

# Senate File 413 - Enrolled

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SENATE FILE 413

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1 2  
1 3 AN ACT  
1 4 RELATING TO SALES AND USE TAX CHANGES, EXCISE TAXES ON RENTAL  
1 5 OF ROOMS AND SLEEPING QUARTERS, AND THE SALE AND USE OF  
1 6 CONSTRUCTION EQUIPMENT, AND RELATING TO THE POLICY AND  
1 7 ADMINISTRATION OF OTHER TAXES AND TAX-RELATED MATTERS, AND  
1 8 INCLUDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATE  
1 9 PROVISIONS.

1 10  
1 11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

## DIVISION I

### STREAMLINED SALES AND USE TAX CHANGES

1 15 Section 1. Section 34A.7, subsection 2, paragraph b, Code  
1 16 2005, is amended to read as follows:

1 17 b. A local exchange service provider is not liable for an  
1 18 uncollected surcharge for which the local exchange service  
1 19 provider has billed a subscriber but not been paid. The  
1 20 surcharge shall appear as a single line item on a subscriber's  
1 21 periodic billing entitled, "E911 emergency telephone service  
1 22 surcharge". ~~The E911 service surcharge is not subject to~~

~~1 23 sales or use tax.~~

1 24 Sec. 2. Section 34A.7A, subsection 1, paragraph c,  
1 25 subparagraph (1), Code 2005, is amended to read as follows:

1 26 (1) The surcharge shall be collected as part of the  
1 27 wireless communications service provider's periodic billing to  
1 28 a subscriber. The surcharge shall appear as a singleline  
1 29 item on a subscriber's periodic billing indicating that the  
1 30 surcharge is for E911 emergency telephone service. In the  
1 31 case of prepaid wireless telephone service, this surcharge  
1 32 shall be remitted based upon the address associated with the  
1 33 point of purchase, the customer billing address, or the  
1 34 location associated with the mobile telephone number for each  
1 35 active prepaid wireless telephone that has a sufficient  
2 1 positive balance as of the last days of the information, if  
2 2 that information is available. ~~The wireless E911 service~~

~~2 3 surcharge is not subject to sales or use tax.~~

2 4 Sec. 3. Section 423.1, subsection 47, paragraph b,  
2 5 subparagraph (4), Code 2005, is amended by striking the  
2 6 subparagraph.

2 7 Sec. 4. Section 423.1, subsection 47, Code 2005, is  
2 8 amended by adding the following new paragraph and relettering  
2 9 the following paragraph:

2 10 NEW PARAGRAPH. c. The sales price does not include and  
2 11 the sales tax shall not apply to amounts received for charges  
2 12 included in paragraph "a", subparagraphs (3) through (7), if  
2 13 they are separately contracted for, separately stated on the  
2 14 invoice, billing, or similar document given to the purchaser,  
2 15 and the amounts represent charges which are not the sales  
2 16 price of a taxable sale or of the furnishing of a taxable  
2 17 service.

2 18 Sec. 5. Section 423.2, subsection 6, unnumbered paragraph  
2 19 1, Code 2005, is amended to read as follows:

2 20 The sales price of any of the following enumerated services  
2 21 is subject to the tax imposed by subsection 5: alteration and  
2 22 garment repair; armored car; vehicle repair; battery, tire,  
2 23 and allied; investment counseling; service charges of all  
2 24 financial institutions; barber and beauty; boat repair;  
2 25 vehicle wash and wax; campgrounds; carpentry; roof, shingle,  
2 26 and glass repair; dance schools and dance studios; dating  
2 27 services; dry cleaning, pressing, dyeing, and laundering;  
2 28 electrical and electronic repair and installation; excavating  
2 29 and grading; farm implement repair of all kinds; flying  
2 30 service; furniture, rug, carpet, and upholstery repair and  
2 31 cleaning; fur storage and repair; golf and country clubs and  
2 32 all commercial recreation; gun and camera repair; house and  
2 33 building moving; household appliance, television, and radio  
2 34 repair; janitorial and building maintenance or cleaning;  
2 35 jewelry and watch repair; lawn care, landscaping, and tree  
3 1 trimming and removal; limousine service, including driver;  
3 2 machine operator; machine repair of all kinds; motor repair;  
3 3 motorcycle, scooter, and bicycle repair; oilers and  
3 4 lubricators; office and business machine repair; painting,  
3 5 papering, and interior decorating; parking facilities; pay

3 6 television; pet grooming; pipe fitting and plumbing; wood  
3 7 preparation; executive search agencies; private employment  
3 8 agencies, excluding services for placing a person in  
3 9 employment where the principal place of employment of that  
3 10 person is to be located outside of the state; reflexology;  
3 11 security and detective services; sewage services for  
3 12 nonresidential commercial operations; sewing and stitching;  
3 13 shoe repair and shoeshine; sign construction and installation;  
3 14 storage of household goods, mini-storage, and warehousing of  
3 15 raw agricultural products; swimming pool cleaning and  
3 16 maintenance; tanning beds or salons; taxidermy services;  
3 17 telephone answering service; test laboratories, including  
3 18 mobile testing laboratories and field testing by testing  
3 19 laboratories, and excluding tests on humans or animals;  
3 20 termite, bug, roach, and pest eradicators; tin and sheet metal  
3 21 repair; transportation service consisting of the rental of  
3 22 recreational vehicles or recreational boats, or the rental of  
3 23 motor vehicles subject to registration which are registered  
3 24 for a gross weight of thirteen tons or less for a period of  
3 25 sixty days or less, or the rental of aircraft for a period of  
3 26 sixty days or less; Turkish baths, massage, and reducing  
3 27 salons, excluding services provided by massage therapists  
3 28 licensed under chapter 152C; water conditioning and softening;  
3 29 weighing; welding; well drilling; wrapping, packing, and  
3 30 packaging of merchandise other than processed meat, fish,  
3 31 fowl, and vegetables; wrecking service; wrecker and towing.

3 32 Sec. 6. Section 423.3, subsection 2, Code 2005, is amended  
3 33 to read as follows:

3 34 2. The sales price of sales for resale of tangible  
3 35 personal property or taxable services, or for resale of  
4 1 tangible personal property in connection with the furnishing  
4 2 of taxable services except for sales, other than leases or  
4 3 rentals, which are sales, of machinery, equipment,  
4 4 attachments, and replacement parts specifically enumerated in  
4 5 subsection 37 and used in the manner described in subsection  
4 6 37 or the purchase of tangible personal property, the leasing  
4 7 or rental of which is exempted from tax by subsection 49.

4 8 Sec. 7. Section 423.3, subsection 37, Code 2005, is  
4 9 amended to read as follows:

4 10 37. The sales price of services on or connected with new  
4 11 construction, reconstruction, alteration, expansion,  
4 12 remodeling, or the services of a general building contractor,  
4 13 architect, or engineer. The exemption in this subsection also  
4 14 applies to the sales price on the lease or rental of ~~self-~~  
~~4 15 propelled building equipment, self-constructed cranes, pile~~  
~~4 16 drivers, structural concrete forms, regular and motorized~~  
~~4 17 scaffolding, generators, or attachments customarily drawn or~~  
~~4 18 attached to self-propelled building equipment, self-~~  
~~4 19 constructed cranes, pile drivers, structural concrete forms,~~  
~~4 20 regular and motorized scaffolding, and generators, including~~  
~~4 21 auxiliary attachments all machinery, equipment, and~~  
4 22 replacement parts directly and primarily used by owners,  
4 23 contractors, subcontractors, and builders for new  
4 24 construction, reconstruction, alteration, expansion, or  
4 25 remodeling of real property or structures and of all  
4 26 machinery, equipment, and replacement parts which improve the  
4 27 performance, safety, operation, or efficiency of the  
4 28 machinery, equipment, and replacement parts and are directly  
~~4 29 and primarily used by contractors, subcontractors, and~~  
~~4 30 builders for new construction, reconstruction, alterations,~~  
~~4 31 expansion, or remodeling of real property or structures so~~  
4 32 used.

4 33 Sec. 8. Section 423.3, subsection 49, Code 2005, is  
4 34 amended to read as follows:

4 35 49. The sales price from the sale of carbon dioxide in a  
5 1 liquid, solid, or gaseous form, electricity, steam, and other  
5 2 taxable services and the lease or rental of tangible personal  
5 3 property when used by a manufacturer of food products to  
5 4 produce marketable food products for human consumption,  
5 5 including but not limited to treatment of material to change  
5 6 its form, context, or condition, in order to produce the food  
5 7 product, maintenance of quality or integrity of the food  
5 8 product, changing or maintenance of temperature levels  
5 9 necessary to avoid spoilage or to hold the food product in  
5 10 marketable condition, maintenance of environmental conditions  
5 11 necessary for the safe or efficient use of machinery and  
5 12 material used to produce the food product, sanitation and  
5 13 quality control activities, formation of packaging, placement  
5 14 into shipping containers, and movement of the material or food  
5 15 product until shipment from the building of manufacture.

