contribution surcharge
40 equal in amount to one-tenth of one percent of federal
41 taxable wages, as defined in section 96.19, subsection
42 37, paragraph "b", subject to the surcharge formula to
43 be developed by the department under this paragraph.
44 The department shall develop a surcharge formula that
45 provides a target revenue level of no greater than six
46 million five hundred twenty-five thousand dollars
47 annually for calendar years 2003, 2004, and 2005 and a
48 target revenue level of no greater than three million
49 two hundred sixty-two thousand five hundred dollars
50 for calendar year 2006 and each subsequent calendar

Page 69

1 year. The department shall reduce the administrative
 2 contribution surcharge established for any calendar
 3 year proportionate to any federal government funding
 4 that provides an increased allocation of moneys for
 5 workforce development offices, under the federal
 6 employment services financing reform legislation. Any
 7 administrative contribution surcharge revenue that is
 8 collected in calendar year ~~2002~~ 2003, 2004, or 2005 in
 9 excess of six million five hundred twenty-five
 10 thousand dollars ~~or in calendar year 2006 or a~~
 11 subsequent calendar year in excess of three million
 12 two hundred sixty-two thousand five hundred dollars
 13 shall be deducted from the amount to be collected in
 14 the subsequent calendar year 2003 before the
 15 department establishes the administrative contribution
 16 surcharge. The department shall recompute the amount
 17 as a percentage of taxable wages, as defined in
 18 section 96.19, subsection 37, and shall add the
 19 percentage surcharge to the employer's contribution
 20 rate determined under this section. The percentage
 21 surcharge shall be capped at a maximum of seven
 22 dollars per employee. The department shall adopt
 23 rules prescribing the manner in which the surcharge
 24 will be collected. Interest shall accrue on all
 25 unpaid surcharges under this subsection at the same
 26 rate as on regular contributions and shall be
 27 collectible in the same manner. Interest accrued and
 28 collected under this paragraph and interest earned and
 29 credited to the fund under paragraph "b" shall be used
 30 by the department only for the purposes set forth in
 31 paragraph "c".

32 Sec. 123. Section 96.7, subsection 12, paragraph
 33 d, Code 2003, is amended to read as follows:
 34 d. This subsection is repealed July 1, ~~2003~~ 2006,
 35 and the repeal is applicable to contribution rates for
 36 calendar year ~~2004~~ 2007 and subsequent calendar years.

37 Sec. 124. EFFECTIVE DATE. This division of this
 38 Act, concerning the unemployment compensation
 39 surcharge, being deemed of immediate importance, takes
 40 effect upon enactment.

41 DIVISION XX

42 ECONOMIC DEVELOPMENT

43 Sec. 125. NEW SECTION. 15E.18 CITIES, COUNTIES,
 44 AND REGIONS – SITE PREPARATION FOR TARGETED ECONOMIC
 45 DEVELOPMENT.

46 1. For purposes of this section, "region" means a
 47 group of two or more contiguous counties that
 48 establishes a single, focused economic development
 49 effort.

50 2. A city, county, or region, subject to the

Page 70

1 approval of the property owner, may designate an area
2 within the boundaries of the city, county, or region
3 for a specific type of targeted economic development.

4 The specific type of targeted economic development
5 shall be one of the following:

- 6 a. Manufacturing.
- 7 b. Light industrial.
- 8 c. Warehouse and distribution.
- 9 d. Office parks.
- 10 e. Business and commerce parks.
- 11 f. Research and development.

12 3. A city, county, or region that designates an
13 area for a specific type of targeted economic
14 development may apply to the department for purposes
15 of certifying the area as a preapproved development
16 site. The department shall develop criteria for the
17 certification process.

18 4. Prior to a specific project being developed, a
19 city, county, or region designating the area for
20 targeted economic development pursuant to this section
21 may apply for and obtain appropriate licenses,
22 permits, and approvals for the type of targeted
23 economic development project desired for the area.

24 Sec. 126. NEW SECTION. 15E.19 REGULATORY
25 ASSISTANCE.

26 1. The department of economic development shall
27 coordinate all regulatory assistance for the state of
28 Iowa. Each state agency with regulatory programs for
29 business shall maintain a coordinator within the
30 office of the director or the administrative division
31 of the state agency. Each coordinator shall do all of
32 the following:

- 33 a. Serve as the department of economic
34 development's primary contact for regulatory affairs.
- 35 b. Provide regulatory requirements to businesses
36 and represent the agency in the private sector.
- 37 c. Monitor permit applications and provide timely
38 permit status information to the department of
39 economic development.
- 40 d. Have the ability to require regulatory staff
41 participation in negotiations and discussions with
42 businesses.
- 43 e. Notify the department of economic development
44 regarding proposed rulemaking activities that impact a
45 regulatory program and any subsequent changes to a
46 regulatory program.

47 2. The department of economic development shall,
48 in consultation with the coordinators described in
49 this section, examine, and to the extent permissible,
50 assist in the implementation of methods, including the

Page 71

1 possible establishment of an electronic database, to
 2 streamline the process for issuing permits to
 3 business.

4 3. By January 15 of each year, the department of
 5 economic development shall submit a written report to
 6 the general assembly regarding the provision of
 7 regulatory assistance by state agencies, including the
 8 department's efforts, and its recommendations and
 9 proposed solutions, to streamline the process of
 10 issuing permits to business.

11 Sec. 127. NEW SECTION. 15E.20 PERMIT APPROVAL
 12 REQUIREMENTS.

13 A state agency which requires a permit, license, or
 14 other regulatory approval shall issue or deny the
 15 permit, license, or other regulatory approval within
 16 ninety days of the receipt by the state agency of an
 17 application. Unless such a state agency communicates
 18 any concerns to or requests additional information
 19 from an applicant within ten days of the receipt of
 20 the application, the application shall be considered
 21 complete. A permit, license, or other regulatory
 22 approval not issued or denied within the ninety days
 23 shall be deemed to be issued and valid.

24 DIVISION XXI

25 UTILITY SALES TAX EXEMPTION

26 Sec. 128. Section 422.45, subsection 61, paragraph
 27 b, subparagraphs (2), (3), (4), and (5), Code 2003,
 28 are amended to read as follows:

29 (2) If the date of the utility billing or meter
 30 reading cycle of the residential customer for the
 31 sale, furnishing, or service of metered gas and
 32 electricity is on or after January 1, 2003, through
 33 ~~December 31, 2003~~ June 30, 2008, or if the sale,
 34 furnishing, or service of fuel for purposes of
 35 residential energy and the delivery of the fuel occurs
 36 on or after January 1, 2003, through ~~December 31, 2003~~
 37 June 30, 2008, the rate of tax is three percent of the
 38 gross receipts.

39 (3) If the date of the utility billing or meter
 40 reading cycle of the residential customer for the
 41 sale, furnishing, or service of metered gas and
 42 electricity is on or after ~~January 1, 2004~~ July 1,
 43 2008, through ~~December 31, 2004~~ June 30, 2009, or if
 44 the sale, furnishing, or service of fuel for purposes
 45 of residential energy and the delivery of the fuel
 46 occurs on or after ~~January 1, 2004~~ July 1, 2008,
 47 through ~~December 31, 2004~~ June 30, 2009, the rate of
 48 tax is two percent of the gross receipts.

49 (4) If the date of the utility billing or meter
 50 reading cycle of the residential customer for the

Page 72

1 sale, furnishing, or service of metered gas and
2 electricity is on or after ~~January 1, 2005~~ July 1,
3 2009, through ~~December 31, 2005~~ June 30, 2010, or if
4 the sale, furnishing, or service of fuel for purposes
5 of residential energy and the delivery of the fuel
6 occurs on or after ~~January 1, 2005~~ July 1, 2009,
7 through ~~December 31, 2005~~ June 30, 2010, the rate of
8 tax is one percent of the gross receipts.

9 (5) If the date of the utility billing or meter
10 reading cycle of the residential customer for the
11 sale, furnishing, or service of metered gas and
12 electricity is on or after ~~January 1, 2006~~ July 1,
13 2010, or if the sale, furnishing, or service of fuel
14 for purposes of residential energy and the delivery of
15 the fuel occurs on or after ~~January 1, 2006~~ July 1,
16 2010, the rate of tax is zero percent of the gross
17 receipts.

DIVISION XXII

STATE ASSISTANCE FOR EDUCATIONAL INFRASTRUCTURE

Sec. 129. NEW SECTION. 292A.1 DEFINITIONS.

21 As used in this chapter, unless the context
22 otherwise requires:

23 1. "Capacity per pupil" means the sum of a school
24 district's property tax infrastructure capacity per
25 pupil and the sales tax capacity per pupil.

26 2. "Committee" means the school budget review
27 committee established in section 257.30.

28 3. "Department" means the department of education
29 established in section 256.1.

30 4. "Fund" means the state assistance for
31 educational infrastructure fund created in section
32 292A.3.

33 5. "Local match percentage" means a percentage
34 equivalent to either of the following, whichever is
35 less:

36 a. Fifty percent.

37 b. The quotient of a school district's capacity
38 per pupil divided by the capacity per pupil of the
39 school district at the fortieth percentile, multiplied
40 by fifty percent, except that the percentage in this
41 paragraph shall not be less than twenty percent.

42 6. "Program" means the state assistance for
43 educational infrastructure program established in
44 section 292A.2.

45 7. "Property tax infrastructure capacity per
46 pupil" means the sum of a school district's levies
47 under sections 298.2 and 298.18 when the levies are
48 imposed to the maximum extent allowable under law in
49 the budget year divided by the school district's basic
50 enrollment for the budget year.

Page 73

1 8. "Sales tax capacity per pupil" means the
2 estimated amount of revenues that a school district
3 receives or would receive if a local sales and
4 services tax for school infrastructure is imposed at
5 one percent pursuant to section 422E.2, divided by the
6 school district's basic enrollment for the budget
7 year.

8 9. "School infrastructure" means activities
9 initiated on or after July 1, 2003, for which a school
10 district is authorized to contract indebtedness and
11 issue general obligation bonds under section 296.1,
12 except those activities related to a teacher's or
13 superintendent's home or homes, to stadiums, to the
14 improving of a site for an athletic field, or to the
15 improving of a site already owned for an athletic
16 field. These activities include the construction,
17 reconstruction, repair, demolition work, purchasing,
18 or remodeling of schoolhouses and bus garages and the
19 procurement of schoolhouse construction sites and the
20 making of site improvements and those activities for
21 which revenues under section 298.3 or 300.2 may be
22 spent.

23 Sec. 130. NEW SECTION. 292A.2 STATE ASSISTANCE
24 FOR EDUCATIONAL INFRASTRUCTURE PROGRAM.

25 1. a. The department shall establish and
26 administer a state assistance for educational
27 infrastructure program to provide financial assistance
28 in the form of grants to school districts with school
29 infrastructure needs.

30 b. The department of education, in consultation
31 with the department of management, shall annually
32 compute the property tax infrastructure capacity per
33 pupil for each school district in the state.

34 c. The department of education, in consultation
35 with the department of revenue and the legislative
36 services agency, shall annually calculate the
37 estimated sales and services tax for school
38 infrastructure, if imposed at one percent, that is or
39 would be received by each school district in the state
40 pursuant to section 422E.3. These calculations shall
41 be made on a total tax and on a tax per pupil basis
42 for each school district.

43 d. The department of education, in consultation
44 with the department of revenue and the department of
45 management, shall annually compute capacity per pupil
46 and the local match percentage for each school
47 district in the state. The calculations shall be
48 released not later than September 1 of each year.

49 2. a. A school district's local match requirement
50 is equivalent to the total investment of a project

Page 74

1 multiplied by the school district's local match
2 percentage. A school district may submit an
3 application to the department for financial assistance
4 under the program if the school district meets the
5 district's local match requirement through one or more
6 of the following sources:

7 (1) The issuance of bonds pursuant to section
8 298.18.

9 (2) Local sales and services tax moneys received
10 pursuant to section 422E.3.

11 (3) a physical plant and equipment levy under
12 chapter 298.

13 (4) Other moneys locally obtained by the school
14 district excluding other state or federal grant
15 moneys.

16 b. If the project is in collaboration with other
17 public or private entities, the school district shall
18 be eligible to apply for only the school district's
19 portion of the project. As such, state or federal
20 grants received by the other entities cannot be used
21 toward the local match requirement under paragraph
22 "a", subparagraph (4).

23 c. A school district may submit an application for
24 a project which includes activities at more than one
25 attendance center. However, if the activities relate
26 to new construction, the project shall only relate to
27 one attendance center.

28 d. A school district may submit an application for
29 conditional approval to the department for financial
30 assistance under the program if the school district
31 submits a plan for securing the school district's
32 local match requirement under paragraph "a". If a
33 school district does not meet the local match
34 requirement of paragraph "a" within nine months of
35 receiving conditional approval from the department,
36 the application for financial assistance shall be
37 denied by the department and the financial assistance
38 shall be carried forward to be made available under
39 the allocation provided under subsection 5, paragraph
40 "d", for the next available grant cycle.

41 e. For the fiscal year beginning July 1, 2003, and
42 every fiscal year thereafter, applications shall be
43 submitted to the department by October 15 of each
44 year.

45 f. For the fiscal year beginning July 1, 2003, and
46 every fiscal year thereafter, the department shall
47 notify all approved applicants by December 15 of each
48 year regarding the approval of the application.

