

Senate Study Bill 1310

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

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to sales and use tax changes, excise taxes on
2 rental of rooms and sleeping quarters, and the sale and use of
3 construction equipment, and including an effective and
4 retroactive applicability date provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 3503XC 81
7 mg/cf/24

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1 1 DIVISION I
1 2 STREAMLINED SALES AND USE TAX CHANGES
1 3 Section 1. Section 34A.7, subsection 2, paragraph b, Code
1 4 2005, is amended to read as follows:
1 5 b. A local exchange service provider is not liable for an
1 6 uncollected surcharge for which the local exchange service
1 7 provider has billed a subscriber but not been paid. The
1 8 surcharge shall appear as a single line item on a subscriber's
1 9 periodic billing entitled, "E911 emergency telephone service
1 10 surcharge". ~~The E911 service surcharge is not subject to~~
~~1 11 sales or use tax.~~
1 12 Sec. 2. Section 34A.7A, subsection 1, paragraph c,
1 13 subparagraph (1), Code 2005, is amended to read as follows:
1 14 (1) The surcharge shall be collected as part of the
1 15 wireless communications service provider's periodic billing to
1 16 a subscriber. The surcharge shall appear as a single line
1 17 item on a subscriber's periodic billing indicating that the
1 18 surcharge is for E911 emergency telephone service. In the
1 19 case of prepaid wireless telephone service, this surcharge
1 20 shall be remitted based upon the address associated with the
1 21 point of purchase, the customer billing address, or the
1 22 location associated with the mobile telephone number for each
1 23 active prepaid wireless telephone that has a sufficient
1 24 positive balance as of the last days of the information, if
1 25 that information is available. ~~The wireless E911 service~~
~~1 26 surcharge is not subject to sales or use tax.~~
1 27 Sec. 3. Section 423.1, subsection 47, paragraph b,
1 28 subparagraph (4), Code 2005, is amended by striking the
1 29 subparagraph.
1 30 Sec. 4. Section 423.1, subsection 47, Code 2005, is
1 31 amended by adding the following new paragraph and relettering
1 32 the following paragraph:
1 33 NEW PARAGRAPH. c. The sales price does not include and
1 34 the sales tax shall not apply to amounts received for charges
1 35 included in paragraph "a", subparagraphs (3) through (7), if
2 1 they are separately contracted for, separately stated on the
2 2 invoice, billing, or similar document given to the purchaser,
2 3 and the amounts represent charges which are not the sales
2 4 price of a taxable sale or of the furnishing of a taxable
2 5 service.
2 6 Sec. 5. Section 423.2, subsection 6, unnumbered paragraph
2 7 1, Code 2005, is amended to read as follows:
2 8 The sales price of any of the following enumerated services
2 9 is subject to the tax imposed by subsection 5: alteration and
2 10 garment repair; armored car; vehicle repair; battery, tire,
2 11 and allied; investment counseling; service charges of all
2 12 financial institutions; barber and beauty; boat repair;
2 13 vehicle wash and wax; campgrounds; carpentry; roof, shingle,
2 14 and glass repair; dance schools and dance studios; dating