5 16 Sec. 9. Section 423.3, subsection 60, Code 2005, is

5 17 amended to read as follows:

5 18 60. The sales price from the sale or rental of  
5 19 prescription drugs or, durable medical equipment, mobility  
5 20 enhancing equipment, prosthetic devices, and other medical

5 21 devices intended for human use or consumption.

5 22 For the purposes of this subsection:

5 23 a. "Drug" means a compound, substance, or preparation, and  
5 24 any component of a compound, substance, or preparation, other  
5 25 than food and food ingredients, dietary supplements, or  
5 26 alcoholic beverages which is any of the following:

5 27 (1) Recognized in the official United States  
5 28 pharmacopoeia, official homeopathic pharmacopoeia of the  
5 29 United States, or official national formulary, and supplement  
5 30 to any of them.

5 31 (2) Intended for use in the diagnosis, cure, mitigation,  
5 32 treatment, or prevention of disease.

5 33 (3) Intended to affect the structure or any function of  
5 34 the body.

5 35 b. "Durable medical equipment" means equipment, including  
6 1 repair and replacement parts, but does not include mobility  
6 2 enhancing equipment, to which all of the following apply:

6 3 (1) Can withstand repeated use.

6 4 (2) Is primarily and customarily used to serve a medical  
6 5 purpose.

6 6 (3) Generally is not useful to a person in the absence of  
6 7 illness or injury.

6 8 (4) Is not worn in or on the body.

6 9 (5) Is for home use only.

6 10 (6) Is prescribed by a practitioner.

6 11 c. "Mobility enhancing equipment" means equipment,  
6 12 including repair and replacement parts, but does not include  
6 13 durable medical equipment, to which all of the following  
6 14 apply:

6 15 (1) Is primarily and customarily used to provide or  
6 16 increase the ability to move from one place to another and  
6 17 which is appropriate for use either in a home or a motor  
6 18 vehicle.

6 19 (2) Is not generally used by persons with normal mobility.

6 20 (3) Does not include any motor vehicle or equipment on a  
6 21 motor vehicle normally provided by a motor vehicle  
6 22 manufacturer.

6 23 (4) Is prescribed by a practitioner.

6 24 ~~b. d. "Medical "Other medical device" means equipment or~~  
6 25 ~~a supply, intended to be prescribed by a practitioner,~~  
6 26 ~~including orthopedic or orthotic devices. However, "medical~~  
6 27 ~~device" also includes prosthetic devices, that is not a drug,~~  
6 28 ~~durable medical equipment, mobility enhancing equipment, or~~  
6 29 ~~prosthetic device. "Other medical devices" includes, but is~~

6 30 ~~not limited to, ostomy, urological, and tracheostomy equipment~~

6 31 ~~and supplies, and diabetic testing materials, hypodermic~~  
6 32 ~~syringes and needles, anesthesia trays, biopsy trays and~~  
6 33 ~~biopsy needles, cannula systems, catheter trays and invasive~~  
6 34 ~~catheters, dialyzers, drug infusion devices, fistula sets,~~

6 35 ~~hemodialysis devices, insulin infusion devices, intraocular~~  
7 1 ~~lenses, irrigation solutions, intravenous administering sets,~~

7 2 ~~solutions and stopcocks, myelogram trays, nebulizers, small~~  
7 3 ~~vein infusion kits, spinal puncture trays, transfusion sets,~~

7 4 ~~and venous blood sets, and oxygen equipment,~~ intended to be  
7 5 dispensed for human use with or without a prescription to an  
7 6 ultimate user.

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

7 9 ~~f. "Prescription" means an order, formula, or recipe~~  
7 10 ~~issued in any form of oral, written, electronic, or other~~  
7 11 ~~means of transmission by a practitioner.~~

7 12 ~~d. g. "Prescription drug" means a drug intended to be~~  
7 13 ~~dispensed to an ultimate user pursuant to a prescription drug~~  
7 14 ~~order, formula, or recipe issued in any form of oral, written,~~  
7 15 ~~electronic, or other means of transmission by a duly licensed~~  
7 16 ~~practitioner, or oxygen or insulin dispensed for human~~  
7 17 ~~consumption with or without a prescription drug order or~~  
7 18 ~~medication order.~~

7 19 ~~e. h. "Prosthetic device" means a replacement,~~  
7 20 ~~corrective, or supportive device including repair and~~  
7 21 ~~replacement parts for the same worn on or in the body to do~~  
7 22 ~~any of the following:~~

7 23 (1) Artificially replace a missing portion of the body.

7 24 (2) Prevent or correct physical deformity or malfunction.

7 25 (3) Support a weak or deformed portion of the body.

7 26 "Prosthetic device" includes, but is not limited to,  
7 27 orthopedic or orthotic devices, ostomy equipment, urological

7 28 ~~equipment, tracheostomy equipment, and intraocular lenses.~~

7 29 ~~f. i. "Ultimate user" means an individual who has~~  
7 30 ~~lawfully obtained and possesses a prescription drug or medical~~  
7 31 ~~device for the individual's own use or for the use of a member~~  
7 32 ~~of the individual's household, or an individual to whom a~~  
7 33 ~~prescription drug or medical device has been lawfully~~  
7 34 ~~supplied, administered, dispensed, or prescribed.~~

7 35 Sec. 10. Section 423.3, Code 2005, is amended by adding  
8 1 the following new subsection:

8 2 NEW SUBSECTION. 69A. The sales price from surcharges paid  
8 3 for E911 service and wireless E911 service pursuant to chapter  
8 4 34A.

8 5 Sec. 11. Section 423.3, subsection 70, Code 2005, is  
8 6 amended to read as follows:

8 7 70. The sales price from the sales, furnishing, or service  
~~8 8 of transportation service except the rental of recreational~~  
~~8 9 vehicles or recreational boats, except the rental of motor~~  
~~8 10 vehicles subject to registration which are registered for a~~  
~~8 11 gross weight of thirteen tons or less for a period of sixty~~  
~~8 12 days or less, and except the rental of aircraft for a period~~  
~~8 13 of sixty days or less of delivery charges. This exemption~~  
8 14 does not apply to the ~~transportation~~ delivery of electric  
8 15 energy or natural gas.

8 16 Sec. 12. Section 423.15, subsection 1, unnumbered  
8 17 paragraph 1, Code 2005, is amended to read as follows:

8 18 Sales, excluding leases or rentals ~~other than leases or~~  
~~8 19 rentals set out in subsection 2,~~ of products shall be sourced  
8 20 as follows:

8 21 Sec. 13. Section 423.43, subsection 3, Code 2005, is  
8 22 amended to read as follows:

8 23 3. All other revenue arising under the operation of ~~this~~  
~~8 24 chapter the use tax under subchapter III~~ shall be credited to  
8 25 the general fund of the state.

8 26 Sec. 14. Section 423B.5, unnumbered paragraph 1, Code  
8 27 2005, is amended to read as follows:

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

10 4 only if the majority of those voting in the total area covered  
10 5 by the contiguous cities favors its imposition.

10 6 Sec. 15. Section 423E.3, subsections 2 and 3, Code 2005,  
10 7 are amended to read as follows:

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

11 5 3. The tax is applicable to transactions within the county  
11 6 where it is imposed and shall be collected by all persons  
11 7 required to collect state sales or local excise taxes.  
11 8 ~~However, a person required to collect state sales tax under~~  
~~11 9 chapter 423 is not required to collect local sales and~~  
~~11 10 services tax on transactions delivered within the area where~~  
~~11 11 the local sales and services tax is imposed unless the person~~  
~~11 12 has physical presence in that taxing area.~~ The amount of the  
11 13 sale, for purposes of determining the amount of the tax, does  
11 14 not include the amount of any state sales taxes or excise  
11 15 taxes or other local option sales or excise taxes. A tax  
11 16 permit other than the state tax permit required under section  
11 17 423.36 shall not be required by local authorities.

11 18 Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.  
11 19 The sections of this division of this Act amending section  
11 20 423.3, subsections 2, 37, and 49, section 423B.5, and section  
11 21 423E.3, being deemed of immediate importance, take effect upon  
11 22 enactment and apply retroactively to July 1, 2004.

#### 11 23 DIVISION II

#### 11 24 EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

11 25 Sec. 17. Section 331.427, subsection 1, unnumbered  
11 26 paragraph 1, Code 2005, is amended to read as follows:

11 27 Except as otherwise provided by state law, county revenues  
11 28 from taxes and other sources for general county services shall  
11 29 be credited to the general fund of the county, including  
11 30 revenues received under sections 9I.11, 101A.3, 101A.7,  
11 31 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7,  
11 32 321I.8, section 331.554, subsection 6, sections 341A.20,  
11 33 364.3, 368.21, ~~423A.2~~ 423A.7, 428A.8, 430A.3, 433.15, 434.19,  
11 34 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6,  
11 35 602.8108, 904.908, and 906.17, and the following:

12 1 Sec. 18. Section 423.2, subsection 1, paragraph a,  
12 2 subparagraph (5), Code 2005, is amended by striking the  
12 3 subparagraph.