49 g. An applicant which is not successful in
50 obtaining financial assistance under the program may

Page 75

- 1 reapply for financial assistance in succeeding years.
- 2 3. The application shall include, but shall not be
- 3 limited to, the following information:
- 4 a. The total capital investment of the project.
- 5 b. The amount and percentage of moneys which the
- 6 school district will be providing for the project.
- 7 c. The infrastructure needs of the school
- 8 district, especially the fire and health safety needs
- 9 of the school district, and including the extent to
- 10 which the project would allow the school district to
- 11 meet the infrastructure needs of the school district
- 12 on a long-term basis.
- 13 d. The financial assistance needed by the school
- 14 district based upon the capacity per pupil.
- 15 e. Any previous efforts by the school district to
- 16 secure infrastructure funding from federal, state, or
- 17 local resources, including any funding received for
- 18 any project under the school infrastructure program
- 19 provided in chapter 292. The previous efforts shall
- 20 be evaluated on a case-by-case basis.
- 21 f. Evidence that the school district meets or will
- 22 meet the local match requirement in subsection 2,
- 23 paragraph "a".
- 24 g. The nature of the proposed project and its
- 25 relationship to improving educational opportunities
- 26 for the students.
- 27 h. Evidence that the school district has
- 28 reorganized on or after July 1, 2002, or that the
- 29 school district has initiated a resolution to
- 30 reorganize by July 1, 2005, or entered into an
- 31 innovative collaboration with another school district
- 32 or school districts.
- 33 i. Evidence that the school district receives
- 34 sales and services tax for school infrastructure
- 35 funding under section 422E.3.
- 36 4. A school district with less than two hundred
- 37 fifty actual enrollment or less than one hundred
- 38 actual enrollment in the high school that submits an
- 39 application for assistance for new construction or for
- 40 payments for bonds issued for new construction shall
- 41 include on the application, in addition to that in
- 42 subsection 3, all of the following:
- 43 a. Enrollment trends in the grades that will be
- 44 served at the new construction site.
- 45 b. The infeasibility of remodeling,
- 46 reconstructing, or repairing existing buildings.
- 47 c. The fire and health safety needs of the school
- 48 district.
- 49 d. The distance, convenience, cost of
- 50 transportation, and accessibility of the new

Page 76

1 construction site to the students to be served at the
2 new construction site.

3 e. Availability of alternative, less costly, or
4 more effective means of serving the needs of the
5 students.

6 f. The financial condition of the district,
7 including the effect of the decline of the budget
8 guarantee and unspent balance.

9 g. Broad and long-term ability of the district to
10 support the facility and the quality of the academic
11 program.

12 h. Cooperation with other educational entities
13 including other school districts, area education
14 agencies, postsecondary institutions, and local
15 communities.

16 5. A school district shall not receive more than
17 one grant under the program. The financial assistance
18 shall be in the form of grants and shall be allocated
19 in the following manner:

20 a. Twenty-five percent of the financial assistance
21 each year shall be awarded to school districts with an
22 enrollment of one thousand one hundred ninety-nine
23 students or less.

24 b. Twenty-five percent of the financial assistance
25 each year shall be awarded to school districts with an
26 enrollment of more than one thousand one hundred
27 ninety-nine students but not more than four thousand
28 seven hundred fifty students.

29 c. Twenty-five percent of the financial assistance
30 each year shall be awarded to school districts with an
31 enrollment of more than four thousand seven hundred
32 fifty students.

33 d. Twenty-five percent of the financial assistance
34 each year, any financial assistance not awarded under
35 paragraphs "a" through "c", and financial assistance
36 not awarded in previous fiscal years shall be awarded
37 to school districts with any size enrollment.

38 6. A district shall receive the lesser of one
39 million dollars of financial assistance under the
40 program, or the total capital investment of the
41 project minus the local match requirement. If the
42 amount of grants awarded in a fiscal year is less than
43 the maximum amount provided for grants for that fiscal
44 year, the amount of the difference shall be carried
45 forward to subsequent fiscal years for purposes of
46 providing grants under the program and the maximum
47 amount of grants for each fiscal year shall be
48 adjusted accordingly.

49 7. The school budget review committee shall review
50 all applications for financial assistance under the

Page 77

1 program and make recommendations regarding the
2 applications to the department. The department shall
3 make the final determination on grant awards. The
4 school budget review committee shall base the
5 recommendations on the criteria established pursuant
6 to subsections 3 and 8 and subsection 4, if
7 applicable.

8 8. The department shall form a task force to
9 review applications for financial assistance and
10 provide recommendations to the school budget review
11 committee. The task force shall include, at a
12 minimum, representatives from the kindergarten through
13 grade twelve education community, the state fire
14 marshal, and individuals knowledgeable in school
15 infrastructure and construction issues. The
16 department, in consultation with the task force, shall
17 establish the parameters and the details of the
18 criteria for awarding grants based on the information
19 listed in subsection 3, including greater priority to
20 the following:

21 a. A school district with a lower capacity per
22 pupil.

23 b. A school district whose plans address specific
24 occupant safety issues.

25 c. A school district reorganizing or collaborating
26 as described in subsection 3, paragraph "h".

27 d. A school district for which a sales and
28 services tax for school infrastructure has not been
29 imposed pursuant to section 422E.2 or a school
30 district receiving minimal revenues under section
31 422E.3 when the total enrollment of the school
32 district is considered.

33 9. An applicant receiving financial assistance
34 under the program shall submit a progress report to
35 the department as requested by the department which
36 shall include a description of the activities under
37 the project, the status of the implementation of the
38 project, and any other information required by the
39 department.

40 10. A school district located in whole or in part
41 in a county which has imposed the maximum rate of
42 sales and services tax for school infrastructure
43 pursuant to section 422E.2 and has sales and services
44 tax for school infrastructure revenue of more than the
45 statewide average of sales tax capacity per pupil, as
46 defined in section 292.1, subsection 8, shall not be
47 eligible for financial assistance under the program.
48 For purposes of this subsection, an individual school
49 district's sales tax capacity per pupil is the
50 estimated total sales and services tax for

Page 78

1 infrastructure revenue to be actually received by the
 2 school district divided by the school district's
 3 enrollment as specified in section 292.1, subsection
 4 8.
 5 Sec. 131. NEW SECTION. 292A.3 STATE ASSISTANCE
 6 FOR EDUCATIONAL INFRASTRUCTURE FUND.
 7 a state assistance for educational infrastructure
 8 fund is created as a separate and distinct fund in the
 9 state treasury under the control of the department.
 10 Moneys in the fund include revenues credited to the
 11 fund pursuant to this chapter, appropriations made to
 12 the fund, and other moneys deposited into the fund.
 13 Any amounts disbursed from the fund shall be utilized
 14 for school infrastructure purposes as provided in this
 15 chapter.
 16 Sec. 132. NEW SECTION. 292A.4 RULES.
 17 The department shall adopt rules, pursuant to
 18 chapter 17A, necessary for administering the state
 19 assistance for educational infrastructure program and
 20 fund.
 21 DIVISION XXIII
 22 EFFECTIVE DATE
 23 Sec. 133. EFFECTIVE DATE. Unless otherwise
 24 provided in this Act, this Act takes effect July 1,
 25 2003."
 26 __. Title page, by striking lines 1 and 2 and
 27 inserting the following: "An Act concerning
 28 regulatory, taxation, and statutory requirements
 29 affecting individuals and business relating to
 30 taxation of property, income and utilities, liability
 31 reform, workers' compensation, financial services,
 32 unemployment compensation employer surcharges,
 33 economic development, and school infrastructure
 34 assistance, and including effective date,
 35 applicability, and retroactive applicability
 36 provisions."
 37 3. By renumbering as necessary.

Carroll of Poweshiek offered the following amendment [H-1623](#), to the Senate amendment [H-1615](#), filed by him from the floor and moved its adoption:

H-1623

1 Amend the Senate amendment, [H-1615](#), to House File
 2 692, as amended, passed, and reprinted by the House,
 3 as follows:
 4 1. Page 5, line 23, by striking the word "or".
 5 2. By striking page 23, line 23, through page 24,

6 line 14, and inserting the following:
7 "a. On all taxable income from
8 zero through one thousand dollars,
9 ~~thirty six hundredths of one~~
10 ~~percent:~~ ~~.35%~~ .34% ~~.32%~~
11 b. On all taxable income exceeding
12 one thousand dollars but not
13 exceeding two thousand dollars,
14 ~~seventy two hundredths of one~~
15 ~~percent:~~ ~~.70%~~ .68% ~~.65%~~
16 c. On all taxable income exceeding
17 two thousand dollars but not
18 exceeding four thousand dollars,
19 ~~two and forty three hundredths~~
20 ~~percent:~~ ~~2.36%~~ 2.30% ~~2.19%~~
21 d. On all taxable income exceeding
22 four thousand dollars but not
23 exceeding nine thousand dollars,
24 ~~four and one half percent:~~ ~~4.37%~~ 4.27% ~~4.05%~~
25 e. On all taxable income exceeding
26 nine thousand dollars but not
27 exceeding fifteen thousand
28 dollars, ~~six and twelve hundredths~~
29 ~~percent:~~ ~~5.94%~~ 5.80% ~~5.51%~~
30 f. On all taxable income exceeding
31 fifteen thousand dollars but not
32 exceeding twenty thousand
33 dollars, ~~six and forty eight hundredths~~
34 ~~percent:~~ ~~6.29%~~ 6.14% ~~5.84%~~
35 g. On all taxable income exceeding
36 twenty thousand dollars but not
37 exceeding thirty thousand
38 dollars, ~~six and eight tenths~~
39 ~~percent:~~ ~~6.60%~~ 6.45% ~~6.13%~~
40 h. On all taxable income exceeding
41 thirty thousand dollars but not
42 exceeding forty-five thousand
43 dollars, ~~seven and ninety two hundredths~~
44 ~~percent:~~ ~~7.68%~~ 7.51% ~~7.14%~~
45 i. On all taxable income exceeding
46 forty-five thousand dollars, ~~eight~~
47 ~~and ninety eight hundredths~~
48 ~~percent:~~ ~~8.71%~~ 8.51% ~~8.09%~~"
49 3. By striking page 24, line 28, through page 25,
50 line 19, and inserting the following:

Page 2

1 "a. On all taxable income from
2 zero through one thousand dollars,
3 ~~thirty six hundredths of one~~
4 ~~percent:~~ ~~.31%~~

- 5 b. On all taxable income exceeding
- 6 one thousand dollars but not
- 7 exceeding two thousand dollars,
- 8 ~~seventy two hundredths of one~~
- 9 ~~percent;~~62%
- 10 c. On all taxable income exceeding
- 11 two thousand dollars but not
- 12 exceeding four thousand dollars,
- 13 ~~two and forty three hundredths~~
- 14 ~~percent;~~ 2.09%
- 15 d. On all taxable income exceeding
- 16 four thousand dollars but not
- 17 exceeding nine thousand dollars,
- 18 ~~four and one half percent;~~ 3.87%
- 19 e. On all taxable income exceeding
- 20 nine thousand dollars but not
- 21 exceeding fifteen thousand
- 22 dollars, ~~six and twelve hundredths~~
- 23 ~~percent;~~ 5.26%
- 24 f. On all taxable income exceeding
- 25 fifteen thousand dollars but not
- 26 exceeding twenty thousand
- 27 dollars, ~~six and forty eight hundredths~~
- 28 ~~percent;~~ 5.57%
- 29 g. On all taxable income exceeding
- 30 twenty thousand dollars but not
- 31 exceeding thirty thousand
- 32 dollars, ~~six and eight tenths~~
- 33 ~~percent;~~ 5.84%
- 34 h. On all taxable income exceeding
- 35 thirty thousand dollars but not
- 36 exceeding forty-five thousand
- 37 dollars, ~~seven and ninety two hundredths~~
- 38 ~~percent;~~ 6.80%
- 39 i. On all taxable income exceeding
- 40 forty-five thousand dollars, ~~eight~~
- 41 ~~and ninety eight hundredths~~
- 42 ~~percent;~~ 7.71%
- 43 4. Page 26, line 12, by striking the words "two
- 44 and five" and inserting the following: "one and
- 45 eighty-five".
- 46 5. Page 26, line 15, by striking the word "sixty-
- 47 five" and inserting the following: "seventy-five".
- 48 6. Page 26, line 17, by striking the word "nine-
- 49 tenths" and inserting the following: "ninety-nine
- 50 hundredths".

Page 3

- 1 7. By striking page 39, line 5 through page 65,
- 2 line 1 and inserting the following:
- 3 "DIVISION __

4 GROW IOWA VALUES BOARD AND FUND
5 Sec.____. Section 15.108, subsection 9, Code 2003,
6 is amended by adding the following new paragraph:
7 NEW PARAGRAPH. g. Administer the marketing
8 strategy selected pursuant to section 15G.108.
9 Sec.____. NEW SECTION. 15G.101 DEFINITIONS.
10 As used in this chapter, unless the context
11 otherwise requires:
12 1. "Board" means the grow Iowa values board
13 established in section 15G.102.
14 2. "Department" means the Iowa department of
15 economic development created in section 15.105.
16 3. "Director" means the director of the department
17 of economic development.
18 4. "Fund" means the grow Iowa values fund created
19 in section 15G.107.
20 5. "Grow Iowa values geographic regions" means the
21 geographic regions defined in section 15G.105.
22 Sec.____. NEW SECTION. 15G.102 GROW IOWA VALUES
23 BOARD.
24 1. The grow Iowa values board is established
25 consisting of eleven voting members and four ex
26 officio, nonvoting members. The grow Iowa values
27 board shall be located for administrative purposes
28 within the department and the director shall provide
29 office space, staff assistance, and necessary supplies
30 and equipment for the board. The director shall
31 budget moneys to pay the compensation and expenses of
32 the board. In performing its functions, the board is
33 performing a public function on behalf of the state
34 and is a public instrumentality of the state.
35 2. a. The eleven voting members of the board
36 shall be appointed by the governor, subject to
37 confirmation by the senate.
38 b. The four ex officio, nonvoting members shall be
39 appointed as follows:
40 (1) One member appointed by the president of the
41 senate.
42 (2) One member appointed by the minority leader of
43 the senate.
44 (3) One member appointed by the speaker of the
45 house of representatives.
46 (4) One member appointed by the minority leader of
47 the house of representatives.
48 c. All appointments shall comply with sections
49 69.16 and 69.16A.
50 d. At least one member of the board shall be from

Page 4

1 each grow Iowa values geographic region.
2 e. Each of the following areas of expertise shall

3 be represented by at least one member of the board who
4 has professional experience in that area of expertise:
5 (1) Finance and investment banking.
6 (2) Advanced manufacturing.
7 (3) Statewide agriculture.
8 (4) Life sciences.
9 (5) Small business development.
10 (6) Information technology.
11 (7) Economics.
12 (8) Labor.
13 (9) Marketing.
14 (10) Entrepreneurship.
15 f. At least nine voting members of the board shall
16 be actively employed in the private, for-profit sector
17 of the economy.
18 g. The board membership shall be balanced between
19 representation by employers with less than two hundred
20 employees and employers with two hundred or more
21 employees.
22 3. The chairperson and vice chairperson shall be
23 elected by the voting members of the board from the
24 membership of the board. In the case of the absence
25 or disability of the chairperson and vice chairperson,
26 the voting members of the board shall elect a
27 temporary chairperson by a majority vote of those
28 voting members who are present and voting, provided a
29 quorum is present.
30 4. The members of the board shall be appointed to
31 three-year staggered terms and the terms shall
32 commence and end as provided in section 69.19. If a
33 vacancy occurs, a successor shall be appointed in the
34 same manner and subject to the same qualifications as
35 the original appointment to serve the unexpired term.
36 5. A majority of the voting members of the board
37 constitutes a quorum.
38 6. A member of the board shall abstain from voting
39 on the provision of financial assistance to a project
40 which is located in the county in which the member of
41 the board resides.
42 7. The members of the board are entitled to
43 receive reimbursement for actual expenses incurred
44 while engaged in the performance of official duties.
45 a board member may also be eligible to receive
46 compensation as provided in section 7E.6.
47 Sec. __. NEW SECTION. 15G.103 BOARD DUTIES.
48 The board shall do all of the following:
49 1. Organize.
50 2. Receive advice and recommendations from the due

Page 5

1 diligence committee, the economic development

2 marketing board, and the grow Iowa values review
3 commission.