2 15 services; dry cleaning, pressing, dyeing, and laundering;
2 16 electrical and electronic repair and installation; excavating
2 17 and grading; farm implement repair of all kinds; flying
2 18 service; furniture, rug, carpet, and upholstery repair and
2 19 cleaning; fur storage and repair; golf and country clubs and
2 20 all commercial recreation; gun and camera repair; house and
2 21 building moving; household appliance, television, and radio
2 22 repair; janitorial and building maintenance or cleaning;
2 23 jewelry and watch repair; lawn care, landscaping, and tree
2 24 trimming and removal; limousine service, including driver;
2 25 machine operator; machine repair of all kinds; motor repair;
2 26 motorcycle, scooter, and bicycle repair; oilers and
2 27 lubricators; office and business machine repair; painting,
2 28 papering, and interior decorating; parking facilities; pay
2 29 television; pet grooming; pipe fitting and plumbing; wood
2 30 preparation; executive search agencies; private employment
2 31 agencies, excluding services for placing a person in
2 32 employment where the principal place of employment of that
2 33 person is to be located outside of the state; reflexology;
2 34 security and detective services; sewage services for
2 35 nonresidential commercial operations; sewing and stitching;
3 1 shoe repair and shoeshine; sign construction and installation;
3 2 storage of household goods, mini-storage, and warehousing of
3 3 raw agricultural products; swimming pool cleaning and
3 4 maintenance; tanning beds or salons; taxidermy services;
3 5 telephone answering service; test laboratories, including
3 6 mobile testing laboratories and field testing by testing
3 7 laboratories, and excluding tests on humans or animals;
3 8 termite, bug, roach, and pest eradicators; tin and sheet metal
3 9 repair; transportation service consisting of the rental of
3 10 recreational vehicles or recreational boats, or the rental of
3 11 motor vehicles subject to registration which are registered
3 12 for a gross weight of thirteen tons or less for a period of
3 13 sixty days or less, or the rental of aircraft for a period of
3 14 sixty days or less; Turkish baths, massage, and reducing
3 15 salons, excluding services provided by massage therapists
3 16 licensed under chapter 152C; water conditioning and softening;
3 17 weighing; welding; well drilling; wrapping, packing, and
3 18 packaging of merchandise other than processed meat, fish,
3 19 fowl, and vegetables; wrecking service; wrecker and towing.

3 20 Sec. 6. Section 423.3, subsection 2, Code 2005, is amended
3 21 to read as follows:

3 22 2. The sales price of sales for resale of tangible
3 23 personal property or taxable services, or for resale of
3 24 tangible personal property in connection with the furnishing
3 25 of taxable services except for sales, other than leases or
3 26 rentals, which are sales, of machinery, equipment,
3 27 attachments, and replacement parts specifically enumerated in
3 28 subsection 37 and used in the manner described in subsection
3 29 37 or the purchase of tangible personal property, the leasing
3 30 or rental of which is exempted from tax by subsection 49.

3 31 Sec. 7. Section 423.3, subsection 37, Code 2005, is
3 32 amended to read as follows:

3 33 37. The sales price of services on or connected with new
3 34 construction, reconstruction, alteration, expansion,
3 35 remodeling, or the services of a general building contractor,
4 1 architect, or engineer. The exemption in this subsection also
4 2 applies to the sales price on the lease or rental of ~~self-~~
~~4 3 propelled building equipment, self-constructed cranes, pile~~
~~4 4 drivers, structural concrete forms, regular and motorized~~
~~4 5 scaffolding, generators, or attachments customarily drawn or~~
~~4 6 attached to self-propelled building equipment, self-~~
~~4 7 constructed cranes, pile drivers, structural concrete forms,~~
~~4 8 regular and motorized scaffolding, and generators, including~~
~~4 9 auxiliary attachments all machinery, equipment, and~~
4 10 replacement parts directly and primarily used by owners,
4 11 contractors, subcontractors, and builders for new
4 12 construction, reconstruction, alteration, expansion, or
4 13 remodeling of real property or structures and of all
4 14 machinery, equipment, and replacement parts which improve the
4 15 performance, safety, operation, or efficiency of the
4 16 machinery, equipment, and replacement parts and are directly
~~4 17 and primarily used by contractors, subcontractors, and~~
~~4 18 builders for new construction, reconstruction, alterations,~~
~~4 19 expansion, or remodeling of real property or structures so~~
4 20 used.