12 4 Sec. 19. NEW SECTION. 423A.1 SHORT TITLE.

12 5 This chapter may be cited as the "Hotel and Motel Tax Act".

12 6 Sec. 20. NEW SECTION. 423A.2 DEFINITIONS.

12 7 For the purposes of this chapter, unless the context  
12 8 otherwise requires:

- 12 9 1. "Department" means the department of revenue.
- 12 10 2. "Lessor" means any person engaged in the business of  
12 11 renting lodging to users.
- 12 12 3. "Lodging" means rooms, apartments, or sleeping quarters  
12 13 in a hotel, motel, inn, public lodging house, rooming house,  
12 14 or manufactured or mobile home which is tangible personal

12 15 property, or in a tourist court, or in any place where  
12 16 sleeping accommodations are furnished to transient guests for  
12 17 rent, whether with or without meals.

12 18 4. "Person" means the same as the term is defined in  
12 19 section 423.1.

12 20 5. "Renting" or "rent" means a transfer of possession or  
12 21 control of lodging for a fixed or indeterminate term for  
12 22 consideration and includes any kind of direct or indirect  
12 23 charge for such lodging or its use.

12 24 6. "Sales price" means the consideration for renting of  
12 25 lodging and means the same as the term is defined in section  
12 26 423.1.

12 27 7. "User" means a person to whom lodging is rented.

12 28 All other words and phrases used in this chapter and  
12 29 defined in section 423.1 have the meaning given them by  
12 30 section 423.1 for the purposes of this chapter.

12 31 Sec. 21. NEW SECTION. 423A.3 STATE=IMPOSED HOTEL AND  
12 32 MOTEL TAX.

12 33 A tax of five percent is imposed upon the sales price for  
12 34 the rental of any lodging if the rental occurs in this state.  
12 35 The tax shall be collected by any lessor of lodging from the  
13 1 user of that lodging. The lessor shall add the tax to the  
13 2 sales price of the lodging, and the state=imposed tax, when  
13 3 collected, shall be stated as a distinct item, separate and  
13 4 apart from the sales price of the lodging and the local tax  
13 5 imposed, if any, under section 423A.4.

13 6 Sec. 22. NEW SECTION. 423A.4 LOCALLY IMPOSED HOTEL AND  
13 7 MOTEL TAX.

13 8 A city or county may impose by ordinance of the city  
13 9 council or by resolution of the board of supervisors a hotel  
13 10 and motel tax, at a rate not to exceed seven percent, which  
13 11 shall be imposed in increments of one or more full percentage  
13 12 points upon the sales price from the renting of lodging. The  
13 13 tax when imposed by a city shall apply only within the  
13 14 corporate boundaries of that city and when imposed by a county  
13 15 shall apply only outside incorporated areas within that  
13 16 county.

13 17 Within ten days of the election at which a majority of  
13 18 those voting on the question favors the imposition, repeal, or  
13 19 change in the rate of the hotel and motel tax, the county  
13 20 auditor shall give written notice by sending a copy of the  
13 21 abstract of votes from the favorable election to the director  
13 22 of revenue.

13 23 A local hotel and motel tax shall be imposed on January 1  
13 24 or July 1, following the notification of the director of  
13 25 revenue. Once imposed, the tax shall remain in effect at the  
13 26 rate imposed for a minimum of one year. A local hotel and  
13 27 motel tax shall terminate only on June 30 or December 31. At  
13 28 least forty=five days prior to the tax being effective or  
13 29 prior to a revision in the tax rate, or prior to the repeal of  
13 30 the tax, a city or county shall provide notice by mail of such  
13 31 action to the director of revenue.

13 32 A city or county shall impose or repeal a hotel and motel  
13 33 tax or increase or reduce the tax rate only after an election  
13 34 at which a majority of those voting on the question favors  
13 35 imposition, repeal, or change in rate. However, a hotel and  
14 1 motel tax shall not be repealed or reduced in rate if  
14 2 obligations are outstanding which are payable as provided in  
14 3 section 423A.7, unless funds sufficient to pay the principal,  
14 4 interest, and premium, if any, on the outstanding obligations  
14 5 at and prior to maturity have been properly set aside and  
14 6 pledged for that purpose. The election shall be held at the  
14 7 time of the regular city election or the county's general  
14 8 election or at the time of a special election.

14 9 Sec. 23. NEW SECTION. 423A.5 EXEMPTIONS.

14 10 1. There are exempted from the provisions of this chapter  
14 11 and from the computation of any amount of tax imposed by  
14 12 section 423A.3 all of the following:

14 13 a. The sales price from the renting of lodging which is  
14 14 rented by the same person for a period of more than thirty=one  
14 15 consecutive days.

14 16 b. The sales price from the renting of sleeping rooms in  
14 17 dormitories and in memorial unions at all universities and  
14 18 colleges located in the state of Iowa.

14 19 2. There is exempted from the provisions of this chapter  
14 20 and from the computation of any amount of tax imposed by  
14 21 section 423A.4 all of the following:

14 22 a. The sales price from the renting of lodging or rooms  
14 23 exempt under subsection 1.

14 24 b. The sales price of lodging furnished to the guests of a  
14 25 religious institution if the property is exempt under section

14 26 427.1, subsection 8, and the purpose of renting is to provide  
14 27 a place for a religious retreat or function and not a place  
14 28 for transient guests generally.

14 29 Sec. 24. NEW SECTION. 423A.6 ADMINISTRATION BY DIRECTOR.

14 30 The director of revenue shall administer the state and  
14 31 local hotel and motel tax as nearly as possible in conjunction  
14 32 with the administration of the state sales tax law, except  
14 33 that portion of the law which implements the streamlined sales  
14 34 and use tax agreement. The director shall provide appropriate  
14 35 forms, or provide on the regular state tax forms, for  
15 1 reporting state and local hotel and motel tax liability. All  
15 2 moneys received or refunded one hundred eighty days after the  
15 3 date on which a city or county terminates its local hotel and  
15 4 motel tax and all moneys received from the state hotel and  
15 5 motel tax shall be deposited in or withdrawn from the general  
15 6 fund of the state.

15 7 The director, in consultation with local officials, shall  
15 8 collect and account for a local hotel and motel tax and shall  
15 9 credit all revenues to the local transient guest tax fund  
15 10 created in section 423A.7. Local authorities shall not  
15 11 require any tax permit not required by the director of  
15 12 revenue.

15 13 Section 422.25, subsection 4, sections 422.30, 422.67, and  
15 14 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
15 15 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
15 16 sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35,  
15 17 423.37 to 423.42, and 423.47, consistent with the provisions  
15 18 of this chapter, apply with respect to the taxes authorized  
15 19 under this chapter, in the same manner and with the same  
15 20 effect as if the state and local hotel and motel taxes were  
15 21 retail sales taxes within the meaning of those statutes.  
15 22 Notwithstanding this paragraph, the director shall provide for  
15 23 quarterly filing of returns and for other than quarterly  
15 24 filing of returns both as prescribed in section 423.31. The  
15 25 director may require all persons who are engaged in the  
15 26 business of deriving any sales price subject to tax under this  
15 27 chapter, to register with the department. All taxes collected  
15 28 under this chapter by a retailer or any individual are deemed  
15 29 to be held in trust for the state of Iowa and the local  
15 30 jurisdictions imposing the taxes.

15 31 Sec. 25. NEW SECTION. 423A.7 LOCAL TRANSIENT GUEST TAX  
15 32 FUND.

15 33 1. A local transient guest tax fund is created in the  
15 34 department which shall consist of all moneys credited to such  
15 35 fund under section 423A.6.

16 1 2. All moneys in the local transient guest tax fund shall  
16 2 be remitted at least quarterly by the department, pursuant to  
16 3 rules of the director of revenue, to each city in the amount  
16 4 collected from businesses in that city and to each county in  
16 5 the amount collected from businesses in the unincorporated  
16 6 areas of the county.

16 7 3. Moneys received by the city from this fund shall be  
16 8 credited to the general fund of the city, subject to the  
16 9 provisions of subsection 4.

16 10 4. The revenue derived from any local hotel and motel tax  
16 11 authorized by section 423A.4 shall be used as follows:

16 12 a. Each county or city which levies the tax shall spend at  
16 13 least fifty percent of the revenues derived therefrom for the  
16 14 acquisition of sites for, or constructing, improving,  
16 15 enlarging, equipping, repairing, operating, or maintaining of  
16 16 recreation, convention, cultural, or entertainment facilities  
16 17 including but not limited to memorial buildings, halls and  
16 18 monuments, civic center convention buildings, auditoriums,  
16 19 coliseums, and parking areas or facilities located at those  
16 20 recreation, convention, cultural, or entertainment facilities  
16 21 or the payment of principal and interest, when due, on bonds  
16 22 or other evidence of indebtedness issued by the county or city  
16 23 for those recreation, convention, cultural, or entertainment  
16 24 facilities; or for the promotion and encouragement of tourist  
16 25 and convention business in the city or county and surrounding  
16 26 areas.