4 3. Assist the department in implementing programs
5 and activities in a manner designed to achieve the
6 goals set out in section 15G.106.

7 4. By December 15 of each year, submit a written
8 report to the general assembly reviewing the
9 activities of the board during the calendar year. The
10 report shall include information necessary for the
11 review of the goals and performance measures set out
12 in section 15G.106. State agencies and other entities
13 receiving moneys from the fund shall cooperate with
14 and assist the board in compilation of the report.

15 5. Adopt administrative rules pursuant to chapter
16 17a necessary to administer this chapter. This
17 delegation shall be construed narrowly.

18 6. Adopt a strategic plan pursuant to section
19 8E.204 by July 1, 2004.

20 Sec. __. NEW SECTION. 15G.104 DUE DILIGENCE
21 COMMITTEE.

22 1. A due diligence committee is established
23 consisting of five members and is located for
24 administrative purposes within the department. The
25 director of the department shall provide office space,
26 staff assistance, and necessary supplies and equipment
27 for the committee. The director shall budget moneys
28 to pay the compensation and expenses of the committee.
29 In performing its functions, the committee is
30 performing a public function on behalf of the state
31 and is a public instrumentality of the state.

32 2. a. Membership of the due diligence committee
33 shall consist of five voting members of the grow Iowa
34 values board elected annually by the voting members of
35 the board. Committee members shall have expertise in
36 the areas of banking and entrepreneurship.

37 b. The chairperson and vice chairperson of the
38 committee shall be elected by and from the committee
39 members. The terms of the members shall commence and
40 end as provided by section 69.19. If a vacancy
41 occurs, a successor shall be appointed in the same
42 manner and subject to the same qualifications as the
43 original appointment to serve the unexpired term. A
44 majority of the committee constitutes a quorum.

45 3. The committee, after a thorough review, shall
46 determine whether a proposed project using moneys from
47 the grow Iowa values fund is practical and shall
48 provide recommendations to the grow Iowa values board
49 regarding any moneys proposed to be expended from the
50 grow Iowa values fund, with the exception of moneys

Page 6

1 appropriated for purposes of the loan and credit
2 guarantee program and regarding whether a proposed
3 project is practical. The recommendations shall be
4 based on whether the expenditure would make the
5 achievement of the goals in accordance with the
6 performance measures set out in section 15G.106 more
7 likely. The recommendations may include conditions or
8 that a proposed expenditure be rejected.

9 4. The members of the committee are entitled to
10 receive reimbursement for actual expenses incurred
11 while engaged in the performance of official duties.
12 a committee member may also be eligible to receive
13 compensation as provided in section 7E.6.

14 Sec. __. NEW SECTION. 15G.104A GROW IOWA VALUES
15 REVIEW COMMISSION.

16 1. A grow Iowa values review commission is
17 established consisting of three members and is located
18 for administrative purposes within the office of the
19 auditor of state. The auditor of state shall provide
20 office space, staff assistance, and necessary supplies
21 and equipment for the review commission. The auditor
22 of state shall budget moneys to pay the compensation
23 and expenses of the commission, including the actual
24 expenses of the auditor of state incurred while
25 engaged in the performance of official commission
26 duties. In performing its functions, the review
27 commission is performing a public function on behalf
28 of the state and is a public instrumentality of the
29 state.

30 2. Membership of the review commission shall
31 include the auditor of state, one member appointed by
32 the governor subject to confirmation by the senate,
33 and one member appointed by the legislative council.
34 The members appointed by the governor and the
35 legislative council shall possess experience and
36 expertise in the field of economics. The appointments
37 shall comply with sections 69.16 and 69.16A. The
38 chairperson of the review commission shall be the
39 auditor of state. The members shall be appointed to
40 three-year staggered terms and the terms shall
41 commence and end as provided by section 69.19. If a
42 vacancy occurs, a successor shall be appointed in the
43 same manner and subject to the same qualifications as
44 the original appointment to serve the unexpired term.
45 a majority of the review commission constitutes a
46 quorum.

47 3. The review commission shall analyze all annual
48 reports of the grow Iowa values board for purposes of
49 determining if the goals and performance measures set
50 out in section 15G.106 have been met. By January 1,

Page 7

1 2007, the review commission shall submit a report to
2 the grow Iowa values board, the department, and the
3 general assembly. The report shall include findings,
4 itemized by grow Iowa values geographic regions,
5 regarding whether the goals and performance measures
6 were met. The report shall also include
7 recommendations regarding the continuation,
8 elimination, or modification of any programs receiving
9 moneys from the grow Iowa values fund and whether
10 moneys should continue to be appropriated to and from
11 the grow Iowa values fund. The recommendations shall
12 be based on whether the goals in accordance with the
13 performance measures are being achieved.

14 4. The members of the commission, including the
15 auditor of state, are entitled to receive
16 reimbursement for actual expenses incurred while
17 engaged in the performance of official duties. A
18 commission member may also be eligible to receive
19 compensation as provided in section 7E.6.

20 Sec. __. **NEW SECTION.** 15G.105 GROW IOWA VALUES
21 GEOGRAPHIC REGIONS.

22 For purposes of applying the goals and performance
23 measurements, the state shall be divided into five
24 grow Iowa values geographic regions. The regions
25 shall be the following:

26 1. The northwest region shall include the counties
27 of Lyon, Osceola, Dickinson, Emmet, Kossuth,
28 Winnebago, Sioux, O'Brien, Clay, Palo Alto, Hancock,
29 Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt,
30 Wright, Woodbury, Ida, Sac, Calhoun, Webster, and
31 Hamilton.

32 2. The northeast region shall include the counties
33 of Worth, Mitchell, Howard, Winneshiek, Allamakee,
34 Cerro Gordo, Floyd, Chickasaw, Fayette, Clayton,
35 Franklin, Butler, Bremer, Hardin, Grundy, Black Hawk,
36 Buchanan, Delaware, Dubuque, Tama, Benton, Linn,
37 Jones, and Jackson.

38 3. The southeast region shall include the counties
39 of Poweshiek, Iowa, Johnson, Cedar, Clinton, Scott,
40 Muscatine, Mahaska, Keokuk, Washington, Louisa,
41 Monroe, Wapello, Jefferson, Henry, Des Moines,
42 Appanoose, Davis, Van Buren, and Lee.

43 4. The southwest region shall include the counties
44 of Monona, Crawford, Carroll, Greene, Harrison,
45 Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair,
46 Mills, Montgomery, Adams, Union, Clarke, Lucas,
47 Fremont, Page, Taylor, Ringgold, Decatur, and Wayne.

48 5. The central region shall include the counties
49 of Boone, Story, Marshall, Dallas, Polk, Jasper,
50 Madison, Warren, and Marion.

Page 8

1 Sec. . NEW SECTION. 15G.106 GOALS –
2 PERFORMANCE MEASURES.

3 1. In performing the duties provided in this
4 chapter, chapter 15, and chapter 15E, the grow Iowa
5 values board, the due diligence committee, the
6 economic development marketing board, the grow Iowa
7 values review commission, and the department shall
8 achieve the goals of expanding and stimulating the
9 state economy, increasing the wealth of Iowans, and
10 increasing the population of the state. For purposes
11 of this section, "upper midwest region" includes the
12 states of Iowa, Kansas, Minnesota, Missouri, Nebraska,
13 North Dakota, and South Dakota.

14 2. Goal achievement shall be examined on a
15 regional basis using the grow Iowa values geographic
16 regions on a statewide basis. Family farm performance
17 indicators shall be calculated separately. The
18 performance of the grow Iowa values geographic regions
19 shall be compared to the performance of the state, the
20 upper midwest region, and the United States. The
21 baseline year shall be the calendar year 2002. In
22 each grow Iowa values geographic region, the goal
23 shall be to increase the baseline performance measure
24 of Iowa's gross state product at a rate equal to or
25 greater than the national economy.

26 3. a. In determining whether the goal of
27 expanding and stimulating the state economy has been
28 met, and using the calendar year 2002 as a baseline,
29 performance measures shall be considered, including
30 but not limited to the following, on a statewide basis
31 or of those businesses that receive moneys originating
32 from the grow Iowa values fund, as appropriate:

33 (1) a net increase in a business's supplier
34 network.

35 (2) A net increase in business start-ups.

36 (3) A net increase in business expansion.

37 (4) A net increase in business modernization.

38 (5) A net increase in attracting new businesses to
39 the state.

40 (6) A net increase in business retention.

41 (7) A net increase in job creation and retention.

42 (8) A decrease in Iowa of the ratio of the
43 government employment as a percentage share of the
44 total employment in Iowa at a rate at least equal to
45 the ratio of the upper midwest region.

46 b. By December 15 of each year, the department
47 shall submit a report to the grow Iowa values review
48 commission and the grow Iowa values board that
49 identifies information pertinent to the performance
50 measures in paragraph "a", subparagraphs (3), (4), and

Page 9

1 (6), that the department gains through interviews with
2 businesses in the state that close all or a portion of
3 operations in the state. By December 15 of each year,
4 based on the same interviews, the department shall
5 submit a report to the general assembly providing
6 suggested amendments to the Code of Iowa and the Iowa
7 administrative code designed to stimulate and expand
8 the state's economy.

9 c. By December 15 of each year the department
10 shall submit a report to the grow Iowa values review
11 commission and the grow Iowa values board that
12 identifies prospective lost business development
13 opportunities information pertinent to the performance
14 measures in paragraph "a", subparagraphs (2) and (5),
15 which indicate that the state has not been successful
16 in the performance measures in paragraph "a",
17 subparagraphs (2) and (5).

18 d. For purposes of the performance measure in
19 paragraph "a", subparagraph (7), the department of
20 economic development, in consultation with the
21 department of workforce development and the auditor of
22 state, shall determine average annual job creation and
23 retention rates based on the ten years prior to 2003,
24 for the state and the upper midwest region. During
25 the fiscal years beginning July 1, 2003, July 1, 2004,
26 and July 1, 2005, the department of economic
27 development shall report the job creation and
28 retention rate of those businesses that receive moneys
29 originating from the grow Iowa values fund and the job
30 creation and retention rate of those businesses that
31 do not receive moneys originating from the grow Iowa
32 values fund. The ten-year average annual job creation
33 and retention rate shall be compared to the job
34 creation and retention rates determined under this
35 paragraph for the fiscal years beginning July 1, 2003,
36 July 1, 2004, and July 1, 2005. The department of
37 economic development shall assist the department of
38 workforce development in maintaining detailed
39 employment statistics on businesses that receive
40 moneys originating from the grow Iowa values fund, on
41 businesses that do not receive moneys originating from
42 the grow Iowa values fund, and on industries in Iowa
43 that those businesses represent. The auditor of state
44 shall audit the reliability and validity of the
45 statistics compiled pursuant to this paragraph.

46 4. In determining whether the goal of increasing
47 the wealth of Iowans has been met, the following
48 earning performance measures shall be considered:

49 a. The per capita personal income in Iowa shall
50 equal or exceed the average per capita personal income

Page 10

1 for the upper midwest region.

2 b. The average earnings per job in Iowa shall
3 equal or exceed the average earnings per job in the
4 upper midwest region.

5 c. The average manufacturing earnings per employee
6 in Iowa shall equal or exceed the average
7 manufacturing earnings per employee in the upper
8 midwest region.

9 d. The average service earnings per employee in
10 Iowa shall equal or exceed the average service
11 earnings per employee in the upper midwest region.

12 e. The average earnings per employee in the
13 financial, insurance, and real estate industries in
14 Iowa shall equal or exceed the average earnings per
15 employee in the financial, insurance, and real estate
16 industries in the upper midwest region.

17 5. In determining whether the goal of increasing
18 the population of the state has been met, the
19 following performance measures shall be considered:

20 a. Using the calendar year 2002 as a baseline
21 year, a net increase in the retention of Iowa high
22 school graduates that are employed in the Iowa
23 workforce following a higher education degree.

24 b. The increase in higher education graduates.

25 Sec. __. NEW SECTION. 15G.107 GROW IOWA VALUES
26 FUND.

27 A grow Iowa values fund is created in the state
28 treasury under the control of the grow Iowa values
29 board consisting of moneys appropriated to the grow
30 Iowa values board. Moneys in the fund are not subject
31 to section 8.33. Notwithstanding section 12C.7,
32 interest or earnings on moneys in the fund shall be
33 credited to the fund. The fund shall be administered
34 by the grow Iowa values board, which shall make
35 expenditures from the fund consistent with this
36 chapter and pertinent Acts of the general assembly.
37 Any financial assistance provided using moneys from
38 the fund may be provided over a period of time of more
39 than one year. Payments of interest, repayments of
40 moneys loaned pursuant to this chapter, and recaptures
41 of grants or loans shall be deposited in the fund.