4 21 Sec. 8. Section 423.3, subsection 49, Code 2005, is
4 22 amended to read as follows:

4 23 49. The sales price from the sale of carbon dioxide in a
4 24 liquid, solid, or gaseous form, electricity, steam, and other
4 25 taxable services and the lease or rental of tangible personal

4 26 property when used by a manufacturer of food products to
4 27 produce marketable food products for human consumption,
4 28 including but not limited to treatment of material to change
4 29 its form, context, or condition, in order to produce the food
4 30 product, maintenance of quality or integrity of the food
4 31 product, changing or maintenance of temperature levels
4 32 necessary to avoid spoilage or to hold the food product in
4 33 marketable condition, maintenance of environmental conditions
4 34 necessary for the safe or efficient use of machinery and
4 35 material used to produce the food product, sanitation and
5 1 quality control activities, formation of packaging, placement
5 2 into shipping containers, and movement of the material or food
5 3 product until shipment from the building of manufacture.

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

5 6 60. The sales price from the sale or rental of
5 7 prescription drugs or, durable medical equipment, mobility
5 8 enhancing equipment, prosthetic devices, and other medical
5 9 devices intended for human use or consumption.

5 10 For the purposes of this subsection:

5 11 a. "Drug" means a compound, substance, or preparation, and
5 12 any component of a compound, substance, or preparation, other
5 13 than food and food ingredients, dietary supplements, or
5 14 alcoholic beverages which is any of the following:

5 15 (1) Recognized in the official United States
5 16 pharmacopoeia, official homeopathic pharmacopoeia of the
5 17 United States, or official national formulary, and supplement
5 18 to any of them.

5 19 (2) Intended for use in the diagnosis, cure, mitigation,
5 20 treatment, or prevention of disease.

5 21 (3) Intended to affect the structure or any function of
5 22 the body.

5 23 b. "Durable medical equipment" means equipment, including
5 24 repair and replacement parts, but does not include mobility
5 25 enhancing equipment, to which all of the following apply:

5 26 (1) Can withstand repeated use.

5 27 (2) Is primarily and customarily used to serve a medical
5 28 purpose.

5 29 (3) Generally is not useful to a person in the absence of
5 30 illness or injury.

5 31 (4) Is not worn in or on the body.

5 32 (5) Is for home use only.

5 33 (6) Is prescribed by a practitioner.

5 34 c. "Mobility enhancing equipment" means equipment,
5 35 including repair and replacement parts, but does not include
6 1 durable medical equipment, to which all of the following
6 2 apply:

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

6 7 (2) Is not generally used by persons with normal mobility.

6 8 (3) Does not include any motor vehicle or equipment on a
6 9 motor vehicle normally provided by a motor vehicle
6 10 manufacturer.

6 11 (4) Is prescribed by a practitioner.

6 12 ~~b.~~ d. "Medical "Other medical device" means equipment or
6 13 a supply, intended to be prescribed by a practitioner,

~~6 14 including orthopedic or orthotic devices. However, "medical~~
6 15 ~~device" also includes prosthetic devices, that is not a drug,~~

6 16 ~~durable medical equipment, mobility enhancing equipment, or~~
6 17 ~~prosthetic device. "Other medical devices" includes, but is~~

6 18 ~~not limited to, ostomy, urological, and tracheostomy equipment~~
6 19 ~~and supplies, and diabetic testing materials, hypodermic~~

6 20 ~~syringes and needles, anesthesia trays, biopsy trays and~~
6 21 ~~biopsy needles, cannula systems, catheter trays and invasive~~

6 22 ~~catheters, dialyzers, drug infusion devices, fistula sets,~~
6 23 ~~hemodialysis devices, insulin infusion devices, intraocular~~

6 24 ~~lenses, irrigation solutions, intravenous administering sets,~~
6 25 ~~solutions and stopcocks, myelogram trays, nebulizers, small~~

6 26 ~~vein infusion kits, spinal puncture trays, transfusion sets,~~
6 27 ~~and venous blood sets, and oxygen equipment, intended to be~~

6 28 ~~dispensed for human use with or without a prescription to an~~
6 29 ~~ultimate user.~~

6 30 ~~e.~~ e. "Practitioner" means a practitioner as defined in
6 31 section 155A.3, or a person licensed to prescribe drugs.

6 32 f. "Prescription" means an order, formula, or recipe
6 33 issued in any form of oral, written, electronic, or other

6 34 means of transmission by a practitioner.