16 27 b. The remaining revenues may be spent by the city or  
16 28 county which levies the tax for any city or county operations  
16 29 authorized by law as a proper purpose for the expenditure  
16 30 within statutory limitations of city or county revenues  
16 31 derived from ad valorem taxes.

16 32 c. Any city or county which levies and collects the local  
16 33 hotel and motel tax authorized by section 423A.4 may pledge  
16 34 irrevocably an amount of the revenues derived therefrom for  
16 35 each of the years the bonds remain outstanding to the payment  
17 1 of bonds which the city or county may issue for one or more of

17 2 the purposes set forth in paragraph "a". Any revenue pledged  
17 3 to the payment of such bonds may be credited to the spending  
17 4 requirement of paragraph "a".

17 5 d. The provisions of chapter 384, division III, relating  
17 6 to the issuance of corporate purpose bonds, apply to the  
17 7 issuance by a city of bonds payable as provided in this  
17 8 section and the provisions of chapter 331, division IV, part  
17 9 3, relating to the issuance of county purpose bonds, apply to  
17 10 the issuance by a county of bonds payable as provided in this  
17 11 section. The provisions of chapter 76 apply to the bonds  
17 12 payable as provided in this section except that the mandatory  
17 13 levy to be assessed pursuant to section 76.2 shall be at a  
17 14 rate to generate an amount which together with the receipts  
17 15 from the pledged portion of the local hotel and motel tax is  
17 16 sufficient to pay the interest and principal on the bonds.  
17 17 All amounts collected as a result of the levy assessed  
17 18 pursuant to section 76.2 and paid out in the first instance  
17 19 for bond principal and interest shall be repaid to the city or  
17 20 county which levied the tax from the first available local  
17 21 hotel and motel tax collections received in excess of the  
17 22 requirement for the payment of the principal and interest of  
17 23 the bonds and when repaid shall be applied in reduction of  
17 24 property taxes.

17 25 The amount of bonds which may be issued under section 76.3  
17 26 shall be the amount which could be retired from the actual  
17 27 collections of the local hotel and motel tax for the last four  
17 28 calendar quarters, as certified by the director of revenue.  
17 29 The amount of tax revenues pledged jointly by other cities or  
17 30 counties may be considered for the purpose of determining the  
17 31 amount of bonds which may be issued. If the local hotel and  
17 32 motel tax has been in effect for less than four calendar  
17 33 quarters, the tax collected within the shorter period may be  
17 34 adjusted to project the collections for the full year for the  
17 35 purpose of determining the amount of the bonds which may be  
18 1 issued.

18 2 e. A city or county, jointly with one or more other cities  
18 3 or counties as provided in chapter 28E, may pledge irrevocably  
18 4 any amount derived from the revenues of the local hotel and  
18 5 motel tax to the support or payment of bonds issued for a  
18 6 project within the purposes set forth in paragraph "a" and  
18 7 located within one or more of the participatory cities or  
18 8 counties or may apply the proceeds of its bonds to the support  
18 9 of any such project. Revenue so pledged or applied shall be  
18 10 credited to the spending requirement of paragraph "a".

18 11 f. A city or county acting on behalf of an unincorporated  
18 12 area may, in lieu of calling an election, institute  
18 13 proceedings for the issuance of bonds under this section by  
18 14 causing a notice of the proposal to issue the bonds, including  
18 15 a statement of the amount and purpose of the bonds, together  
18 16 with the maximum rate of interest which the bonds are to bear,  
18 17 and the right to petition for an election, to be published at  
18 18 least once in a newspaper of general circulation within the  
18 19 city or unincorporated area at least ten days prior to the  
18 20 meeting at which it is proposed to take action for the  
18 21 issuance of the bonds.

18 22 If at any time before the date fixed for taking action for  
18 23 the issuance of the bonds a petition signed by eligible  
18 24 electors residing in the city or the unincorporated area equal  
18 25 in number to at least three percent of the registered voters  
18 26 of the city or unincorporated area is filed, asking that the  
18 27 question of issuing the bonds be submitted to the registered  
18 28 voters of the city or unincorporated area, the council or  
18 29 board of supervisors acting on behalf of an unincorporated  
18 30 area shall either by resolution declare the proposal to issue  
18 31 the bonds to have been abandoned or shall direct the county  
18 32 commissioner of elections to call a special election upon the  
18 33 question of issuing the bonds.

18 34 The proposition of issuing bonds under this section is not  
18 35 approved unless the vote in favor of the proposition is equal  
19 1 to a majority of the vote cast.

19 2 If no petition is filed, or if a petition is filed and the  
19 3 proposition of issuing the bonds is approved at an election,  
19 4 the council or board of supervisors acting on behalf of an  
19 5 unincorporated area may proceed with the authorization and  
19 6 issuance of the bonds.

19 7 Bonds may be issued for the purpose of refunding  
19 8 outstanding and previously issued bonds under this section  
19 9 without otherwise complying with this paragraph.

19 10 Sec. 26. Section 423B.5, unnumbered paragraph 1, Code  
19 11 2005, is amended to read as follows:

19 12 A local sales and services tax at the rate of not more than



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

20 25 Sec. 27. Section 423E.3, subsection 2, Code 2005, is  
20 26 amended to read as follows:

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

21 24 Sec. 28. Chapter 423A, Code 2005, is repealed.  
21 25 Sec. 29. TRANSITION. A hotel and motel tax imposed by a  
21 26 city or county under chapter 423A prior to the effective date  
21 27 of this division of this Act shall continue to be imposed and  
21 28 shall be considered a locally imposed hotel and motel tax  
21 29 under chapter 423A, as enacted by this division of this Act.

21 30 DIVISION III

21 31 SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

21 32 Sec. 30. Section 423.3, Code 2005, is amended by adding  
21 33 the following new subsection:

21 34 NEW SUBSECTION. 85. The sales price from the sale of the  
21 35 following items: self-propelled building equipment, pile  
22 1 drivers, motorized scaffolding, or attachments customarily  
22 2 drawn or attached to self-propelled building equipment, pile  
22 3 drivers, and motorized scaffolding, including auxiliary  
22 4 attachments which improve the performance, safety, operation,  
22 5 or efficiency of the equipment, and replacement parts and are  
22 6 directly and primarily used by contractors, subcontractors,  
22 7 and builders for new construction, reconstruction,  
22 8 alterations, expansion, or remodeling of real property or  
22 9 structures.

22 10 Sec. 31. Section 423B.5, unnumbered paragraph 1, Code  
22 11 2005, is amended to read as follows:

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

23 25 Sec. 32. Section 423E.3, subsection 2, Code 2005, is  
23 26 amended to read as follows:

23 27 2. The tax shall be imposed on the same basis as the state  
23 28 sales and services tax or in the case of the use of natural  
23 29 gas, natural gas service, electricity, or electric service on  
23 30 the same basis as the state use tax and shall not be imposed  
23 31 on the sale of any property or on any service not taxed by the  
23 32 state, except the tax shall not be imposed on the sales price  
23 33 from the sale of motor fuel or special fuel as defined in  
23 34 chapter 452A which is consumed for highway use or in

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

24 24 Sec. 33. NEW SECTION. 423D.1 DEFINITIONS.

24 25 For the purposes of this chapter, unless the context  
24 26 otherwise requires:

24 27 1. "Construction" means new construction, reconstruction,  
24 28 alterations, expansion, or remodeling of real property or  
24 29 structures.

24 30 2. "Contractor" includes contractors, subcontractors, and  
24 31 builders, but not owners.

24 32 3. "Department" means the department of revenue.

24 33 4. "Equipment" means self-propelled building equipment,  
24 34 pile drivers, and motorized scaffolding, including auxiliary  
24 35 attachments which improve the performance, safety, operation,  
25 1 or efficiency of the equipment, and replacement parts and are  
25 2 directly and primarily used by contractors, subcontractors,  
25 3 and builders for new construction, reconstruction,  
25 4 alterations, expansion, or remodeling of real property or  
25 5 structures.

25 6 5. "Sales price" or "purchase price" means the same as the  
25 7 term is defined in section 423.1.

25 8 All other words and phrases used in this chapter and  
25 9 defined in section 423.1 have the meaning given them by  
25 10 section 423.1 for the purposes of this chapter.

25 11 Sec. 34. NEW SECTION. 423D.2 TAX IMPOSED.

25 12 A tax of five percent is imposed on the sales price or  
25 13 purchase price of all equipment sold or used in the state of  
25 14 Iowa. This tax shall be collected and paid over to the  
25 15 department by any retailer, retailer maintaining a place of  
25 16 business in this state, or user who would be responsible for  
25 17 collection and payment of the tax if it were a sales or use  
25 18 tax imposed under chapter 423.

25 19 Sec. 35. NEW SECTION. 423D.3 EXEMPTION.

25 20 The sales price on the lease or rental of equipment to  
25 21 contractors for direct and primary use in construction is  
25 22 exempt from the tax imposed by this chapter.