42 Sec. __. NEW SECTION. 15G.108 ECONOMIC
43 DEVELOPMENT MARKETING BOARD – MARKETING STRATEGIES.

44 1. a. An economic development marketing board is
45 established consisting of seven members and is located
46 for administrative purposes within the department.
47 The director of the department shall provide office
48 space, staff assistance, and necessary supplies and
49 equipment for the board. The director shall budget
50 moneys to pay the compensation and expenses of the

Page 11

1 board. In performing its functions, the board is
2 performing a public function on behalf of the state
3 and is a public instrumentality of the state.
4 b. The membership of the board shall consist of
5 seven members appointed by the governor, subject to
6 confirmation by the senate. Five of the members shall
7 have significant demonstrated experience in marketing
8 or advertising. Two members of the board shall also
9 be members of the grow Iowa values board.
10 c. The appointments shall comply with sections
11 69.16 and 69.16A.
12 d. The chairperson and vice chairperson of the
13 board shall be elected by and from the board members.
14 In case of the absence or disability of the
15 chairperson and vice chairperson, the members of the
16 board shall elect a temporary chairperson by a
17 majority vote of those members who are present and
18 voting.
19 e. The members shall be appointed to three-year
20 staggered terms and the terms shall commence and end
21 as provided by section 69.19. If a vacancy occurs, a
22 successor shall be appointed to serve the unexpired
23 term. A successor shall be appointed in the same
24 manner and subject to the same qualifications as the
25 original appointment to serve the unexpired term.
26 f. A majority of the board constitutes a quorum.
27 2. The board shall administer and implement the
28 approval process for marketing strategies provided in
29 subsection 3.
30 3. The economic development marketing board shall
31 accept proposals for marketing strategies for purposes
32 of selecting a strategy for the department to
33 administer. The marketing strategies shall be
34 designed to market Iowa as a lifestyle, increase the
35 population of the state, increase the wealth of
36 Iowans, and expand and stimulate the state economy.
37 The economic development marketing board shall submit
38 a recommendation regarding the proposal to the grow
39 Iowa values board. In selecting a marketing strategy
40 for recommendation, the economic development marketing
41 board shall base the selection on the goals and
42 performance measures provided in section 15G.106. The
43 grow Iowa values board shall either approve or deny
44 the recommendation.
45 4. The department shall implement and administer
46 the marketing strategy approved by the grow Iowa
47 values board as provided in subsection 3. The
48 department shall provide the economic development
49 marketing board with assistance in implementing
50 administrative functions of the board and provide

Page 12

1 technical assistance to the board.
2 5. The members of the board are entitled to
3 receive reimbursement for actual expenses incurred
4 while engaged in the performance of official duties.
5 a board member may also be eligible to receive
6 compensation as provided in section 7E.6.

7 Sec. __. NEW SECTION. 15G.109 FUTURE
8 CONSIDERATION.

9 Not later than February 1, 2007, the legislative
10 services agency shall prepare and deliver to the
11 secretary of the senate and the chief clerk of the
12 house of representatives identical bills that repeal
13 the provisions of this chapter. It is the intent of
14 this section that the general assembly shall bring the
15 bill to a vote in either the senate or the house of
16 representatives expeditiously. It is further the
17 intent of this chapter that if the bill is approved by
18 the first house in which it is considered, it shall
19 expeditiously be brought to a vote in the second
20 house.

21 DIVISION __
22 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES
23 FINANCIAL ASSISTANCE PROGRAM

24 Sec. __. Section 15E.111, subsection 1, Code
25 2003, is amended to read as follows:

26 1. a. The department shall establish a value-
27 added agricultural products and processes financial
28 assistance program. The department shall consult with
29 ~~the Iowa corn growers association and the Iowa soybean~~
30 ~~association Iowa commodity groups.~~ The purpose of the
31 program is to encourage the increased utilization of
32 agricultural commodities produced in this state. The
33 program shall assist in efforts to revitalize rural
34 regions of this state, by committing resources to
35 provide financial assistance to new or existing value-
36 added production facilities. The department of
37 economic development may consult with other state
38 agencies regarding any possible future environmental,
39 health, or safety issues linked to technology related
40 to the biotechnology industry. In awarding financial
41 assistance, the department shall prefer producer-
42 owned, value-added businesses and public and private
43 joint ventures involving an institution of higher
44 learning under the control of the state board of
45 regents or a private college or university acquiring
46 assets, research facilities, and leveraging moneys in
47 a manner that meets the goals of the grow Iowa values
48 fund and shall commit resources to assist the
49 following:

50 a. (1) Facilities which are involved in the

Page 13

1 development of new innovative products and processes
2 related to agriculture. The facility must do either
3 of the following: produce a good derived from an
4 agricultural commodity, if the good is not commonly
5 produced from an agricultural commodity; or use a
6 process to produce a good derived from an agricultural
7 process, if the process is not commonly used to
8 produce the good.

9 ~~b.~~ (2) Renewable fuel production facilities. As
10 used in this section, "renewable fuel" means an energy
11 source which is derived from an organic compound
12 capable of powering machinery, including an engine or
13 power plant.

14 (3) Agricultural business facilities in the
15 agricultural biotechnology industry, agricultural
16 biomass industry, and alternative energy industry.
17 For purposes of this subsection:

18 (a) "Agricultural biomass industry" means
19 businesses that utilize agricultural commodity crops,
20 agricultural by-products, or animal feedstock in the
21 production of chemicals, protein products, or other
22 high-value products.

23 (b) "Agricultural biotechnology industry" means
24 businesses that utilize scientifically enhanced plants
25 or animals that can be raised by producers and used in
26 the production of high-value products.

27 (c) "Alternative energy industry" includes
28 businesses involved in the production of ethanol,
29 including gasoline with a mixture of seventy percent
30 or more ethanol, biodiesel, biomass, hydrogen, or in
31 the production of wind energy.

32 (4) Facilities that add value to Iowa agricultural
33 commodities through further processing and development
34 of organic products and emerging markets.

35 (5) Producer-owned, value-added businesses,
36 education of producers and management boards in value-
37 added businesses, and other activities that would
38 support the infrastructure in the development of
39 value-added agriculture. Public and private joint
40 ventures involving an institution of higher learning
41 under the control of the state board of regents or a
42 private college or university to acquire assets,
43 research facilities, and leverage moneys in a manner
44 that meets the goals of the grow Iowa values fund.
45 For purposes of this subsection, "producer-owned,
46 valued-added business" means a person who holds an
47 equity interest in the agricultural business and is
48 personally involved in the production of crops or
49 livestock on a regular, continuous, and substantial
50 basis.

Page 14

1 b. Financial assistance awarded under this section
2 may be in the form of a loan, loan guarantee, grant,
3 production incentive payment, or a combination of
4 financial assistance. The department shall not award
5 more than twenty-five percent of the amount allocated
6 to the value-added agricultural products and processes
7 financial assistance fund during any fiscal year to
8 support a single person. The department may finance
9 any size of facility. However, the department ~~shall~~
10 may reserve up to fifty percent of the total amount
11 allocated to the fund, for purposes of assisting
12 persons requiring ~~one~~ five hundred thousand dollars or
13 less in financial assistance. The amount shall be
14 reserved until the end of the third quarter of the
15 fiscal year. The department shall not provide
16 financial assistance to support a value-added
17 production facility if the facility or a person owning
18 a controlling interest in the facility has
19 demonstrated a continuous and flagrant disregard for
20 the health and safety of its employees or the quality
21 of the environment. Evidence of such disregard shall
22 include a history of serious or uncorrected violations
23 of state or federal law protecting occupational health
24 and safety or the environment, including but not
25 limited to serious or uncorrected violations of
26 occupational safety and health standards enforced by
27 the division of labor services of the department of
28 workforce development pursuant to chapter 84A, or
29 rules enforced by the department of natural resources
30 pursuant to chapter 455B or 459, subchapters II and
31 III.

32 DIVISION __
33 ENDOW IOWa GRANTS

34 Sec. __. NEW SECTION. 15E.301 SHORT TITLE.

35 This division shall be known as and may be cited as
36 the "Endow Iowa Program Act".

37 Sec. __. NEW SECTION. 15E.302 PURPOSE.

38 The purpose of this division is to enhance the
39 quality of life for citizens of this state through
40 increased philanthropic activity by providing capital
41 to new and existing citizen groups of this state
42 organized to establish endowment funds that will
43 address community needs. The purpose of this division
44 is also to encourage individuals, businesses, and
45 organizations to invest in community foundations.

46 Sec. __. NEW SECTION. 15E.303 DEFINITIONS.

47 As used in this division, unless the context
48 otherwise requires:

49 1. "Board" means the governing board of the lead
50 philanthropic entity identified by the department

Page 15

1 pursuant to section 15E.304.

2 2. "Business" means a business operating within
3 the state and includes individuals operating a sole
4 proprietorship or having rental, royalty, or farm
5 income in this state and includes a consortium of
6 businesses.

7 3. "Community affiliate organization" means a
8 group of five or more community leaders or advocates
9 organized for the purpose of increasing philanthropic
10 activity in an identified community or geographic area
11 in this state with the intention of establishing a
12 community affiliate endowment fund.

13 4. "Endowment gift" means an irrevocable
14 contribution to a permanent endowment held by a
15 qualified community foundation.

16 5. "Lead philanthropic entity" means the entity
17 identified by the department pursuant to section
18 15E.304.

19 6. "Qualified community foundation" means a
20 community foundation organized or operating in this
21 state that meets or exceeds the national standards
22 established by the national council on foundations.

23 Sec. __. NEW SECTION. 15E.304 ENDOW IOWA
24 GRANTS.

25 1. The department shall identify a lead
26 philanthropic entity for purposes of encouraging the
27 development of qualified community foundations in this
28 state. A lead philanthropic entity shall meet all of
29 the following qualifications:

30 a. The entity shall be a nonprofit entity which is
31 exempt from federal income taxation pursuant to
32 section 501(c)(3) of the Internal Revenue Code.

33 b. The entity shall be a statewide organization
34 with membership consisting of organizations, such as
35 community, corporate, and private foundations, whose
36 principal function is the making of grants within the
37 state of Iowa.

38 c. The entity shall have a minimum of forty
39 members and that membership shall include qualified
40 community foundations.

41 2. A lead philanthropic entity may receive a grant
42 from the department. The board shall use the grant
43 moneys to award endow Iowa grants to new and existing
44 qualified community foundations and to community
45 affiliate organizations that do all of the following:

46 a. Provide the board with all information required
47 by the board.

48 b. Demonstrate a dollar-for-dollar funding match
49 in a form approved by the board.

50 c. Identify a qualified community foundation to

Page 16

1 hold all funds. A qualified community foundation
2 shall not be required to meet this requirement.

3 d. Provide a plan to the board demonstrating the
4 method for distributing grant moneys received from the
5 board to organizations within the community or
6 geographic area as defined by the qualified community
7 foundation or the community affiliate organization.

8 3. Endow Iowa grants awarded to new and existing
9 qualified community foundations and to community
10 affiliate organizations shall not exceed twenty-five
11 thousand dollars per foundation or organization unless
12 a foundation or organization demonstrates a multiple
13 county or regional approach. Endow Iowa grants may be
14 awarded on an annual basis with not more than three
15 grants going to one county in a fiscal year.

16 4. In ranking applications for grants, the board
17 shall consider a variety of factors including the
18 following:

19 a. The demonstrated need for financial assistance.
20 b. The potential for future philanthropic activity
21 in the area represented by or being considered for
22 assistance.
23 c. The proportion of the funding match being
24 provided.
25 d. For community affiliate organizations, the
26 demonstrated need for the creation of a community
27 affiliate endowment fund in the applicant's geographic
28 area.
29 e. The identification of community needs and the
30 manner in which additional funding will address those
31 needs.
32 f. The geographic diversity of awards.

33 5. Of any moneys received by a lead philanthropic
34 entity from the state, not more than five percent of
35 such moneys shall be used by the entity for
36 administrative purposes.

37 Sec. __. NEW SECTION. 15E.306 REPORTS –
38 AUDITS.

39 By January 31 of each year, the lead philanthropic
40 entity, in cooperation with the department, shall
41 publish an annual report of the activities conducted
42 pursuant to this division during the previous calendar
43 year and shall submit the report to the governor and
44 the general assembly. The annual report shall include
45 a listing of endowment funds and the amount of tax
46 credits authorized by the department.

47 Sec. __. EFFECTIVE AND RETROACTIVE APPLICABILITY
48 DATES. This division of this Act, being deemed of
49 immediate importance, takes effect upon enactment and
50 is retroactively applicable to January 1, 2003, for

Page 17

1 tax years beginning on or after that date.
2 DIVISION __
3 COMMERCIALIZATION OF RESEARCH ISSUES
4 Sec. __. Section 262.9, Code 2003, is amended by
5 adding the following new subsection:
6 NEW SUBSECTION. 29. By January 15 of each year,
7 submit a report to the governor, through the director
8 of technology in the office of the governor, and the
9 general assembly containing information from the
10 previous calendar year regarding all of the following:
11 a. Patents secured or applied for by each
12 university under the control of the board delineated
13 by university and by faculty member and staff member
14 responsible for the research or activity that resulted
15 in the patent. In the initial report filed by January
16 15, 2004, the board shall include an inventory of
17 patent portfolios with details concerning which
18 patents are creating financial benefit and the amount
19 of financial benefit and which patents are not
20 creating financial benefit and the amount invested in
21 those patents.
22 b. Research grants secured by each university
23 under the control of the board from both public and
24 private sources delineated by university and by
25 faculty member and staff member. The board shall also
26 include the same information for grant applications
27 that are denied.
28 c. The number of faculty members and staff members
29 at each university under the control of the board
30 involved in a start-up company.
31 d. The number of grant applications for research
32 received by each university under the control of the
33 board for start-up companies, the number of
34 applications approved, and the number of applications
35 denied.
36 e. The number of agreements entered into by
37 faculty members and staff members at each university
38 under the control of the board with foundations
39 affiliated with the universities relating to business
40 start-ups.
41 f. An accounting of the financial gain received by
42 each university under the control of the board
43 relating to patents sold, royalties received,
44 licensing fees, and any other remuneration received by
45 the university related to technology transfer.
46 g. The number of professional employees at each
47 university under the control of the board who assist
48 in the transfer of technology and research to
49 commercial application.
50 Sec. __. Section 262B.1, Code 2003, is amended to

Page 18

1 read as follows:

2 262B.1 TITLE.

3 This chapter shall be known and may be cited as the
4 ~~"University Based Research and Economic Development~~
5 ~~"Commercialization of Research for Iowa Act"~~.

6 Sec. __. Section 262B.2, Code 2003, is amended by
7 striking the section and inserting in lieu thereof the
8 following:

9 262B.2 LEGISLATIVE INTENT.