6 35 ~~d.~~ g. "Prescription drug" means a drug intended to be

7 1 dispensed to an ultimate user pursuant to a prescription drug

7 2 order, formula, or recipe issued in any form of oral, written,
7 3 electronic, or other means of transmission by a duly licensed
7 4 practitioner, or oxygen or insulin dispensed for human
7 5 consumption with or without a prescription drug order or
7 6 medication order.

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

- 7 11 (1) Artificially replace a missing portion of the body.
- 7 12 (2) Prevent or correct physical deformity or malfunction.
- 7 13 (3) Support a weak or deformed portion of the body.

7 14 "Prosthetic device" includes, but is not limited to,
7 15 orthopedic or orthotic devices, ostomy equipment, urological
7 16 equipment, tracheostomy equipment, and intraocular lenses.

7 17 ~~f-~~ i. "Ultimate user" means an individual who has
7 18 lawfully obtained and possesses a prescription drug or medical
7 19 device for the individual's own use or for the use of a member
7 20 of the individual's household, or an individual to whom a
7 21 prescription drug or medical device has been lawfully
7 22 supplied, administered, dispensed, or prescribed.

7 23 Sec. 10. Section 423.3, Code 2005, is amended by adding
7 24 the following new subsection:

7 25 NEW SUBSECTION. 69A. The sales price from surcharges paid
7 26 for E911 service and wireless E911 service pursuant to chapter
7 27 34A.

7 28 Sec. 11. Section 423.3, subsection 70, Code 2005, is
7 29 amended to read as follows:

7 30 70. ~~The sales price from the sales, furnishing, or service~~
7 31 ~~of transportation service except the rental of recreational~~
7 32 ~~vehicles or recreational boats, except the rental of motor~~
7 33 ~~vehicles subject to registration which are registered for a~~
7 34 ~~gross weight of thirteen tons or less for a period of sixty~~
7 35 ~~days or less, and except the rental of aircraft for a period~~
8 1 ~~of sixty days or less of delivery charges. This exemption~~

8 2 does not apply to the transportation delivery of electric
8 3 energy or natural gas.

8 4 Sec. 12. Section 423.15, subsection 1, unnumbered
8 5 paragraph 1, Code 2005, is amended to read as follows:

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

8 9 Sec. 13. Section 423.43, subsection 3, Code 2005, is
8 10 amended to read as follows:

8 11 3. All other revenue arising under the operation of ~~this~~
8 12 ~~chapter the use tax under subchapter III~~ shall be credited to
8 13 the general fund of the state.

8 14 Sec. 14. Section 423B.5, unnumbered paragraph 1, Code
8 15 2005, is amended to read as follows:

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

9 13 sale of natural gas or electric energy are subject to a
9 14 franchise fee or user fee during the period the franchise or
9 15 user fee is imposed. A local sales and services tax is
9 16 applicable to transactions within those incorporated and
9 17 unincorporated areas of the county where it is imposed and
9 18 shall be collected by all persons required to collect state
9 19 sales taxes. ~~However, a person required to collect state~~
~~9 20 retail sales tax under chapter 423, subchapter V or VI, is not~~
~~9 21 required to collect local sales and services tax on~~
~~9 22 transactions delivered within the area where the local sales~~
~~9 23 and services tax is imposed unless the person has physical~~
~~9 24 presence in that taxing area.~~ All cities contiguous to each
9 25 other shall be treated as part of one incorporated area and
9 26 the tax would be imposed in each of those contiguous cities
9 27 only if the majority of those voting in the total area covered
9 28 by the contiguous cities favors its imposition.