25 23 Sec. 36. NEW SECTION. 423D.4 ADMINISTRATION BY DIRECTOR.

25 24 The director of revenue shall administer the excise tax on  
25 25 the sale and use of equipment as nearly as possible in  
25 26 conjunction with the administration of the state sales and use  
25 27 tax law, except that portion of the law which implements the  
25 28 streamlined sales and use tax agreement. The director shall  
25 29 provide appropriate forms, or provide on the regular state tax  
25 30 forms, for reporting the sale and use of equipment excise tax  
25 31 liability. All moneys received and all refunds shall be  
25 32 deposited in or withdrawn from the general fund of the state.

25 33 The director may require all persons who are engaged in the  
25 34 business of deriving any sales price or purchase price subject  
25 35 to tax under this chapter to register with the department.

26 1 The director may also require a tax permit applicable only to  
26 2 this chapter for any retailer not collecting, or any user not  
26 3 paying, taxes under chapter 423.

26 4 Section 422.25, subsection 4, sections 422.30, 422.67, and  
26 5 422.68, section 422.69, subsection 1, sections 422.70, 422.71,  
26 6 422.72, 422.74, and 422.75, section 423.14, subsection 1, and  
26 7 sections 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to  
26 8 423.42, and 423.47, consistent with the provisions of this  
26 9 chapter, apply with respect to the tax authorized under this  
26 10 chapter, in the same manner and with the same effect as if the

26 11 excise taxes on equipment sales or use were retail sales taxes  
26 12 within the meaning of those statutes. Notwithstanding this  
26 13 paragraph, the director shall provide for quarterly filing of  
26 14 returns and for other than quarterly filing of returns both as  
26 15 prescribed in section 423.31. All taxes collected under this  
26 16 chapter by a retailer or any user are deemed to be held in  
26 17 trust for the state of Iowa.

26 18 DIVISION IV

26 19 TAX POLICY AND ADMINISTRATION

26 20 Sec. 37. Section 422.9, subsection 1, Code 2005, is  
26 21 amended to read as follows:

26 22 1. An optional standard deduction, after deduction of  
26 23 federal income tax, equal to one thousand two hundred thirty  
26 24 dollars for a married person who files separately or a single  
26 25 person or equal to three thousand thirty dollars for a husband  
26 26 and wife who file a joint return, a surviving spouse, or an  
26 27 unmarried head of household. The optional standard deduction  
26 28 shall not exceed the amount remaining after deduction of the  
26 29 federal income tax. The amount of federal income tax deducted  
26 30 shall be computed as provided in subsection 2, paragraph "b".

26 31 Sec. 38. Section 422.9, subsection 2, paragraph b, Code  
26 32 2005, is amended to read as follows:

26 33 b. Add the amount of federal income taxes paid or accrued,  
26 34 as the case may be, during the tax year, ~~adjusted by and~~  
26 35 ~~subtract~~ any federal income tax refunds received during the  
27 1 tax year. Provided, however, that where ~~Where~~ married  
27 2 persons, who have filed a joint federal income tax return,  
27 3 file separately, such total shall be divided between them  
27 4 according to the portion ~~thereof of the total~~ paid or accrued,  
27 5 as the case may be, by each. Federal income taxes paid for a  
27 6 tax year in which an Iowa return was not required to be filed  
27 7 shall not be added and federal income tax refunds received  
27 8 from a tax year in which an Iowa return was not required to be  
27 9 filed shall not be subtracted.

27 10 Sec. 39. Section 422.9, subsection 2, paragraphs g and h,  
27 11 Code 2005, are amended by striking the paragraphs.

27 12 Sec. 40. Section 422.16, subsection 2, unnumbered  
27 13 paragraph 1, Code 2005, is amended to read as follows:

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

28 22 following the close of the quarterly period on forms  
28 23 prescribed by the director.

28 24 Sec. 41. Section 422.35, subsection 15, Code 2005, is  
28 25 amended by striking the subsection.

28 26 Sec. 42. Section 423.1, subsection 50, Code 2005, is  
28 27 amended to read as follows:

28 28 50. "Services" means all acts or services rendered,  
28 29 furnished, or performed, other than services used in  
28 30 processing of tangible personal property for use in retail  
28 31 sales or services, for an employer, ~~as defined in section~~  
~~28 32 422.4, subsection 3, who pays the wages of an employee~~ for a  
28 33 valuable consideration by any person engaged in any business  
28 34 or occupation specifically enumerated in section 423.2. The  
28 35 tax shall be due and collectible when the service is rendered,  
29 1 furnished, or performed for the ultimate user of the service.

29 2 Sec. 43. Section 423.2, Code 2005, is amended by adding  
29 3 the following new subsection:

29 4 NEW SUBSECTION. 9A. Any person or that person's  
29 5 affiliate, which is a retailer in this state or a retailer  
29 6 maintaining a business in this state under this chapter, that  
29 7 enters into a contract with an agency of this state must  
29 8 register, collect, and remit Iowa sales tax under this chapter  
29 9 on all sales of tangible personal property and enumerated  
29 10 services. Every bid submitted and each contract executed by a  
29 11 state agency shall contain a certification by the bidder or  
29 12 contractor stating that the bidder or contractor is registered  
29 13 with the department and will collect and remit Iowa sales tax  
29 14 due under this chapter. In the certification, the bidder or  
29 15 contractor shall also acknowledge that the state agency may  
29 16 declare the contract or bid void if the certification is  
29 17 false. Fraudulent certification, by act or omission, may  
29 18 result in the state agency or its representative filing for  
29 19 damages for breach of contract.

29 20 For the purposes of this subsection, the following  
29 21 definitions apply:

29 22 a. "Affiliate" means any entity to which any of the  
29 23 following applies:

29 24 (1) Directly, indirectly, or constructively controls  
29 25 another entity.

29 26 (2) Is directly, indirectly, or constructively controlled  
29 27 by another entity.

29 28 (3) Is subject to the control of a common entity. A  
29 29 common entity is one which owns directly or individually more  
29 30 than ten percent of the voting securities of the entity.

29 31 b. "State agency" means an authority, board, commission,  
29 32 department, instrumentality, or other administrative office or  
29 33 unit of this state, or any other state entity reported in the  
29 34 Iowa comprehensive annual financial report, including public  
29 35 institutions of higher education.

30 1 c. "Voting security" means a security to which any of the  
30 2 following applies:

30 3 (1) Confers upon the holder the right to vote for the  
30 4 election of members of the board of directors or similar  
30 5 governing body of the entity.

30 6 (2) Is convertible into, or entitles the holder to receive  
30 7 upon its exercise, a security that confers such a right to  
30 8 vote.

30 9 (3) Is a general partnership interest.

30 10 Sec. 44. Section 423.3, subsection 5, Code 2005, is  
30 11 amended to read as follows:

30 12 5. a. The sales price of agricultural limestone,  
30 13 herbicide, pesticide, insecticide, including adjuvants,  
30 14 surfactants, and other products directly related to the  
30 15 application enhancement of those products, food, medication,  
30 16 or agricultural drain tile, including installation of  
30 17 agricultural drain tile, any of which are to be used in  
30 18 disease control, weed control, insect control, or health  
30 19 promotion of plants or livestock produced as part of  
30 20 agricultural production for market.

30 21 b. The following enumerated materials associated with the  
30 22 installation of agricultural drain tile which is exempt

30 23 pursuant to paragraph "a" shall also be exempt under paragraph

30 24 "a":

30 25 (1) Tile intakes.

30 26 (2) Outlet pipes and guards.

30 27 (3) Aluminum and gabion structures.

30 28 (4) Erosion control fabric.

30 29 (5) Water control structures.

30 30 (6) Miscellaneous tile fittings.

30 31 Sec. 45. Section 423.3, subsection 39, Code 2005, is  
30 32 amended by adding the following new unnumbered paragraph:

30 33 NEW UNNUMBERED PARAGRAPH. The exemption under this  
30 34 subsection does not apply to vehicles subject to registration,  
30 35 aircraft, or commercial or pleasure watercraft or water  
31 1 vessels.

31 2 Sec. 46. Section 423.3, Code 2005, is amended by adding  
31 3 the following new subsection:

31 4 NEW SUBSECTION. 85. The sales price from services  
31 5 performed on a vessel if all of the following apply:

31 6 a. The vessel is a licensed vessel under the laws of the  
31 7 United States coast guard.

31 8 b. The vessel is not moored or tied to a physical location  
31 9 in this state.

31 10 c. The service is used to repair or restore a defect in  
31 11 the vessel.

31 12 d. The vessel is engaged in interstate commerce and will  
31 13 continue in interstate commerce once the repairs or  
31 14 restoration is completed.

31 15 e. The vessel is in navigable water that borders the  
31 16 eastern boundary of this state.