10 It is the intent of the general assembly that the
11 three universities under the control of the state
12 board of regents have as part of their mission the use
13 of their universities' expertise to expand and
14 stimulate economic growth across the state. This
15 activity may be accomplished through a wide variety of
16 partnerships, public and private joint ventures, and
17 cooperative endeavors, primarily in the area of high
18 technology, and may result in investments by the
19 private sector for commercialization of the
20 technology. It is imperative that the investments and
21 job creation be in Iowa, but need not be in the
22 proximity of the universities. The purpose is to
23 expand and stimulate Iowa's economy, increase the
24 wealth of Iowans, and increase the population of Iowa,
25 which may be accomplished through research conducted
26 within the state that will competitively position Iowa
27 on an economic basis with other states and create
28 high-wage, high-growth employers and jobs. It is also
29 the intent of the general assembly that real or
30 virtual research parks will be established and
31 maintained by the universities in close enough
32 proximity to the ventures that cooperation between the
33 academic, research, and commercialization phases will
34 be encouraged. It is the intent of the general
35 assembly that satellites of the research parks will
36 expand and stimulate economic growth in other areas of
37 the state.

38 Sec. __. Section 262B.3, Code 2003, is amended to
39 read as follows:

40 262B.3 ESTABLISHMENT OF CONSORTIUM DUTIES AND
41 RESPONSIBILITIES.

42 1. The state board of regents or the universities
43 under its jurisdiction, as part of its mission and
44 strategic plan, shall establish consortiums mechanisms
45 for the purpose of carrying out the intent of this
46 chapter. The majority of consortium members shall be
47 from the university community and the balance of
48 members shall be from private industry. The members
49 of the consortium shall be appointed by the president
50 of the convening university and will serve at the

Page 19

1 ~~pleasure of the president.~~ In addition to other board
2 initiatives, the board shall work with the department
3 of economic development, other state agencies, and the
4 private sector to facilitate the commercialization of
5 research.

6 2. Activities to implement this chapter may
7 include:

8 a. Developing strategies to market university
9 research for commercialization in Iowa.

10 b. Matching university resources with the needs of
11 existing Iowa firms or start-up opportunities.

12 c. Evaluating university research for
13 commercialization potential, where relevant.

14 d. Developing a plan to improve private sector
15 access to the university licenses and patent
16 information and the transfer of technology from the
17 university to the private sector.

18 e. Disseminating information on research
19 activities of the university.

20 f. Identifying research needs of existing Iowa
21 businesses and recommending ways in which the
22 universities can meet these needs.

23 g. Linking research and instruction activities to
24 economic development.

25 h. Reviewing and monitoring activities related to
26 technology transfer.

27 i. Coordinating activities to facilitate a focus
28 on research in the state's targeted industry clusters.

29 j. Surveying of similar activities in other states
30 and at other universities.

31 k. Establishing a single point of contact to
32 facilitate commercialization of research.

33 Sec. __. Section 262B.5, Code 2003, is amended to
34 read as follows:

35 262B.5 REGENTS AND DEPARTMENT OF ECONOMIC
36 DEVELOPMENT REPORTING.

37 The state board of regents and the Iowa department
38 of economic development shall enter into an agreement
39 under chapter 28E to coordinate and facilitate the
40 activities of the consortiums. The state board of
41 regents and with input from the Iowa department of
42 economic development shall report annually to the
43 governor and the general assembly concerning the
44 activities of the consortiums conducted pursuant to
45 this chapter.

46 Sec. __. NEW SECTION. 262B.6 DIRECTOR OF
47 TECHNOLOGY - TECHNOLOGY TRANSFER AGENTS.

48 1. The governor shall appoint a director of
49 technology to serve within the office of the governor.
50 a position is created for a deputy director of

Page 20

1 technology within the office of the governor. The
2 director and the deputy director shall be responsible
3 for advancing technology transfer and
4 commercialization issues in the state and shall
5 coordinate the related activities at the institutions
6 of higher learning under the control of the state
7 board of regents. The director shall have
8 demonstrated expertise and experience in the areas of
9 business, industry, and academics.

10 2. Each institution of higher learning under the
11 control of the state board of regents shall designate
12 an employee to serve as a technology transfer agent to
13 coordinate the activities of the institution with the
14 director of technology within the office of the
15 governor.

16 3. By December 1, 2004, the director shall conduct
17 a study and develop recommendations for the
18 advancement of technology transfer and
19 commercialization issues. The director shall compile
20 and submit the recommendations in written form to the
21 general assembly by December 1, 2004. The
22 recommendations shall include specific and detailed
23 proposed amendments to the Code of Iowa necessary to
24 advance the proposed recommendations.

25 Sec. __. Section 262B.4, Code 2003, is repealed.

26 DIVISION __

27 IOWa ECONOMIC DEVELOPMENT
28 LOAN AND CREDIT GUARANTEE FUND
29 Sec. __. NEW SECTION. 15E.221 SHORT TITLE.

30 This division shall be known and may be cited as
31 the "Iowa Economic Development Loan and Credit
32 Guarantee Fund Act".

33 Sec. __. NEW SECTION. 15E.222 LEGISLATIVE
34 FINDING – PURPOSES.

35 1. The general assembly finds all of the
36 following:

37 a. That small and medium-sized businesses, in
38 general, and certain targeted industry businesses and
39 other qualified businesses, in particular, may not
40 qualify for conventional financing.

41 b. That the limited availability of credit for
42 export transactions limits the ability of small and
43 medium-sized businesses in this state to compete in
44 international markets.

45 c. That, to enhance competitiveness and foster
46 economic development, this state must focus on growth
47 in certain specific targeted industry businesses and
48 other qualified businesses, especially during a time
49 of war.

50 d. That the challenge for the public economic

Page 21

1 sector is to create an atmosphere conducive to
2 economic growth, in conjunction with financial
3 institutions in the private sector, which fill the
4 gaps in credit availability and export finance, and
5 that allow the private sector to identify the lending
6 opportunities and foster decision making at the local
7 level.

8 2. The general assembly declares the purposes of
9 this division to be all of the following:

10 a. To create incentives and assistance to increase
11 the flow of private capital to targeted industry
12 businesses and other qualified businesses.

13 b. To promote industrial modernization and
14 technology adoption.

15 c. To encourage the retention and creation of
16 jobs.

17 d. To encourage the export of goods and services
18 sold by Iowa businesses in national and international
19 markets.

20 Sec. __. NEW SECTION. 15E.223 DEFINITIONS.

21 As used in this division, unless the context
22 otherwise requires:

23 1. "Financial institution" means an institution
24 listed in section 422.61, subsection 1, or such other
25 financial institution as defined by the department for
26 purposes of this division.

27 2. "Program" means the loan and credit guarantee
28 program established in this division.

29 3. "Qualified business" means an existing or
30 proposed business entity with an annual average number
31 of employees not exceeding two hundred employees.
32 "Qualified business" does not include businesses
33 engaged primarily in retail sales, real estate, or the
34 provision of health care or other professional
35 services. "Qualified business" includes professional
36 services businesses that provide services to targeted
37 industry businesses or other entities.

38 4. "Targeted industry business" means an existing
39 or proposed business entity, including an emerging
40 small business or qualified business which is operated
41 for profit and which has a primary business purpose of
42 doing business in at least one of the targeted
43 industries designated by the department which include
44 life sciences, software and information technology,
45 advanced manufacturing, value-added agriculture, and
46 any other industry designated as a targeted industry
47 by the loan and credit guarantee advisory board.

48 Sec. __. NEW SECTION. 15E.224 LOAN AND CREDIT
49 GUARANTEE PROGRAM.

50 1. The department shall, with the advice of the

Page 22

1 loan and credit guarantee advisory board, establish
2 and administer a loan and credit guarantee program.
3 The department, pursuant to agreements with financial
4 institutions, shall provide loan and credit
5 guarantees, or other forms of credit guarantees for
6 qualified businesses and targeted industry businesses
7 for eligible project costs. A loan or credit
8 guarantee provided under the program may stand alone
9 or may be used in conjunction with or to enhance other
10 loans or credit guarantees, offered by private, state,
11 or federal entities. The department may purchase
12 insurance to cover defaulted loans meeting the
13 requirements of the program. However, the department
14 shall not in any manner directly or indirectly pledge
15 the credit of the state. Eligible project costs
16 include expenditures for productive equipment and
17 machinery, working capital for operations and export
18 transactions, research and development, marketing, and
19 such other costs as the department may so designate.

20 2. A loan or credit guarantee or other form of
21 credit guarantee provided under the program to a
22 participating financial institution for a single
23 qualified business or targeted industry business shall
24 not exceed one million dollars in value. Loan or
25 credit guarantees or other forms of credit guarantees
26 provided under the program to more than one
27 participating financial institution for a single
28 qualified business or targeted industry business shall
29 not exceed ten million dollars in value.

30 3. In administering the program, the department
31 shall consult and cooperate with financial
32 institutions in this state and with the loan and
33 credit guarantee advisory board. Administrative
34 procedures and application procedures, as practicable,
35 shall be responsive to the needs of qualified
36 businesses, targeted industry businesses, and
37 financial institutions, and shall be consistent with
38 prudent investment and lending practices and criteria.

39 4. Each participating financial institution shall
40 identify and underwrite potential lending
41 opportunities with qualified businesses and targeted
42 industry businesses. Upon a determination by a
43 participating financial institution that a qualified
44 business or targeted industry business meets the
45 underwriting standards of the financial institution,
46 subject to the approval of a loan or credit guarantee,
47 the financial institution shall submit the
48 underwriting information and a loan or credit
49 guarantee application to the department.

50 5. The department, with the advice of the loan and

Page 23

1 credit guarantee advisory board, shall adopt a loan or
2 credit guarantee application procedure for a financial
3 institution on behalf of a qualified business or
4 targeted industry business.

5 6. Upon approval of a loan or credit guarantee,
6 the department shall enter into a loan or credit
7 guarantee agreement with the participating financial
8 institution. The agreement shall specify all of the
9 following:

10 a. The fee to be charged to the financial
11 institution.

12 b. The evidence of debt assurance of, and security
13 for, the loan or credit guarantee.

14 c. A loan or credit guarantee that does not exceed
15 fifteen years.

16 d. Any other terms and conditions considered
17 necessary or desirable by the department.

18 7. The department, with the advice of the loan and
19 credit guarantee advisory board, may adopt loan and
20 credit guarantee application procedures that allow a
21 qualified business or targeted industry business to
22 apply directly to the department for a preliminary
23 guarantee commitment. A preliminary guarantee
24 commitment may be issued by the department subject to
25 the qualified business or targeted industry business
26 securing a commitment for financing from a financial
27 institution. The application procedures shall specify
28 the process by which a financial institution may
29 obtain a final loan and credit guarantee.

30 Sec. __. NEW SECTION. 15E.225 TERMS – FEES.

31 1. When entering into a loan or credit guarantee
32 agreement, the department, with the advice of the loan
33 and credit guarantee advisory board, shall establish
34 fees and other terms for participation in the program
35 by qualified businesses and targeted industry
36 businesses.

37 2. The department, with due regard for the
38 possibility of losses and administrative costs and
39 with the advice of the loan and credit guarantee
40 advisory board, shall set fees and other terms at
41 levels sufficient to assure that the program is self-
42 financing.

43 3. For a preliminary guarantee commitment, the
44 department may charge a qualified business or targeted
45 industry business a preliminary guarantee commitment
46 fee. The application fee shall be in addition to any
47 other fees charged by the department under this
48 section and shall not exceed one thousand dollars for
49 an application.

50 Sec. __. NEW SECTION. 15E.226 LOAN AND CREDIT

Page 24

1 GUARANTEE ADVISORY BOARD.

2 A loan and credit guarantee advisory board is
3 established consisting of seven members appointed by
4 the governor, subject to confirmation by the senate.
5 The advisory board shall provide the department with
6 technical advice regarding the administration of the
7 program, including the adoption of administrative
8 rules pursuant to chapter 17A. The advisory board
9 shall review and provide recommendations regarding all
10 applications under the program. Members of the
11 advisory board are entitled to receive reimbursement
12 for actual expenses incurred while engaged in the
13 performance of official duties. Advisory board
14 members may also be eligible to receive compensation
15 as provided in section 7E.6. The director of the
16 department shall budget moneys to pay the compensation
17 and expenses of the advisory board. The provisions of
18 this section relating to the adoption of
19 administrative rules shall be construed narrowly.

20 DIVISION __

21 ECONOMIC DEVELOPMENT ASSISTANCE AND DATA COLLECTION

22 Sec. __. NEW SECTION. 15E.118 BUSINESS START-UP
23 INFORMATION - INTERNET WEB SITE.

24 The department shall provide information through an
25 internet web site and a toll-free telephone service to
26 assist persons interested in establishing a commercial
27 facility or engaging in a commercial activity. The
28 information shall include all of the following:

- 29 1. Assistance, information, and guidance for
30 start-up businesses.
- 31 2. Information gathered by the department pursuant
32 to section 15E.17, subsection 2.
- 33 3. Personal and corporate income tax information.
- 34 4. Information regarding financial assistance and
35 incentives available to businesses.
- 36 5. Workforce availability in the state presented
37 in a regional format.

38 Sec. __. NEW SECTION. 15E.119 ECONOMIC
39 DEVELOPMENT-RELATED DATA COLLECTION.

- 40 1. The department shall interview any business
41 that considered locating in Iowa but decided to locate
42 elsewhere. The department shall attempt to determine
43 factors that affected the location decision of the
44 business.
- 45 2. The department shall interview any business
46 that closes major operations in the state or dissolves
47 the business's corporate status in an effort to
48 identify factors that led to the closure or
49 dissolution.
- 50 3. By January 15 of each year, the department

Page 25

1 shall submit a written report to the general assembly
2 that summarizes the information collected pursuant to
3 this section and provides suggested amendments to the
4 Code of Iowa and the Iowa administrative code designed
5 to stimulate and expand the state's economy.
6 Sec. __. INTERNET WEB SITE DEVELOPMENT. In
7 developing the internet web site required in section
8 15E.118, the department of economic development shall
9 examine similar efforts in other states and
10 incorporate the best practices.