9 29 Sec. 15. Section 423E.3, subsections 2 and 3, Code 2005,
9 30 are amended to read as follows:

9 31 2. The tax shall be imposed on the same basis as the state
9 32 sales and services tax or in the case of the use of natural
9 33 gas, natural gas service, electricity, or electric service on
9 34 the same basis as the state use tax and shall not be imposed
9 35 on the sale of any property or on any service not taxed by the
10 1 state, except the tax shall not be imposed on the sales price
10 2 from the sale of motor fuel or special fuel as defined in
10 3 chapter 452A which is consumed for highway use or in
10 4 watercraft or aircraft if the fuel tax is paid on the
10 5 transaction and a refund has not or will not be allowed, on
10 6 the sales price from the rental of rooms, apartments, or
10 7 sleeping quarters which are taxed under chapter 423A during
10 8 the period the hotel and motel tax is imposed, on the sales
10 9 price from the sale of equipment by the state department of
10 10 transportation, on the sales price from the sale of self=
10 11 propelled building equipment, pile drivers, motorized
10 12 scaffolding, or attachments customarily drawn or attached to
10 13 self-propelled building equipment, pile drivers, and motorized
10 14 scaffolding, including auxiliary attachments which improve the
10 15 performance, safety, operation, or efficiency of the
10 16 equipment, and replacement parts and are directly and
10 17 primarily used by contractors, subcontractors, and builders
10 18 for new construction, reconstruction, alterations, expansion,
10 19 or remodeling of real property or structures, ~~and on the sales~~
~~10 20 price from the sale of a lottery ticket or share in a lottery~~
~~10 21 game conducted pursuant to chapter 996 and except the tax~~
10 22 shall not be imposed on the sales price from the sale or use
10 23 of natural gas, natural gas service, electricity, or electric
10 24 service in a city or county where the sales price from the
10 25 sale of natural gas or electric energy are subject to a
10 26 franchise fee or user fee during the period the franchise or
10 27 user fee is imposed.

10 28 3. The tax is applicable to transactions within the county
10 29 where it is imposed and shall be collected by all persons
10 30 required to collect state sales or local excise taxes.

~~10 31 However, a person required to collect state sales tax under~~
~~10 32 chapter 423 is not required to collect local sales and~~
~~10 33 services tax on transactions delivered within the area where~~
~~10 34 the local sales and services tax is imposed unless the person~~
~~10 35 has physical presence in that taxing area.~~ The amount of the
11 1 sale, for purposes of determining the amount of the tax, does
11 2 not include the amount of any state sales taxes or excise
11 3 taxes or other local option sales or excise taxes. A tax
11 4 permit other than the state tax permit required under section
11 5 423.36 shall not be required by local authorities.

11 6 Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.
11 7 The sections of this division of this Act amending section
11 8 423.3, subsections 2, 37, and 49, section 423B.5, and section
11 9 423E.3, being deemed of immediate importance, take effect upon
11 10 enactment and apply retroactively to July 1, 2004.

11 11 DIVISION II
11 12 EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

11 13 Sec. 17. Section 331.427, subsection 1, unnumbered
11 14 paragraph 1, Code 2005, is amended to read as follows:

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

11 24 Sec. 18. Section 423.2, subsection 1, paragraph a,
11 25 subparagraph (5), Code 2005, is amended by striking the
11 26 subparagraph.

11 27 Sec. 19. NEW SECTION. 423A.1 SHORT TITLE.

11 28 This chapter may be cited as the "Hotel and Motel Tax Act".

11 29 Sec. 20. NEW SECTION. 423A.2 DEFINITIONS.

11 30 For the purposes of this chapter, unless the context
11 31 otherwise requires:

11 32 1. "Department" means the department of revenue.

11 33 2. "Lessor" means any person engaged in the business of
11 34 renting lodging to users.

11 35 3. "Lodging" means rooms, apartments, or sleeping quarters
12 1 in a hotel, motel, inn, public lodging house, rooming house,
12 2 or manufactured or mobile home which is tangible personal
12 3 property, or in a tourist court, or in any place where
12 4 sleeping accommodations are furnished to transient guests for
12 5 rent, whether with or without meals.

12 6 4. "Person" means the same as the term is defined in
12 7 section 423.1.