31 17 Sec. 47. Section 423.5, Code 2005, is amended by adding  
31 18 the following new subsection:

31 19 NEW SUBSECTION. 8. Any person or that person's affiliate,  
31 20 which is a retailer in this state or a retailer maintaining a  
31 21 business in this state under this chapter, that enters into a  
31 22 contract with an agency of this state must register, collect,  
31 23 and remit Iowa use tax under this chapter on all sales of  
31 24 tangible personal property and enumerated services. Every bid  
31 25 submitted and each contract executed by a state agency shall  
31 26 contain a certification by the bidder or contractor stating  
31 27 that the bidder or contractor is registered with the  
31 28 department and will collect and remit Iowa use tax due under  
31 29 this chapter. In the certification, the bidder or contractor  
31 30 shall also acknowledge that the state agency may declare the  
31 31 contract or bid void if the certification is false.  
31 32 Fraudulent certification, by act or omission, may result in  
31 33 the state agency or its representative filing for damages for  
31 34 breach of contract.

31 35 For the purposes of this subsection, "affiliate", "state  
32 1 agency", and "voting security" mean the same as defined in  
32 2 section 423.2, subsection 9A.

32 3 Sec. 48. Section 423A.1, unnumbered paragraph 3, Code  
32 4 2005, is amended to read as follows:

32 5 A local hotel and motel tax shall be imposed on January 17-  
~~32 6 April 1, or July 1, or October 1,~~ following the notification  
32 7 of the director of revenue. Once imposed, the tax shall  
32 8 remain in effect at the rate imposed for a minimum of one  
32 9 year. A local hotel and motel tax shall terminate only on  
32 10 ~~March 31, June 30, September 30,~~ or December 31. At least  
32 11 sixty days prior to the tax being effective or prior to a  
32 12 revision in the tax rate, or prior to the repeal of the tax, a  
32 13 city or county shall provide notice by mail of such action to  
32 14 the director of revenue.

32 15 Sec. 49. Section 423E.4, subsection 3, paragraph a, Code  
32 16 2005, is amended to read as follows:

32 17 a. The director of revenue by ~~June 1 preceding~~ August 15  
~~32 18 of each fiscal year~~ shall compute the guaranteed school  
32 19 infrastructure amount for each school district, each school  
32 20 district's sales tax capacity per student for each county, and  
32 21 the supplemental school infrastructure amount for the coming  
32 22 fiscal year.

32 23 Sec. 50. Section 424.7, Code 2005, is amended by adding  
32 24 the following new subsection:

32 25 NEW SUBSECTION. 5. The director may require by rule that  
32 26 reports and returns be filed by electronic transmission.

32 27 Sec. 51. Section 424.10, subsection 3, Code 2005, is  
32 28 amended to read as follows:

32 29 3. If the amount paid is greater than the correct charge,  
32 30 penalty, and interest due, the department shall refund the  
32 31 excess, with interest ~~after sixty days from the date of~~  
~~32 32 payment at the rate in effect under section 421.7,~~ pursuant to  
32 33 rules prescribed by the director. However, the director shall  
32 34 not allow a claim for refund that has not been filed with the  
32 35 department within three years after the charge payment upon  
33 1 which a refund is claimed became due, or one year after the  
33 2 charge payment was made, whichever time is later. A  
33 3 determination by the department of the amount of charge,  
33 4 penalty, and interest due, or the amount of refund for any  
33 5 excess amount paid, is final unless the person aggrieved by  
33 6 the determination appeals to the director for a revision of  
33 7 the determination within sixty days from the date of the  
33 8 notice of determination of charge, penalty, and interest due

33 9 or refund owing. The director shall grant a hearing, and upon  
33 10 hearing the director shall determine the correct charge,  
33 11 penalty, and interest due or refund owing, and notify the  
33 12 appellant of the decision by mail. The decision of the  
33 13 director is final unless the appellant seeks judicial review  
33 14 of the director's decision under section 424.13.

33 15 Sec. 52. Section 425.1, subsection 4, Code 2005, is  
33 16 amended to read as follows:

33 17 4. Annually the department of revenue shall ~~estimate the~~  
~~33 18 credit not to exceed the actual levy on the first four~~  
~~33 19 thousand eight hundred fifty dollars of actual value of each~~  
~~33 20 eligible homestead, and shall certify to the county auditor of~~  
33 21 each county the credit and its amount in dollars. Each county  
33 22 auditor shall then enter the credit against the tax levied on  
33 23 each eligible homestead in each county payable during the  
33 24 ensuing year, designating on the tax lists the credit as being  
33 25 from the homestead credit fund, and credit shall then be given  
33 26 to the several taxing districts in which eligible homesteads  
33 27 are located in an amount equal to the credits allowed on the  
33 28 taxes of the homesteads. The amount of credits shall be  
33 29 apportioned by each county treasurer to the several taxing  
33 30 districts as provided by law, in the same manner as though the  
33 31 amount of the credit had been paid by the owners of the  
33 32 homesteads. However, the several taxing districts shall not  
33 33 draw the funds so credited until after the semiannual  
33 34 allocations have been received by the county treasurer, as  
33 35 provided in this chapter. Each county treasurer shall show on  
34 1 each tax receipt the amount of credit received from the  
34 2 homestead credit fund.

34 3 Sec. 53. NEW SECTION. 427.3 ABATEMENT OF TAXES OF  
34 4 CERTAIN EXEMPT ENTITIES.

34 5 The board of supervisors may abate the taxes levied against  
34 6 property acquired by gift by a person or entity if the  
34 7 property acquired by gift was transferred to the person or  
34 8 entity after the deadline for filing for property tax  
34 9 exemption in the year in which the property was transferred  
34 10 and the property acquired by gift would have been exempt under  
34 11 section 427.1, subsection 7, 8, or 9, if the person or entity  
34 12 had been able to file for exemption in a timely manner.

34 13 Sec. 54. Section 441.6, unnumbered paragraph 2, Code 2005,  
34 14 is amended to read as follows:

34 15 Upon receipt of the report of the examining board, the  
34 16 chairperson of the conference board shall by written notice  
34 17 call a meeting of the conference board to appoint an assessor.  
34 18 The meeting shall be held not later than seven days after the  
34 19 receipt of the report of the examining board by the conference  
34 20 board. ~~The physical condition, general reputation of the~~  
~~34 21 applicants, and their fitness for the position as determined~~  
~~34 22 by the examining board shall be taken into consideration in~~  
~~34 23 making the appointment.~~ At the meeting, the conference board  
34 24 shall appoint an assessor from the register of eligible  
34 25 candidates. However, if a special examination has not been  
34 26 conducted previously for the same vacancy, the conference  
34 27 board may request the director of revenue to hold a special  
34 28 examination pursuant to section 441.7. The chairperson of the  
34 29 conference board shall give written notice to the director of  
34 30 revenue of the appointment and its effective date within ten  
34 31 days of the decision of the board.

34 32 Sec. 55. Section 441.8, unnumbered paragraph 1, Code 2005,  
34 33 is amended to read as follows:

34 34 The term of office of an assessor appointed under this  
34 35 chapter shall be for six years. Appointments for each  
35 1 succeeding term shall be made in the same manner as the  
35 2 original appointment except that not less than ninety days  
35 3 before the expiration of the term of the assessor the  
35 4 conference board shall hold a meeting to determine whether or  
35 5 not it desires to reappoint the incumbent assessor to a new  
35 6 term. If the decision is made not to reappoint the assessor,  
35 7 the assessor shall be notified, in writing, of such decision  
35 8 not less than ninety days prior to the expiration of the  
35 9 assessor's term of office. Failure of the conference board to  
35 10 provide timely notification of the decision not to reappoint  
35 11 the assessor shall result in the assessor being reappointed.

35 12 Sec. 56. Section 441.8, unnumbered paragraphs 6 and 7,  
35 13 Code 2005, are amended to read as follows:

35 14 Upon receiving credit equal to one hundred fifty hours of  
35 15 classroom instruction during the assessor's current term of  
35 16 office of which at least ninety of the one hundred fifty hours  
35 17 are from courses requiring an examination upon conclusion of  
35 18 the course, the director of revenue shall certify to the  
35 19 assessor's conference board that the assessor is eligible to

35 20 be reappointed to the position. For persons appointed to  
35 21 complete an unexpired term, the number of credits required to  
35 22 be certified as eligible for reappointment shall be prorated  
35 23 according to the amount of time remaining in the present term  
35 24 of the assessor. If the person was an assessor in another  
35 25 jurisdiction, the assessor may carry forward any credit hours  
35 26 received in the previous position in excess of the number that  
35 27 would be necessary to be considered current in that position.  
35 28 Upon written request by the person seeking a waiver of the  
35 29 continuing education requirements, the director may waive the  
35 30 continuing education requirements if the director determines  
35 31 good cause exists for the waiver.