11 DIVISION __
12 CULTURAL AND ENTERTAINMENT DISTRICTS
13 Sec. __. NEW SECTION. 303.3B CULTURAL AND
14 ENTERTAINMENT DISTRICTS.

15 1. The department of cultural affairs shall
16 establish and administer a cultural and entertainment
17 district certification program. The program shall
18 encourage the growth of communities through the
19 development of areas within a city or county for
20 public and private uses related to cultural and
21 entertainment purposes.

22 2. A city or county may create and designate a
23 cultural and entertainment district subject to
24 certification by the department of cultural affairs,
25 in consultation with the department of economic
26 development. A cultural and entertainment district
27 shall consist of a geographic area not exceeding one
28 square mile in size. A cultural and entertainment
29 district certification shall remain in effect for ten
30 years following the date of certification. Two or
31 more cities or counties may apply jointly for
32 certification of a district that extends across a
33 common boundary. Through the adoption of
34 administrative rules, the department of cultural
35 affairs shall develop a certification application for
36 use in the certification process. The provisions of
37 this subsection relating to the adoption of
38 administrative rules shall be construed narrowly.

39 3. The department of cultural affairs shall
40 encourage development projects and activities located
41 in certified cultural and entertainment districts
42 through incentives under cultural grant programs
43 pursuant to section 303.3, chapter 303A, and any other
44 grant programs.

45 DIVISION __
46 UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM
47 Sec. __. NEW SECTION. 262B.11 UNIVERSITY-BASED
48 RESEARCH UTILIZATION PROGRAM.

49 1. The department of economic development shall
50 establish and administer a university-based research

Page 26

1 utilization program for purposes of encouraging the
2 utilization of university-based research, primarily in
3 the area of high technology, in new or existing
4 businesses. The program shall include the three
5 universities under the control of the state board of
6 regents and all accredited private universities
7 located in the state.

8 2. A new or existing business that utilizes a
9 technology developed by an employee at a university
10 under the control of the state board of regents may
11 apply to the department of economic development for
12 approval to participate in the university-based
13 research utilization program. The department shall
14 approve an applicant if the applicant meets all of the
15 following criteria:

16 a. The applicant utilizes a technology developed
17 by an employee at a university under the control of
18 the state board of regents, provided that the
19 technology has received a patent after the effective
20 date of this Act. If the applicant has been in
21 existence more than one year prior to applying, the
22 applicant shall organize a separate company to utilize
23 the technology. For purposes of this section, the
24 separate company shall be considered the applicant
25 and, if approved, the approved business.

26 b. The applicant develops a five-year business
27 plan approved by the department. The plan shall
28 include information concerning the applicant's Iowa
29 employment goals and projected impact on the Iowa
30 economy. The department shall only approve plans
31 showing sufficient potential impact on Iowa employment
32 and economic development.

33 c. The applicant meets a minimum-size business
34 standard determined by the department.

35 d. The applicant provides annual reports to the
36 department that include employment statistics for the
37 applicant and the total taxable wages paid to Iowa
38 employees and reported to the department of revenue
39 and finance pursuant to section 422.16.

40 3. A business approved under the program and the
41 university employee responsible for the development of
42 the technology utilized by the approved business shall
43 be eligible for a tax credit. The credit shall be
44 allowed against the taxes imposed in chapter 422,
45 divisions II and III. An individual may claim a tax
46 credit under this section of a partnership, limited
47 liability company, S corporation, estate, or trust
48 electing to have income taxed directly to the
49 individual. The amount claimed by the individual
50 shall be based upon the pro rata share of the

Page 27

1 individual's earnings from the partnership, limited
2 liability company, S corporation, estate, or trust. A
3 tax credit shall not be claimed under this subsection
4 unless a tax credit certificate issued by the
5 department of economic development is attached to the
6 taxpayer's tax return for the tax year for which the
7 tax credit is claimed. The amount of a tax credit
8 allowed under this subsection shall equal the amount
9 listed on a tax credit certificate issued by the
10 department of economic development pursuant to
11 subsection 4. A tax credit certificate shall not be
12 transferable. Any tax credit in excess of the
13 taxpayer's liability for the tax year may be credited
14 to the taxpayer's tax liability for the following five
15 years or until depleted, whichever occurs first. A
16 tax credit shall not be carried back to a tax year
17 prior to the tax year in which the taxpayer redeems
18 the tax credit.

19 4. For the five tax years following the tax year
20 in which a business is approved under the program, the
21 department of revenue and finance shall provide the
22 department of economic development with information
23 required by the department of economic development
24 from each tax return filed by the approved business.
25 Upon receiving the tax return-related information, the
26 department of economic development shall do all of the
27 following:

28 a. Review the information provided by the
29 department of revenue and finance pursuant to this
30 subsection and the annual report submitted by the
31 applicant pursuant to subsection 2, paragraph "d". If
32 the department determines that the business activities
33 of the applicant are not providing the benefits to
34 Iowa employment and economic development projected in
35 the applicant's approved five-year business plan, the
36 department shall not issue tax credit certificates for
37 that year to the applicant or university employee and
38 shall determine any related university share to be
39 equal to zero for that year.

40 b. Effective for the fiscal year beginning July 1,
41 2004, and for subsequent fiscal years, issue a tax
42 credit certificate to the approved business and the
43 university employee responsible for the development of
44 the technology utilized by the approved business in an
45 amount determined pursuant to subsection 5. A tax
46 credit certificate shall contain the taxpayer's name,
47 address, tax identification number, the amount of the
48 tax credit, and other information required by the
49 department of revenue and finance.

50 c. (1) Determine the university share which is

Page 28

1 equal to the value of thirty percent of the tax
2 liability of the approved business for purposes of
3 making an appropriation pursuant to section 262B.12,
4 if enacted by 2003 Iowa Acts, [House File 683](#) or
5 another Act, to the university where the technology
6 utilized by the approved business was developed. A
7 university share shall not exceed two hundred twenty-
8 five thousand dollars per year per technology
9 utilized. For each technology utilized, the aggregate
10 university share over a five-year period shall not
11 exceed six hundred thousand dollars.

12 (2) The department shall maintain records for each
13 university during each fiscal year regarding the
14 university share each university is entitled to
15 receive through the appropriation in section 262B.12,
16 if enacted by 2003 Iowa Acts, [House File 683](#) or
17 another Act. A university shall be entitled to
18 receive the total university share for that particular
19 university during the previous fiscal year.

20 d. For the fiscal year beginning July 1, 2004, not
21 more than two million dollars worth of certificates
22 shall be issued pursuant to paragraph "b". For the
23 fiscal year beginning July 1, 2005, and every fiscal
24 year thereafter, not more than ten million dollars
25 worth of certificates shall be issued pursuant to
26 paragraph "b".

27 5. The tax credit certificates issued by the
28 department for each of the five years following the
29 tax year in which the business is approved under the
30 program shall be for the following amounts:

31 a. For the approved business, the value of the tax
32 credit certificate shall equal thirty percent of the
33 tax liability of the approved business. The value of
34 a certificate issued to an approved business shall not
35 exceed two hundred twenty-five thousand dollars. The
36 total aggregate value of certificates issued over a
37 five-year period to an approved business shall not
38 exceed six hundred thousand dollars.

39 b. For the university employee responsible for the
40 development of the technology utilized by the approved
41 business, the value of the tax credit certificate
42 shall equal ten percent of the tax liability of the
43 approved business. If more than one employee is
44 responsible for the development of the technology, the
45 value equal to ten percent of the tax liability of the
46 approved business shall be divided equally and
47 individual tax credit certificates shall be issued to
48 each employee responsible for the development of the
49 technology. Each year, the total value of a
50 certificate or certificates issued for a utilized

Page 29

1 technology shall not exceed seventy-five thousand
2 dollars. For each technology utilized, the total
3 aggregate value of certificates issued over a five-
4 year period to the university employee responsible for
5 the development of the technology shall not exceed two
6 hundred thousand dollars.

7 6. The department of economic development shall
8 notify the department of revenue and finance when a
9 tax credit certificate is issued pursuant to
10 subsection 4. The notification shall include the name
11 and tax identification number appearing on any tax
12 credit certificate.

13 Sec. __. NEW SECTION. 422.11H UNIVERSITY-BASED
14 RESEARCH UTILIZATION PROGRAM TAX CREDIT.

15 The taxes imposed under this division, less the
16 credits allowed under sections 422.12 and 422.12B,
17 shall be reduced by a university-based research
18 utilization program tax credit authorized pursuant to
19 section 262B.11.

20 Sec. __. Section 422.33, Code 2003, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 14. The taxes imposed under this
23 division shall be reduced by a university-based
24 research utilization program tax credit authorized
25 pursuant to section 262B.11."

26 8. Page 65, by inserting after line 15 the
27 following:

28 "Sec. __. Section 625A.9, Code 2003, is amended
29 to read as follows:

30 625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT =
31 SUPERSEDEAS BOND WAIVED.

32 1. The taking of the appeal from part of a
33 judgment or order, and the filing of a bond as above
34 directed, does not stay execution as to that part of
35 the judgment or order not appealed from.

36 2. If the judgment or order appealed from is for
37 money, such bond shall not exceed one hundred ten
38 percent of the amount of the money judgment.

39 3. Upon motion and for good cause shown, the
40 district court may stay all proceedings under the
41 order or judgment being appealed and permit the state
42 or any of its political subdivisions to appeal a
43 judgment or order to the supreme court without the
44 filing of a supersedeas bond."

45 9. By striking page 66, line 46 through page 67,
46 line 16.

47 10. Page 67, by inserting after line 44 the
48 following:

49 "Sec. __. Section 86.12, Code 2003, is amended to
50 read as follows:

Page 30

1 86.12 FAILURE TO REPORT.

2 The workers' compensation commissioner may require
3 any employer to supply the information required by
4 section 86.10 or to file a report required by section
5 86.11 or 86.13 or by agency rule, by written demand
6 sent to the employer's last known address. Upon
7 failure to supply such information or file such report
8 within ~~twenty~~ thirty days, the employer may be ordered
9 to appear and show cause why the employer should not
10 be subject to ~~civil penalty assessment~~ of one ~~hundred~~
11 ~~thousand~~ dollars for each occurrence. Upon such
12 hearing, the workers' compensation commissioner shall
13 enter a finding of fact and may enter an order
14 requiring such ~~penalty assessment~~ to be paid into the
15 second injury fund created by sections 85.63 to 85.69.
16 In the event the ~~civil penalty assessed assessment~~ is
17 not voluntarily paid within thirty days the workers'
18 compensation commissioner may file a certified copy of
19 such finding and order with the clerk of the court for
20 the district in which the employer maintains a place
21 of business. If the employer maintains no place of
22 business in this state service shall be made as
23 provided in chapter 85 for nonresident employers. In
24 such case the finding and order may be filed in any
25 court of competent jurisdiction within this state.

26 The workers' compensation commissioner may
27 thereafter petition the court for entry of judgment
28 upon such order, serving notice of such petition on
29 the employer and any other person in default. If the
30 court finds the order valid, the court shall enter
31 judgment against the person or persons in default for
32 the amount due under the order. No fees shall be
33 required for the filing of the order or for the
34 petition for judgment, or for the entry of judgment or
35 for any enforcement procedure thereupon. No
36 supersedeas shall be granted by any court to a
37 judgment entered under this section.

38 When a report is required under section 86.11 or
39 86.13 or by agency rule, and ~~that report has been~~
40 ~~submitted to the employer's insurance carrier and no~~
41 ~~report of injury has been filed with the workers'~~
42 ~~compensation commissioner possesses the information~~
43 ~~necessary to file the report~~, the insurance carrier
44 shall be responsible for filing the report ~~of injury~~
45 in the same manner and to the same extent as an
46 employer under this section.

47 Sec. __. NEW SECTION. 86.13A COMPLIANCE
48 MONITORING AND ENFORCEMENT.

49 The workers' compensation commissioner shall
50 monitor the rate of compliance of each employer and

Page 31

1 each insurer with the requirement to commence benefit
2 payments within the time specified in section 85.30.
3 The commissioner shall determine the percentage of
4 reported injuries where the statutory standard was met
5 and the average number of days that commencement of
6 voluntary benefits was delayed for each employer and
7 each insurer individually, and for all employers and
8 all insurers as separate groups.
9 If during any fiscal year commencing after June 30,
10 2005, the general business practices of an employer or
11 insurer result in the delay of the commencement of
12 voluntary weekly compensation payments after the date
13 specified in section 85.30 more frequently and for a
14 longer number of days than the average number of days
15 for the entire group of employers or insurers, the
16 commissioner may impose an assessment on the employer
17 or insurer payable to the second injury fund created
18 in section 85.66. The amount of the assessment shall
19 be ten dollars, multiplied by the average number of
20 days that weekly compensation payments were delayed
21 after the date specified in section 85.30, and
22 multiplied by the number of injuries the employer or
23 insurer reported during the fiscal year.
24 Notwithstanding the foregoing, an assessment shall not
25 be imposed if the employer or insurer commenced
26 voluntary weekly compensation benefits within the time
27 specified in section 85.30 for more than seventy-five
28 percent of the injuries reported by the employer or
29 insurer.
30 The commissioner may waive or reduce an assessment
31 under this section if an employer or insurer
32 demonstrates to the commissioner that atypical events
33 during the fiscal year, including but not limited to a
34 small number of cases, made the statistical data for
35 that employer or insurer unrepresentative of the
36 actual payout practices of the employer or insurer for
37 that year."
38 11. Page 71, by striking lines 11 through 23.
39 12. By striking page 72, line 18, through page
40 78, line 20.
41 13. Page 78, lines 33 and 34, by striking the
42 words "and school infrastructure assistance,".
43 14. By renumbering as necessary.

Amendment [H-1623](#) was adopted.

On motion by Carroll of Poweshiek the House concurred in the Senate amendment [H-1615](#), as amended.