12 8 5. "Renting" or "rent" means a transfer of possession or
12 9 control of lodging for a fixed or indeterminate term for
12 10 consideration and includes any kind of direct or indirect
12 11 charge for such lodging or its use.

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

12 15 7. "User" means a person to whom lodging is rented.

12 16 All other words and phrases used in this chapter and
12 17 defined in section 423.1 have the meaning given them by
12 18 section 423.1 for the purposes of this chapter.

12 19 Sec. 21. NEW SECTION. 423A.3 STATE IMPOSED HOTEL AND
12 20 MOTEL TAX.

12 21 A tax of five percent is imposed upon the sales price for
12 22 the rental of any lodging if the rental occurs in this state.
12 23 The tax shall be collected by any lessor of lodging from the
12 24 user of that lodging. The lessor shall add the tax to the
12 25 sales price of the lodging, and the state-imposed tax, when
12 26 collected, shall be stated as a distinct item, separate and
12 27 apart from the sales price of the lodging and the local tax
12 28 imposed, if any, under section 423A.4.

12 29 Sec. 22. NEW SECTION. 423A.4 LOCALLY IMPOSED HOTEL AND
12 30 MOTEL TAX.

12 31 A city or county may impose by ordinance of the city
12 32 council or by resolution of the board of supervisors a hotel
12 33 and motel tax, at a rate not to exceed seven percent, which
12 34 shall be imposed in increments of one or more full percentage
12 35 points upon the sales price from the renting of lodging. The
13 1 tax when imposed by a city shall apply only within the
13 2 corporate boundaries of that city and when imposed by a county
13 3 shall apply only outside incorporated areas within that
13 4 county.

13 5 Within ten days of the election at which a majority of
13 6 those voting on the question favors the imposition, repeal, or
13 7 change in the rate of the hotel and motel tax, the county
13 8 auditor shall give written notice by sending a copy of the
13 9 abstract of votes from the favorable election to the director
13 10 of revenue.

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

13 20 A city or county shall impose or repeal a hotel and motel
13 21 tax or increase or reduce the tax rate only after an election
13 22 at which a majority of those voting on the question favors
13 23 imposition, repeal, or change in rate. However, a hotel and
13 24 motel tax shall not be repealed or reduced in rate if
13 25 obligations are outstanding which are payable as provided in
13 26 section 423A.7, unless funds sufficient to pay the principal,
13 27 interest, and premium, if any, on the outstanding obligations
13 28 at and prior to maturity have been properly set aside and
13 29 pledged for that purpose. The election shall be held at the
13 30 time of the regular city election or the county's general
13 31 election or at the time of a special election.

13 32 Sec. 23. NEW SECTION. 423A.5 EXEMPTIONS.

13 33 1. There are exempted from the provisions of this chapter
13 34 and from the computation of any amount of tax imposed by

13 35 section 423A.3 all of the following:

14 1 a. The sales price from the renting of lodging which is
14 2 rented by the same person for a period of more than thirty-one
14 3 consecutive days.

14 4 b. The sales price from the renting of sleeping rooms in
14 5 dormitories and in memorial unions at all universities and
14 6 colleges located in the state of Iowa.

14 7 2. There is exempted from the provisions of this chapter
14 8 and from the computation of any amount of tax imposed by
14 9 section 423A.4 all of the following:

14 10 a. The sales price from the renting of lodging or rooms
14 11 exempt under subsection 1.

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

14 17 Sec. 24. NEW SECTION. 423A.6 ADMINISTRATION BY DIRECTOR.

14 18 The director of revenue shall administer the state and
14 19 local hotel and motel tax as nearly as possible in conjunction
14 20 with the administration of the state sales tax law, except
14 21 that portion of the law which implements the streamlined sales
14 22 and use tax agreement. The director shall provide appropriate
14 23 forms, or provide on the regular state tax forms, for
14 24 reporting state and local hotel and motel tax liability. All
14 25 moneys received or refunded one hundred eighty days after the
14 26 date on which a city or county terminates its local hotel and
14 27 motel tax and all moneys received from the state hotel and
14 28 motel tax shall be deposited in or withdrawn from the general
14 29 fund of the state.