35 32 Within each six-year period following the appointment of a  
35 33 deputy assessor, the deputy assessor shall comply with this  
35 34 section except that upon the successful completion of ninety  
35 35 hours of classroom instruction of which at least sixty of the  
36 1 ninety hours are from courses requiring an examination upon  
36 2 conclusion of the course, the deputy assessor shall be  
36 3 certified by the director of revenue as being eligible to  
36 4 remain in the position. If a deputy assessor fails to comply  
36 5 with this section, the deputy assessor shall be removed from  
36 6 the position until successful completion of the required hours  
36 7 of credit. If a deputy is appointed to the office of  
36 8 assessor, the hours of credit obtained as deputy pursuant to  
36 9 this section shall be credited to that individual as assessor  
36 10 and for the individual to be reappointed at the expiration of  
36 11 the term as assessor, that individual must obtain the credits  
36 12 which are necessary to total the number of hours for  
36 13 reappointment. Upon written request by the person seeking a  
36 14 waiver of the continuing education requirements, the director  
36 15 may waive the continuing education requirements if the  
36 16 director determines good cause exists for the waiver.

36 17 Sec. 57. Section 441.37, subsection 1, Code 2005, is  
36 18 amended by adding the following new unnumbered paragraph:  
36 19 NEW UNNUMBERED PARAGRAPH. The property owner or aggrieved  
36 20 taxpayer may combine on one form protests of assessment on  
36 21 parcels separately assessed if the same grounds are relied  
36 22 upon as the basis for protesting each separate assessment. If  
36 23 an oral hearing is requested on more than one of such  
36 24 protests, the person making the combined protests may request  
36 25 that the oral hearings be held consecutively.

36 26 Sec. 58. Section 441.37, subsection 3, Code 2005, is  
36 27 amended to read as follows:

36 28 3. After the board of review has considered any protest  
36 29 filed by a property owner or aggrieved taxpayer and made final  
36 30 disposition of the protest, the board shall give written  
36 31 notice to the property owner or aggrieved taxpayer who filed  
36 32 the protest of the action taken by the board of review on the  
36 33 protest. The written notice to the property owner or  
36 34 aggrieved taxpayer shall also specify the reasons for the  
36 35 action taken by the board of review on the protest. If  
37 1 protests of assessment on multiple parcels separately assessed  
37 2 were combined, the written notice shall state the action  
37 3 taken, and the reasons for the action, for each assessment  
37 4 protested.

37 5 Sec. 59. Section 441.38, subsection 2, Code 2005, is  
37 6 amended to read as follows:

37 7 2. Notice of appeal shall be served as an original notice  
37 8 on the chairperson, presiding officer, or clerk of the board  
37 9 of review after the filing of notice under subsection 1 with  
37 10 the clerk of district court within twenty days after its  
37 11 adjournment or May 31, whichever is later.

37 12 Sec. 60. Section 452A.2, subsection 19, unnumbered  
37 13 paragraph 2, Code 2005, is amended to read as follows:

37 14 "Motor fuel" does not include special fuel, and does not  
37 15 include liquefied gases which would not exist as liquids at a  
37 16 temperature of sixty degrees Fahrenheit and a pressure of  
37 17 fourteen and seven-tenths pounds per square inch absolute, or  
37 18 naphthas and solvents unless the liquefied gases or naphthas  
37 19 and solvents are used as a component in the manufacture,  
37 20 compounding, or blending of a liquid within paragraph "b", in  
37 21 which event the resulting product shall be deemed to be motor  
37 22 fuel. "Motor fuel" does not include methanol unless blended  
37 23 with other motor fuels for use in an aircraft or for  
37 24 propelling motor vehicles.

37 25 Sec. 61. Section 452A.2, subsection 25, Code 2005, is  
37 26 amended to read as follows:

37 27 25. "Special fuel" means fuel oils and all combustible  
37 28 gases and liquids suitable for the generation of power for  
37 29 propulsion of motor vehicles or turbine-powered aircraft, and  
37 30 includes any substance used for that purpose, except that it



37 31 does not include motor fuel. Kerosene shall not be considered  
37 32 to be a special fuel, unless blended with other special fuels  
37 33 for use in a motor vehicle with a diesel engine. Methanol  
37 34 shall not be considered to be a special fuel unless blended  
37 35 with other special fuels for use in a motor vehicle with a  
38 1 diesel engine.

38 2 Sec. 62. Section 452A.8, subsection 2, paragraph e,  
38 3 unnumbered paragraph 2, Code 2005, is amended to read as  
38 4 follows:

38 5 The department shall adopt rules governing the dispensing  
38 6 of compressed natural gas and liquefied petroleum gas by  
38 7 licensed dealers and licensed users. The director may require  
38 8 by rule that reports and returns be filed by electronic

38 9 transmission. For purposes of this paragraph, "dealer" and  
38 10 "user" mean a licensed compressed natural gas or liquefied  
38 11 petroleum gas dealer or user and "fuel" means compressed  
38 12 natural gas or liquefied petroleum gas. The department shall  
38 13 require that all pumps located at dealer locations and user  
38 14 locations through which liquefied petroleum gas can be  
38 15 dispensed shall be metered, inspected, tested for accuracy,  
38 16 and sealed and licensed by the state department of agriculture  
38 17 and land stewardship, and that fuel delivered into the fuel  
38 18 supply tank of any motor vehicle shall be dispensed only  
38 19 through tested metered pumps and may be sold without  
38 20 temperature correction or corrected to a temperature of sixty  
38 21 degrees. If the metered gallonage is to be  
38 22 temperature-corrected, only a temperature-compensated meter  
38 23 shall be used. Natural gas used as fuel shall be delivered  
38 24 into compressing equipment through sealed meters certified for  
38 25 accuracy by the department of agriculture and land  
38 26 stewardship.

38 27 Sec. 63. Section 452A.8, subsections 3 and 4, Code 2005,  
38 28 are amended to read as follows:

38 29 3. For the purpose of determining the amount of the tax  
38 30 liability on alcohol blended to produce ethanol blended  
38 31 gasoline or a blend of special fuel products, each licensed  
38 32 blender shall, not later than the last day of each month  
38 33 following the month in which the blending is done, file with  
38 34 the department a monthly return, signed under penalty for  
38 35 false certificate, containing information required by rules  
39 1 adopted by the director. The director may require by rule  
39 2 that reports and returns be filed by electronic transmission.

39 3 4. A person who possesses fuel or uses fuel in a motor  
39 4 vehicle upon which no tax has been paid by a licensee in this  
39 5 state is subject to reporting and paying the applicable tax.  
39 6 The director may require by rule that reports and returns be  
39 7 filed by electronic transmission.

39 8 Sec. 64. Section 452A.10, Code 2005, is amended to read as  
39 9 follows:

39 10 452A.10 REQUIRED RECORDS.

39 11 A motor fuel or special fuel supplier, restrictive  
39 12 supplier, importer, exporter, blender, dealer, user, common  
39 13 carrier, contract carrier, ~~or~~ terminal, or nonterminal storage  
39 14 facility shall maintain, for a period of three years, records  
39 15 of all transactions by which the supplier, restrictive  
39 16 supplier, or importer withdraws from a terminal or nonterminal  
39 17 storage facility within this state or imports into this state  
39 18 motor fuel or undyed special fuel together with invoices,  
39 19 bills of lading, and other pertinent records and papers as  
39 20 required by the department.

39 21 If in the normal conduct of a supplier's, restrictive  
39 22 supplier's, importer's, exporter's, blender's, dealer's,  
39 23 user's, common carrier's, contract carrier's, ~~or~~ terminal's,  
39 24 or nonterminal storage facility's business the records are  
39 25 maintained and kept at an office outside this state, the  
39 26 records shall be made available for audit and examination by  
39 27 the department at the office outside this state, but the audit  
39 28 and examination shall be without expense to this state.

39 29 Each distributor handling motor fuel or special fuel in  
39 30 this state shall maintain for a period of three years records  
39 31 of all motor fuel or undyed special fuel purchased or  
39 32 otherwise acquired by the distributor, together with delivery  
39 33 tickets, invoices, and bills of lading, and any other records  
39 34 required by the department.

39 35 The department, after an audit and examination of records  
40 1 required to be maintained under this section, may authorize  
40 2 their disposal upon the written request of the supplier,  
40 3 restrictive supplier, importer, exporter, blender, dealer,  
40 4 user, carrier, terminal, nonterminal storage facility, or  
40 5 distributor.

40 6 Sec. 65. Section 452A.62, subsection 1, paragraph a, Code

40 7 2005, is amended to read as follows:

40 8 a. A distributor, supplier, restrictive supplier,  
40 9 importer, exporter, blender, terminal operator, nonterminal  
40 10 storage facility, common carrier, or contract carrier,  
40 11 pertaining to motor fuel or undyed special fuel withdrawn from  
40 12 a terminal or nonterminal storage facility, or brought into  
40 13 this state.

40 14 Sec. 66. Section 452A.62, subsection 2, unnumbered  
40 15 paragraph 1, Code 2005, is amended to read as follows:

40 16 To examine the records, books, papers, receipts, and  
40 17 invoices of any distributor, supplier, restrictive supplier,  
40 18 importer, blender, exporter, terminal operator, nonterminal  
40 19 storage facility, licensed compressed natural gas or liquefied  
40 20 petroleum gas dealer or user, or any other person who  
40 21 possesses fuel upon which the tax has not been paid to  
40 22 determine financial responsibility for the payment of the  
40 23 taxes imposed by this chapter.