Carroll of Poweshiek moved that the bill, as amended by the Senate further amended and concurred in by the House, be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 692](#))

The ayes were, 51:

Alons	Arnold	Baudler	Boal
Boddicker	Carroll	Chambers	De Boef
Dennis	Dix	Dolecheck	Drake
Elgin	Freeman	Gipp	Granzow
Greiner	Hahn	Hansen	Hanson
Heaton	Hoffman	Horbach	Huseman
Hutter	Jacobs	Jenkins	Jones
Klemme	Kramer	Kurtenbach	Lalk
Lukan	Maddox	Manternach	Olson, S.
Paulsen	Raecker	Rasmussen	Roberts
Sands	Schickel	Tjepkes	Tymeson
Upmeyer	Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.
Watts	Wilderdyke	Mr. Speaker	
		Rants	

The nays were, 43:

Bell	Berry	Bukta	Dandekar
Davitt	Eichhorn	Fallon	Ford
Gaskill	Greimann	Heddens	Hogg
Hunter	Huser	Jochum	Kuhn
Lensing	Lykam	Mascher	McCarthy
Mertz	Miller	Murphy	Myers
Oldson	Olson, D.	Osterhaus	Petersen
Quirk	Rayhons	Reasoner	Shoultz
Stevens	Struyk	Swaim	Taylor, D.
Taylor, T.	Thomas	Wendt	Whitaker
Whitead	Winckler	Wise	

Absent or not voting, 6:

Boggess	Cohoon	Connors	Foege
Frevert	Smith		

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 692](#) be immediately messaged to the Senate.

BILLS SIGNED BY THE GOVERNOR

A communication was received from the Governor announcing that on May 30, 2003, he approved and transmitted to the Secretary of State the following bills:

[House File 329](#), an Act relating to site preparation for targeted economic development.

[House File 391](#), an Act establishing a pilot program for the development of cogeneration facilities, providing for the development of ratemaking principles and rates for pilot program facilities, and providing for a future repeal.

[House File 394](#), an Act relating to the purposes of the Community Attraction and Tourism program.

[House File 583](#), an Act relating to governmental ethics disclosure reports, including reports related to receptions for members of the General Assembly during session detailing food, beverage, and entertainment received by public officials and public employees, and reports filed by clients of lobbyists before the General Assembly and the Executive Branch pertaining to moneys paid for lobbying purposes.

[House File 584](#), an Act providing for exceptions to liability for certain activities.

[House File 644](#), an Act providing for manure application requirements, providing for fees, making penalties applicable, and providing effective dates.

[House File 654](#), an Act relating to the exemption of sand handling and core and mold making equipment used in the mold making process from sales and use taxes, providing refunds, and including effective and retroactive applicability date provisions.

[House File 655](#), an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

[House File 672](#), an Act relating to the regulation of adult day care services, providing for penalties, and providing an effective date.

[House File 675](#), an Act relating to the regulation of elder family homes, elder group homes, and assisted living programs, providing for fees, and providing penalties.

[House File 685](#), an Act relating to and making appropriations from the Healthy Iowans Tobacco Trust and the Tobacco Settlement Trust Fund.

[House File 689](#), an Act relating to ethanol blended gasoline, by providing for tax credits and for their retroactive applicability, providing for refunds, and providing for an effective date.

[Senate File 348](#), an Act relating to fishing by establishing fees, allocating fishing license revenue to fish habitat development, modifying trout fishing fee requirements, and providing effective and applicability dates.

[Senate File 354](#), an Act implementing the federal Indian Child Welfare Act.

[Senate File 359](#), an Act relating to landlords, tenants, and actions for forcible entry or detention and providing a penalty.

[Senate File 417](#), an Act relating to the purchase of a police service dog by the Department of Corrections.

[Senate File 422](#), an Act relating to criminal sentencing and procedure by modifying the penalties for certain offenses related to controlled substances by permitting the reopening of a sentence that requires a maximum accumulation of earned time credits of fifteen percent of the total term of confinement and by changing the parole and work release eligibility of a person serving such a sentence, repealing certain determinate sentences, and providing a penalty.

[Senate File 445](#), an Act relating to the establishment of a school infrastructure financing program by providing for the sharing of revenues from local option sales and services taxes for school infrastructure purposes and providing for the use of the revenues from the local option tax for school infrastructure or property tax relief purposes and including an effective date.

GOVERNOR'S VETO MESSAGE

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [House File 206](#), an Act increasing the child age applicable to mandatory reporting of suspected child sexual abuse perpetrated by a person other than the person responsible for the care of the child.

This bill was originally introduced as a single issue bill to broaden the class of mandatory reporters of child sexual abuse, specifically the clergy. I support the original intent of the bill. However, during the legislative process another provision was attached to this bill. This provision raised the age for mandatory reporting of suspected child sexual abuse perpetrated by a non-caretaker of the child.

I am unable to approve [House File 206](#) because of lines 1-13 that raise the age for mandatory reporting of non-caretaker abuse from under 12 to under 16. The motives for such a change are pure-to protect our children. However, the consequences of the proposed law would be to make criminals out of the children who need our help, love and attention. This reality will discourage the reporting of abuse and will delay or deny help to those children most in need. Today, under permissive reporting no child is made a criminal and no child is left waiting or wanting help. Permissive reporting allows counselors and other professionals to make informed decisions based on the specific facts and circumstances of the individual they are assisting.

The considerable real life experience of treatment providers and advocates, such as the Iowa Coalition Against Sexual Assault, indicates that many young people will not seek counseling or assistance, or even basic medical care, for date rape and similar crimes if they believe the assault will automatically be reported. For a variety of reasons, some young victims do not want to become part of the DHS "system." Mandatory reporting will have a profoundly chilling effect on these victims, and may endanger their physical and mental well-being by dissuading them from seeking assistance.

Sexual abuse has the lowest reporting rate of any crime, due to a host of factors including the extremely personal nature of the assault, embarrassment, fear, and concerns that the victim will not be believed or will be socially stigmatized. Requiring mandatory reporting for non-caretaker abuse of 12 to 15 year olds will unwittingly set up yet another roadblock for young teens struggling to muster up the courage to seek the medical care and other services they need.

Under the law as it currently stands, service providers have discretion in these situations. Most reporters will report, permissively, many types of non-caregiver abuse. There are many instances in which reporting truly is in the best interest of the minor victim. However, in certain discrete circumstances, reporting may not be the most helpful option for minors aged 12-15. Permissive reporting allows for intelligent, sensitive decision making by trained reporters, rather than reactionary, automatic reporting without regard to individual needs. Of course, for victims under age 12, both caretaker and non-caretaker abuse trigger mandatory reporting under current law. This is because there is a presumption that DHS involvement is needed due to the extreme youth of the child.

The United States Conference of Catholic Bishops has set forth guidelines in a revised edition of its Charter for the Protection of Children and Young People. These policy guidelines state that dioceses will report an allegation of sexual abuse of a person who is a minor to the public authorities and that they will comply with all applicable civil laws with respect to the reporting of these allegations. Furthermore, in every instance, the dioceses are to advise victims of their right to make a report to public authorities and will support this right. In view of the fact this veto includes the mandatory-reporting-by-clergy provision, I encourage all religious organizations, who have not already done so, to develop similar strong permissive reporting policies. I also encourage the legislature next year to pass legislation consistent with the original intent of [House File 206](#) by broadening the class of mandatory reporters of child sexual abuse to include the clergy.

For the above reasons, I hereby respectfully disapprove [House File 206](#).

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [House File 450](#), an Act creating an exception to the statutory rule against perpetuities and making related changes.

This Act would suspend the application of the rule against perpetuities with respect to any interest in real or personal property held in trust if the instrument creating the trust specifically states that the rule against perpetuities does not apply and either the trustee of the trust has unlimited power to sell all trust assets, or one or more persons, one of whom may be the trustee, has unlimited power to terminate the entire trust. This Act would also suspend the application of the rule against perpetuities with respect to any trust of real or personal property created by an employer as part of a stock bonus plan, profit sharing plan, pension plan, disability benefit plan, or death benefit plan for the benefit of the employer's employees for the purpose of distributing to the employees or their beneficiaries the earnings or the principal, or both, of such trust.

The rule against perpetuities is a common law rule that invalidates future interests in property unless that interest must vest, if at all, not later than 21 years, plus period of gestation, after some life or lives in being at the time of the creation of the interest. The courts of England adopted the rule against perpetuities in the seventeenth century in part to promote the efficient use of property among living persons.

In 1983, the Iowa Legislature reformed the common-law application of the rule against perpetuities by codifying two mechanisms that provided greater flexibility to trust instruments. Under a newly-fashioned "wait-and-see" approach, courts were empowered to monitor all non-vested future interests to determine if they would, in fact, actually vest within the permissible statutory period under the rule against perpetuities. If so, such non-vested future interests could be deemed to be valid under the rule. This provision modified the "might-have-been" approach under the common law rule, which invalidated all non-vested future interests if, based upon facts in existence at the time the interest was created, the possibility existed that the non-vested interest might vest after the permissible period had run. The legislation also adopted the cy pres doctrine, which empowered courts to reform a non-vested interest to ensure that it vests within the permissible time period if such a modification would more accurately reflect the intent of the creator of the future interest.

The rule against perpetuities, and legislation adopted in 1983 to add flexibility to the rule, strikes a fair balance between the interests of present generations who may wish to influence the future use and alienability of property, and succeeding generations who may wish to utilize and enjoy property that is not encumbered by their ancestors. These provisions seek to maximize the market forces that interact with property placed into a trust to promote the efficient and effective usage of that property. House file 450 would disrupt the balance between current and future interests by permitting individuals to create a class of trusts that are not subject

to the rule against perpetuities, thereby further insulating property from the efficient influences of market forces.

For the above reasons, I hereby respectfully disapprove [House File 450](#).

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 173](#), an Act authorizing school districts to deduct and pay fees for membership in not-for-profit professional education associations.

Iowa school districts continue to deal with increasing costs, additional burdens from the No Child Let Behind Law, and less money to accomplish necessary results. Therefore, I am unable to approve the language because this bill adds to that increased burden by requiring additional payroll deductions. Also, the definition of professional education association is too broad. This will lead to abuse and/or litigation regarding the discretion of districts to define the term "professional education association."

For the above reasons, I hereby respectfully disapprove [Senate File 173](#).

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 343](#), an Act relating to operation permits for public disposal systems and providing an effective date.

I am unable to approve [Senate File 343](#), which would exempt publicly owned wastewater treatment facilities from obtaining or complying with National Pollution Discharge Elimination System permits in response to a change by the Environmental Protection Commission in the use designation of a cold water stream receiving the discharge of the disposal system until the Commission adopts by rule methods for the review of use designations of cold water streams.

I have several concerns with this bill. First, it states that a publicly owned treatment works does not have to obtain a permit under certain conditions. Both existing state and federal law require that these permits be issued to these treatment works. The state cannot, by statute or rule, create a situation where unauthorized discharges are allowed. To legislate in this manner would unduly jeopardize the permitting authority currently delegated to the state by an agreement with the U.S. Environmental Protection Agency.

Second, this bill is aimed at only cold water streams and not streams with other classifications. Legislation related to the operation of public disposal systems should address all public disposal systems, not just those that discharge to cold water streams.

Third, [Senate File 343](#) is an attempt to address the problem of stream classification faced by a specific city. The legislation is now unnecessary because of steps being taken by the Department of Natural Resources (DNR). DNR is currently working on a scientifically sound system of reclassifying the use designations of streams in Iowa. The Department is doing this work using a technical advisory committee of experts, affected industries and public entities. The DNR's approach more comprehensively and appropriately addresses the problem that the bill attempts to address. Furthermore, DNR has agreed to grant the city in question a permit under the existing system, with DNR reserving the right to review the permit if classifications are changed in the future.

I have made it a priority to protect and improve the water quality of our rivers, lakes and streams. In my Condition of the State Address this year, I made it part of my leadership agenda to eliminate the state's impaired waterways by 2010. Later this year, we will hold a Water Quality Summit to bring stakeholders together to start taking important steps to better protect our water resources. Protecting our water resources ensures that Iowans have safe drinking water as well as recreational and tourism opportunities that we cherish. This bill is unnecessary and contradicts our goal of protecting Iowa's waterways and water resources.

For the above reasons, I hereby respectfully disapprove [Senate File 343](#).

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 390](#), an Act relating to procedures for local government consolidation (charter government) and allowing the formation of local government empowerment committees.

Although I am supportive of charter governments in theory and agree that some local government mergers could reduce bureaucracy, streamline services, and save significant taxpayer dollars, I am unable to approve [Senate File 390](#).

Current law allows for the formation of new relationships between local governments. Government at any level should adhere to the American ideal of, *for and by the people*. [Senate File 390](#) seeks to fundamentally change the way elections may be held at the local level without securing first the consent of the governed. For this most basic respect the bill is fatally flawed.

This act also limits the creation of a local government organization review committee to only counties with a population in excess of 100,000. Creating one process for large urban counties and not allowing small rural counties to form committees unnecessarily discriminates between local governments located in urban and rural areas. We are and should always be one Iowa. This important value is compromised in [Senate File 390](#).

For the above reasons, I hereby disapprove [Senate File 390](#).

Sincerely,
Thomas J. Vilsack
Governor

GOVERNOR'S ITEM VETO MESSAGES

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [House File 549](#), an Act relating to the duties and operations of the Department of Education, the Board of Educational Examiners, the State Board of Regents and its universities, and school boards, and to property tax school reorganization incentives; requiring the establishment of a reading instruction pilot program; and including effective and retroactive applicability date provisions.

[House File 549](#) is vitally important for education in Iowa. This bill expands the current data management system to meet the federal requirements of the No Child Left Behind initiative. It also extends the K-3 Class Size reduction program for an additional fiscal year. While this falls short of my recommendation, it allows us to continue working toward the goal of reducing K-3 class sizes to 17 students per teacher. [House File 549](#) expands reorganization incentives for K-12 school districts and makes several changes to clarify the reorganization process for AEAs. It also makes necessary Code changes to the teacher quality program.

[House File 549](#) is approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Section 5. This section requires the Department of Education to develop and implement a statewide program for educational assessment reporting and to use this information for a statewide report card. The text of paragraph "c" which describes the "single value added system" requires the use of a proprietary system. I do not believe that it is in the best interest of school districts and the Department of Education to mandate a reporting system that is redundant to the requirement of the No Child Left Behind Act. I also do not support the mandate that all districts and the Department of Education must use a single proprietary system for analysis and reporting of assessment results.

I am unable to approve the designated portion of Section 51 which removes the contract requirement for part-time and substitute bus drivers. The current law provides for a standard uniform contract for all drivers of school-owned equipment. This language eliminates secure employment relationships for bus drivers who are often responsible for the safety of our children.