14 30 The director, in consultation with local officials, shall
14 31 collect and account for a local hotel and motel tax and shall
14 32 credit all revenues to the local transient guest tax fund
14 33 created in section 423A.7. Local authorities shall not
14 34 require any tax permit not required by the director of
14 35 revenue.

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

15 19 Sec. 25. NEW SECTION. 423A.7 LOCAL TRANSIENT GUEST TAX
15 20 FUND.

15 21 1. A local transient guest tax fund is created in the
15 22 department which shall consist of all moneys credited to such
15 23 fund under section 423A.6.

15 24 2. All moneys in the local transient guest tax fund shall
15 25 be remitted at least quarterly by the department, pursuant to
15 26 rules of the director of revenue, to each city in the amount
15 27 collected from businesses in that city and to each county in
15 28 the amount collected from businesses in the unincorporated
15 29 areas of the county.

15 30 3. Moneys received by the city from this fund shall be
15 31 credited to the general fund of the city, subject to the
15 32 provisions of subsection 4.

15 33 4. The revenue derived from any local hotel and motel tax
15 34 authorized by section 423A.4 shall be used as follows:

15 35 a. Each county or city which levies the tax shall spend at
16 1 least fifty percent of the revenues derived therefrom for the
16 2 acquisition of sites for, or constructing, improving,
16 3 enlarging, equipping, repairing, operating, or maintaining of
16 4 recreation, convention, cultural, or entertainment facilities
16 5 including but not limited to memorial buildings, halls and
16 6 monuments, civic center convention buildings, auditoriums,
16 7 coliseums, and parking areas or facilities located at those
16 8 recreation, convention, cultural, or entertainment facilities
16 9 or the payment of principal and interest, when due, on bonds
16 10 or other evidence of indebtedness issued by the county or city

16 11 for those recreation, convention, cultural, or entertainment
16 12 facilities; or for the promotion and encouragement of tourist
16 13 and convention business in the city or county and surrounding
16 14 areas.

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

16 20 c. Any city or county which levies and collects the local
16 21 hotel and motel tax authorized by section 423A.4 may pledge
16 22 irrevocably an amount of the revenues derived therefrom for
16 23 each of the years the bonds remain outstanding to the payment
16 24 of bonds which the city or county may issue for one or more of
16 25 the purposes set forth in paragraph "a". Any revenue pledged
16 26 to the payment of such bonds may be credited to the spending
16 27 requirement of paragraph "a".

16 28 d. The provisions of chapter 384, division III, relating
16 29 to the issuance of corporate purpose bonds, apply to the
16 30 issuance by a city of bonds payable as provided in this
16 31 section and the provisions of chapter 331, division IV, part
16 32 3, relating to the issuance of county purpose bonds, apply to
16 33 the issuance by a county of bonds payable as provided in this
16 34 section. The provisions of chapter 76 apply to the bonds
16 35 payable as provided in this section except that the mandatory
17 1 levy to be assessed pursuant to section 76.2 shall be at a
17 2 rate to generate an amount which together with the receipts
17 3 from the pledged portion of the local hotel and motel tax is
17 4 sufficient to pay the interest and principal on the bonds.
17 5 All amounts collected as a result of the levy assessed
17 6 pursuant to section 76.2 and paid out in the first instance
17 7 for bond principal and interest shall be repaid to the city or
17 8 county which levied the tax from the first available local
17 9 hotel and motel tax collections received in excess of the
17 10 requirement for the payment of the principal and interest of
17 11 the bonds and when repaid shall be applied in reduction of
17 12 property taxes.

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

17 25 e. A city or county, jointly with one or more other cities
17 26 or counties as provided in chapter 28E, may pledge irrevocably
17 27 any amount derived from the revenues of the local hotel and
17 28 motel tax to the support or payment of bonds issued for a
17 29 project within the purposes set forth in paragraph "a" and
17 30 located within one or more of the participatory cities or
17 31 counties or may apply the proceeds of its bonds to the support
17 32 of any such project. Revenue so pledged or applied shall be
17 33 credited to the spending requirement of paragraph "a".