40 24 Sec. 67. Section 452A.85, Code 2005, is amended by adding  
40 25 the following new subsection:

40 26 NEW SUBSECTION. 4. This section does not apply to an  
40 27 increase in the tax rate of a specified fuel, except for  
40 28 compressed natural gas, unless the increase in the tax rate of  
40 29 that fuel is in excess of one-half cent per gallon.

40 30 Sec. 68. NEW SECTION. 602.6703 DECLARATORY JUDGMENT TO  
40 31 ADJUDICATE CONSTITUTIONAL NEXUS ISSUES REGARDING TAXATION.

40 32 1. District courts have original jurisdiction over civil  
40 33 actions seeking declaratory judgment when both of the  
40 34 following apply:

40 35 a. The party seeking declaratory relief is a business that  
41 1 is any of the following:

- 41 2 (1) Organized under the laws of this state.
- 41 3 (2) A sole proprietorship owned by a domiciliary of this  
41 4 state.
- 41 5 (3) Authorized to do business in this state.

41 6 b. The responding party is a government official of  
41 7 another state, or political subdivision of another state, who  
41 8 asserts that the business in question is obliged to collect  
41 9 sales or use taxes for such state or political subdivision  
41 10 based upon conduct of the business that occurs wholly or  
41 11 partially within that state or political subdivision.

41 12 2. A business meeting the requirements and facing the  
41 13 circumstances described in subsection 1 shall be entitled to  
41 14 declaratory relief on the issue of whether the requirement of  
41 15 another state, or political subdivision of another state, that  
41 16 the business collect and remit sales or use taxes to that  
41 17 state, or political subdivision, in the factual circumstances  
41 18 of the business' operations giving rise to the demand,  
41 19 constitutes an undue burden on interstate commerce within the  
41 20 meaning of the Constitution of the United States.

41 21 Sec. 69. Section 708.3A, subsections 1 through 4, Code  
41 22 2005, are amended to read as follows:

41 23 1. A person who commits an assault, as defined in section  
41 24 708.1, against a peace officer, jailer, correctional staff,  
41 25 member or employee of the board of parole, health care  
41 26 provider, employee of the department of human services,  
41 27 employee of the department of revenue, or fire fighter,  
41 28 whether paid or volunteer, with the knowledge that the person  
41 29 against whom the assault is committed is a peace officer,  
41 30 jailer, correctional staff, member or employee of the board of  
41 31 parole, health care provider, employee of the department of  
41 32 human services, employee of the department of revenue, or fire  
41 33 fighter and with the intent to inflict a serious injury upon  
41 34 the peace officer, jailer, correctional staff, member or  
41 35 employee of the board of parole, health care provider,  
42 1 employee of the department of human services, employee of the  
42 2 department of revenue, or fire fighter, is guilty of a class  
42 3 "D" felony.

42 4 2. A person who commits an assault, as defined in section  
42 5 708.1, against a peace officer, jailer, correctional staff,  
42 6 member or employee of the board of parole, health care  
42 7 provider, employee of the department of human services,  
42 8 employee of the department of revenue, or fire fighter,  
42 9 whether paid or volunteer, who knows that the person against  
42 10 whom the assault is committed is a peace officer, jailer,  
42 11 correctional staff, member or employee of the board of parole,  
42 12 health care provider, employee of the department of human  
42 13 services, employee of the department of revenue, or fire  
42 14 fighter and who uses or displays a dangerous weapon in  
42 15 connection with the assault, is guilty of a class "D" felony.

42 16 3. A person who commits an assault, as defined in section  
42 17 708.1, against a peace officer, jailer, correctional staff,

42 18 member or employee of the board of parole, health care  
42 19 provider, employee of the department of human services,  
42 20 employee of the department of revenue, or fire fighter,  
42 21 whether paid or volunteer, who knows that the person against  
42 22 whom the assault is committed is a peace officer, jailer,  
42 23 correctional staff, member or employee of the board of parole,  
42 24 health care provider, employee of the department of human  
42 25 services, employee of the department of revenue, or fire  
42 26 fighter, and who causes bodily injury or mental illness, is  
42 27 guilty of an aggravated misdemeanor.

42 28 4. Any other assault, as defined in section 708.1,  
42 29 committed against a peace officer, jailer, correctional staff,  
42 30 member or employee of the board of parole, health care  
42 31 provider, employee of the department of human services,  
42 32 employee of the department of revenue, or fire fighter,  
42 33 whether paid or volunteer, by a person who knows that the  
42 34 person against whom the assault is committed is a peace  
42 35 officer, jailer, correctional staff, member or employee of the  
43 1 board of parole, health care provider, employee of the  
43 2 department of human services, employee of the department of  
43 3 revenue, or fire fighter, is a serious misdemeanor.

43 4 Sec. 70. Section 708.3A, Code 2005, is amended by adding  
43 5 the following new subsection:

43 6 NEW SUBSECTION. 9. As used in this section, "employee of  
43 7 the department of revenue" means a person who is employed as  
43 8 an auditor, agent, tax collector, or any contractor or  
43 9 representative acting in the same capacity. The employee,  
43 10 contractor, or representative shall maintain current  
43 11 identification indicating that the person is an employee,  
43 12 contractor, or representative of the department.

43 13 Sec. 71. ABATEMENT OF PROPERTY TAXES. Notwithstanding the  
43 14 requirement for the filing of a claim for property tax  
43 15 exemption by February 1, as provided in section 427.1,  
43 16 subsection 9, the board of supervisors of a county having a  
43 17 population based upon the latest federal decennial census of  
43 18 more than one hundred eighty thousand but not more than two  
43 19 hundred thousand shall abate the property taxes owed, with all  
43 20 interest, fees, and costs, which were due and payable during  
43 21 the fiscal years beginning July 1, 2004, and July 1, 2005, on  
43 22 the land and buildings of an educational institution that  
43 23 received the property by gift and that did not receive a  
43 24 property tax exemption due to the inability or failure to file  
43 25 for the exemption. To receive the abatement provided for in  
43 26 this section, the educational institution shall apply to the  
43 27 county board of supervisors by October 1, 2005, and provide  
43 28 appropriate information establishing that the lands and  
43 29 buildings for which the abatement is sought were used by the  
43 30 educational institution for its appropriate objectives during  
43 31 the fiscal years beginning July 1, 2004, and July 1, 2005.  
43 32 The abatement allowed under this section only applies to  
43 33 property taxes, with all interests, fees, and costs, due and  
43 34 payable in the fiscal years beginning July 1, 2004, and July  
43 35 1, 2005.

44 1 Sec. 72. REFUNDS. Refunds of taxes, interest, or  
44 2 penalties which arise from claims resulting from the amendment  
44 3 to section 423.3, subsection 5, in this division of this Act,  
44 4 for the sale of agricultural drain tile materials occurring  
44 5 between January 1, 1998, and the effective date of the section  
44 6 amending section 423.3, subsection 5, in this division of this  
44 7 Act, shall be limited to twenty-five thousand dollars in the  
44 8 aggregate and shall not be allowed unless refund claims are  
44 9 filed prior to October 1, 2005, notwithstanding any other  
44 10 provision of law. If the amount of claims totals more than  
44 11 twenty-five thousand dollars in the aggregate, the department  
44 12 of revenue shall prorate the twenty-five thousand dollars  
44 13 among all claimants in relation to the amounts of the  
44 14 claimants' valid claims.

44 15 Sec. 73. RETROACTIVE APPLICABILITY.

44 16 1. The sections of this division of this Act amending Code  
44 17 sections 422.9 and 422.35 apply retroactively to January 1,  
44 18 2005, for tax years beginning on or after that date.

44 19 2. The section of this division of this Act amending Code  
44 20 section 422.16, being deemed of immediate importance, takes  
44 21 effect upon enactment and applies to calendar quarters ending  
44 22 on or after the effective date of this Act for income taxes  
44 23 withheld for tax years beginning on or after January 1, 2005.

44 24 3. The section of this division of this Act relating to  
44 25 the abatement of property taxes due and payable in the fiscal  
44 26 years beginning July 1, 2004, and July 1, 2005, and section  
44 27 427.1, subsection 9, being deemed of immediate importance,  
44 28 takes effect upon enactment, and applies retroactively to

44 29 property taxes due and payable in the fiscal years beginning  
44 30 July 1, 2004, and July 1, 2005.

44 31 4. The section of this division of this Act amending  
44 32 section 423.3, subsection 5, being deemed of immediate  
44 33 importance, takes effect upon enactment, and applies  
44 34 retroactively to January 1, 1998.

44 35 5. The sections of this division of this Act amending  
45 1 section 441.37 apply to protests of assessment filed after  
45 2 January 1, 2006.

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JOHN P. KIBBIE  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

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45 14 I hereby certify that this bill originated in the Senate and  
45 15 is known as Senate File 413, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

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45 21 Approved \_\_\_\_\_, 2005

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THOMAS J. VILSACK  
Governor

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