I am unable to approve the items designated as Section 69 and Section 71, subsection 3. Section 69 requires the Department of Education to establish and administer a reading instruction pilot program beginning in the fall of 2003. A considerable effort is currently underway in the Department of Education given the requirements of the federally funded reading program, Reading First. The Reading First program will in the 2003-2004 school year involve 30 school districts across the state to improve reading skills. The federal program guidelines and evaluation requirements are very similar to the requirements in Section 69. The proposed reading program would duplicate current efforts and it is also very late for a district to plan to participate in a new program this fall.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [House File 549](#) are hereby approved as this date.

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [House File 662](#), an Act relating to the funding of, the operation of and appropriation of moneys to the College Student Aid Commission, the Department of the Blind, the Department of Cultural Affairs, the Department of Education, and the State Board of Regents and including an effective date and retroactive applicability date provision.

[House File 662](#) provides funding to help achieve the ambitious goals we have set for education in Iowa. I am particularly pleased with the continued commitment to reduce class sizes, redesign teacher compensation strategies, increase Iowa Tuition Grant

funding, maintain quality faculty and staff at our state's Regents institutions, and provide support for community colleges.

There are, however, shortcomings in this legislation. I am disappointed that the college work-study program was not reinstated. The Iowa Work Study program is a great tool to help disadvantaged students work their way through our public universities, community colleges, and independent colleges. In addition, no funding was provided to start the Iowa Virtual Academy. I hope the legislature will address these areas in the future.

[House File 662](#) is, approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 9, subsection 1. This sentence specifies that the Board of Regents, the Department of Management and the Fiscal Bureau shall cooperate to determine the amount to be appropriated for tuition replacement. This language is outdated and unnecessary as the Board of Regents now relies on a financial advisor to calculate figures for tuition replacement.

I am unable to approve the designated portion of Section 9, subsection 2. This paragraph restricts spending on the School of Public Health and the Public Health Initiative at the University of Iowa. If we face a growing need for workers trained in these health professions and for the services provided by this program, then it is appropriate to allow reallocations of funds to the school of public health from other areas, rather than single this out as the one area at the University of Iowa to have its budget capped at its previous level.

I am unable to approve the designated portion of Section 9, subsection 3. This language restricts spending on the Center for Excellence in Fundamental Plant Sciences at Iowa State University and does not permit this program to receive either its share of dollars for salary increases or internal reallocations of funds from other university programs. If we are committed to making Iowa a leader in plant sciences technologies then it is unreasonable to single this out as the one center at Iowa State University to have its budget frozen.

I am unable to approve the designated portion of Section 9, subsection 4. This language restricts spending on the masters in social work program, the roadside vegetation project, and the Iowa office for staff development at the University of Northern Iowa. There is no reason to single these three areas out to be treated differently from all the other programs and activities at the University of Northern Iowa.

I am unable to approve Section 18 in its entirety. This veto is a technical correction. This section conflicts with [Senate File 458](#), section 117 which also changes the paragraph lettering in Iowa Code section 284.13, subsection 1, paragraph g.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [House File 662](#) are hereby approved as of this date.

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 433](#), an Act relating to and making appropriations to the Department of Economic Development, certain Board of Regents Institutions, Department of Workforce Development and the Public Employment Relations Board for the fiscal year beginning July 1, 2003.

[Senate File 433](#) continues current levels of funding for the World Food Prize and the workforce development fund account. It maintains funding for immigration service centers and provides a small increase to fund operations of the Public Employment Relations Board.

This administration has made clear from the first day of the 2003 Session that our top priority is transforming Iowa's economy. This goal, which we share with a majority of legislators from both parties, can only be accomplished with a significant investment in Iowa's future - an investment that is provided through the Iowa Values Fund. While [Senate File 433](#) funds some important services Iowans rely on everyday, it is completely inadequate and does not provide the commitment this state needs to retain our current employers, attract new businesses, incent business expansion, and create the high-paying jobs needed to keep our children and grandchildren living here.

It is vital the Legislature take action immediately to approve an Iowa Values Fund to send a strong message that Iowa is open for business. In the meantime, we must continue to provide the services that are funded through this bill. [Senate File 433](#) is, therefore, signed on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 1, subsection 3. As I indicated last year, the Accountable Government Act establishes a comprehensive, enterprise-wide process for setting program goals and establishing results measures. These measures have been developed with data currently being compiled. This section would create redundancies in the development and reporting of goals and results measurements for the Department of Economic Development.

I am unable to approved the designated portion of Section 10, subsection 2. This would require that small business development centers be located equally throughout the different regions of the state. This bill contains no instruction as to the legislative meaning or intent of "located equally throughout the different regions of the state." As such, the bill is terminally vague making compliance impossible.

I am unable to approve the items designated as Section 10, subsection 3, paragraph b, Section 11, subsection 2, paragraph b, and Section 12, subsection 2, paragraph b. These sections would require any business or individual receiving benefits from specified Regent programs to have a commercially viable service or product. This legislative mandate would have an unacceptable dulling effect on innovation. Iowa should be encouraging entrepreneurship. This section of [Senate File 433](#) would have the opposite impact.

I am unable to approve the designated portion of Section 15, subsection 2. This would restrict the expenditure of additional penalty and interest revenues to accomplish the mission of the department to provide safe workplaces and steady employment. The director of the Department of Workforce Development currently has the authority to reassign unused penalty and interest funds. We must maintain that flexibility to reallocate dollars when needed to ensure the safety and employment security of working Iowans.

I am unable to approve the item designated as Section 20. Expenditure information for executive branch agencies of state government is currently available to the economic development appropriations subcommittees and the Legislative Fiscal Bureau on a daily basis through the Iowa Financial and Accounting System. The Legislative Fiscal Bureau also has the authority to request expenditure information from Regent universities. The reporting requirement in this section would duplicate existing data and place an unneeded and unprecedented requirement on limited staff resources.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [Senate File 433](#) are hereby approved as this date.

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 452](#), an Act relating to and making appropriations to state departments and agencies from the Rebuild Iowa Infrastructure Fund, Environment First Fund, and Tobacco Settlement Trust Fund, relating to the Capitol complex parking structure, and authorizing fees.

[Senate File 452](#) is, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Division IV, Sections 28, 29 and 30 in their entirety. These sections would require the establishment of a parking fee for the Capitol complex parking structure located at Pennsylvania and Grand Avenues. Iowans should be encouraged to participate in their democracy by parking free to visit their State Capitol and the state office buildings surrounding their State Capitol. Charging parking fees to the newly constructed parking structure located at Pennsylvania and Grand Avenues operates as a hidden tax for the visiting public and would discourage some from exercising their fundamental rights as citizens. Such a fee should not have been and will not be sanctioned or approved.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [Senate File 452](#) are hereby approved as this date.

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 453](#), an Act relating to state and local government financial and regulatory matters, making and reducing appropriations, providing a fee, increasing civil penalties, and providing applicability and effective dates.

I hereby approve [Senate File 453](#) on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portions of Section 31, subsection 1. These items deal with the allocation of the reduction in appropriations to the three Regent universities. It is important that the Board of Regents have the complete flexibility in making these reductions across their appropriations.

I am unable to approve the item designated as Section 31, subsection 2. This subsection sets up a legislative interim committee study on a policy option of levying charges for capital assets against all state agencies. I have previously stated that I do not support this idea and, therefore, do not support the study.

I am unable to approve the item designated as Section 38 in its entirety. This section requires the Department of Education to establish a task force to conduct several studies regarding the structure, funding of area education agencies and the delivery of media services, educational services, and special education services. The section also requires a study of special education, including identification and remediation procedures, the early intervention block grant program, intensive instruction and tutoring, and reading instruction.

These studies would duplicate work already completed and are unnecessary. Thanks to the cooperative efforts of area education agencies, school districts, and the department of education studies have already been undertaken and recommendations for improvement have been implemented. In addition an accreditation process has been established improving accountability and the efficient and quality services. One third of the AEAs are in the process of merging next year and this will create additional efficiencies. I agree that resources needed for special education requires special attention and thus I am recommending that the department of education establish a task force to review special education finance.

At the beginning of this legislative session, it was clear that although our fiscal difficulties were not as severe as many other states, Iowa was facing a budget shortfall. Given that the budget must be balanced, we know that those tasked with the responsibility of balancing the budget would inevitably reduce aid to local government. We worked with legislative leaders to make sure that the reforms included in [Senate File 453](#) would give real hope to Iowans that some services can be improved even as less money is spent.

Additionally, my office worked hard to ensure that the federal stimulus package included direct fiscal relief for states and cities to help lessen the burden imposed by [Senate File 453](#). While the federal stimulus package passed last week included \$189 million in aid to Iowa, the Legislature has indicated they will not direct any of those vital dollars to cities and counties.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [Senate File 453](#) are hereby approved as this date.

Sincerely,
Thomas J. Vilsack
Governor

May 30, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit [Senate File 458](#), an act relating to public expenditure and regulatory matters, compensating public employees, making and reducing appropriations, modifying sales and use taxes, modifying the investment tax credits and premium taxes on mutual insurance associations, providing for related matters, making penalties applicable, and providing effective dates.

[Senate File 458](#) is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 13 in its entirety. This section prohibits local governments from prorating state funded property tax credits to taxpayers based upon the amount of the appropriations available in relation to total credit claims. I am concerned that this provision would further reduce funding for local governments, beyond the significant reductions that have already been made.

I am unable to approve the item designated as Section 23 in its entirety. This language creates a new funding stream for a single county hospital. I am sympathetic to the struggle of a hospital providing services to the poor and needy. However, creating an inequity is no way to properly help a struggling hospital. Appropriate Medicare reimbursement is a more appropriate remedy for the ills of a struggling hospital.

I am unable to approve the item designated as Section 103 in its entirety. This section places sanctions based on the performance, or lack of performance, on outcomes for young children. This appears to set the stage for increased pressure of inappropriate assessment of young children as well as unrealistic expectations on Community Empowerment Areas to show a percent of improvement. In addition, the language regarding penalties by a reduction in funds for not meeting an established percent improvement does not support the purpose or intent of Community Empowerment.

I am unable to approve the items designated as Sections 106, 107, and 153 in their entirety. This language would change the merit status of the Iowa Law Enforcement Academy's director. This change is punitive and unnecessarily would destabilize the position and the work of the director.

I am unable to approve the item designated as Section 110 in its entirety. American justice requires that those wrongly injured by the negligence of others have the right to fully recover any damages for their injuries. No system of justice can reverse the physical effects of an injury, but justice can be served when an injured party is made financially whole. Section 110 creates a privileged class of wrongdoers – those who hurt an injure attendees at a county fair. Efforts to create such a special class of wrongdoers that is immune from suit in a budget bill adds insult to injury.

I am unable to approve the item designated as Section 133 in its entirety, which will allow the sanitary landfills with an active methane collection system to accept yard waste. This action will be a major step backwards for integrated solid waste management creating a need for communities to expand existing facilities or find new property for landfills. Yard waste is best managed at a composting facility and is one of the keys in improving Iowa's water quality. Collecting methane from landfills is still relatively inefficient. As urged by numerous recycling groups who support integrated solid waste management, pollution is best prevented by not disposing of yard waste at a landfill.

I am unable to approve the item designated as Section 145 in its entirety. This proposed language undermines the existing process that already exists in Code of Iowa (904.76) authority to sell land. This process can be utilized for any possible land purchases and must be maintained to ensure the security needs and future long-term needs of the department that may arise.

I am unable to approve the item designated in Section 146 in its entirety. This language directs the Department of Revenue and Finance to pay a claim that has been denied. An appeal was heard and a decision rendered denying the claim. The integrity of the State Appeal Board must not and will not be compromised.

I am unable to approve the item designated as Section 147 in its entirety. This language directs the State Appeal Board to pay a claim that had been denied. The Department of Education previously denied the claim. No appeal was filed and the time expired to do so. The integrity of the State claims process must not and will not be compromised. This section appears to infringe on the authority of the executive branch and State Appeal Board.

I am unable to approve the item designated as Section 151. This section provides funding from team-based variable pay moneys for a reading instruction pilot program.

This proposed program would duplicate current efforts under the federally funded reading program, Reading First, and take critical funding away from the team based variable pay program.

I am unable to approve the item designated as Division VII, Section 156, subsection 4, 7 and 8 in their entirety. These sections deal with smallpox vaccinations. Subsection 4 would require a set aside of Homeland Security federal funds for an unauthorized purpose. Subsection 7 requires vaccinations to be administered by a specific process which at this time is not approved by the FDA. Subsection 8 gives inappropriate duties and responsibilities for the coordination of vaccines and pharmaceuticals to the Emergency Management Division. Such supplies should emanate from the Center for Disease Control to the Health Department.

I am unable to approve the item designated as Division IX of [Senate File 458](#), which provides a process for the privatization of the Iowa Communications Network (ICN), in its entirety. The design and implementation of the ICN does not easily support privatization. Careful study of a plan to privatize the network should be done with consideration of the network architecture, critical facilities, as well as the impact to education and homeland security.

Education has been and continues to be one of the highest priorities of this administration. I do not believe that potential adverse impacts on our State's education system were given adequate, if any, consideration. All levels of education depend upon the ICN for provision of education throughout Iowa. The ICN also plays a vital role in our state's homeland security. All homeland security functions would need to be maintained. In some cases, this would require new federal waivers and new agreements involving federal departments. These may not be easily forthcoming.

An issue of the magnitude of the State's fiber optic network should be worked through the legislative process as a separate bill, receiving full consideration by committees and adequate information for full debate. This amendment was attached during the final hours of the legislative session and left inadequate time for the public including authorized users, the Commission or ICN staff to provide information to policy makers in order for them to make a fully informed decision.

I am unable to approve the item designated as Section 179 in its entirety. This section limits the creation of a local government organization review committee to only counties with a population in excess of 100,000. Crating one process for large urban counties and not allowing small rural counties unnecessarily discriminates between local governments located in urban and rural areas. We are and should always be one Iowa. This important value is compromised in Section 179.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in [Senate File 458](#) are hereby approved as this date.

Sincerely,
Thomas J. Vilsack
Governor

RESOLUTION FILED

HCR 24, by Rants and Myers, a concurrent resolution to provide for adjournment sine die

Laid over under **Rule 25**.

On motion by Gipp of Winneshiek the House adjourned at 1:47 a.m., until 10:00 a.m., Wednesday, June 4, 2003.