17 34 f. A city or county acting on behalf of an unincorporated
17 35 area may, in lieu of calling an election, institute
18 1 proceedings for the issuance of bonds under this section by
18 2 causing a notice of the proposal to issue the bonds, including
18 3 a statement of the amount and purpose of the bonds, together
18 4 with the maximum rate of interest which the bonds are to bear,
18 5 and the right to petition for an election, to be published at
18 6 least once in a newspaper of general circulation within the
18 7 city or unincorporated area at least ten days prior to the
18 8 meeting at which it is proposed to take action for the
18 9 issuance of the bonds.

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

18 22 The proposition of issuing bonds under this section is not
18 23 approved unless the vote in favor of the proposition is equal
18 24 to a majority of the vote cast.

18 25 If no petition is filed, or if a petition is filed and the
18 26 proposition of issuing the bonds is approved at an election,
18 27 the council or board of supervisors acting on behalf of an
18 28 unincorporated area may proceed with the authorization and
18 29 issuance of the bonds.

18 30 Bonds may be issued for the purpose of refunding
18 31 outstanding and previously issued bonds under this section
18 32 without otherwise complying with this paragraph.

18 33 Sec. 26. Section 423B.5, unnumbered paragraph 1, Code
18 34 2005, is amended to read as follows:

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

20 13 Sec. 27. Section 423E.3, subsection 2, Code 2005, is
20 14 amended to read as follows:

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

20 33 scaffolding, including auxiliary attachments which improve the
20 34 performance, safety, operation, or efficiency of the
20 35 equipment, and replacement parts and are directly and
21 1 primarily used by contractors, subcontractors, and builders
21 2 for new construction, reconstruction, alterations, expansion,
21 3 or remodeling of real property or structures, and on the sales
21 4 price from the sale of a lottery ticket or share in a lottery
21 5 game conducted pursuant to chapter 99G and except the tax
21 6 shall not be imposed on the sales price from the sale or use
21 7 of natural gas, natural gas service, electricity, or electric
21 8 service in a city or county where the sales price from the
21 9 sale of natural gas or electric energy are subject to a
21 10 franchise fee or user fee during the period the franchise or
21 11 user fee is imposed.

21 12 Sec. 28. Chapter 423A, Code 2005, is repealed.

21 13 DIVISION III

21 14 SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

21 15 Sec. 29. Section 423.3, Code 2005, is amended by adding
21 16 the following new subsection:

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

21 28 Sec. 30. Section 423B.5, unnumbered paragraph 1, Code
21 29 2005, is amended to read as follows:

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

23 8 Sec. 31. Section 423E.3, subsection 2, Code 2005, is

23 9 amended to read as follows:

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

24 7 Sec. 32. NEW SECTION. 423D.1 DEFINITIONS.

24 8 For the purposes of this chapter, unless the context
24 9 otherwise requires:

24 10 1. "Construction" means new construction, reconstruction,
24 11 alterations, expansion, or remodeling of real property or
24 12 structures.

24 13 2. "Contractor" includes contractors, subcontractors, and
24 14 builders, but not owners.

24 15 3. "Department" means the department of revenue.

24 16 4. "Equipment" means self-propelled building equipment,
24 17 pile drivers, and motorized scaffolding, including auxiliary
24 18 attachments which improve the performance, safety, operation,
24 19 or efficiency of the equipment, and replacement parts and are
24 20 directly and primarily used by contractors, subcontractors,
24 21 and builders for new construction, reconstruction,
24 22 alterations, expansion, or remodeling of real property or
24 23 structures.

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

24 26 All other words and phrases used in this chapter and
24 27 defined in section 423.1 have the meaning given them by
24 28 section 423.1 for the purposes of this chapter.

24 29 Sec. 33. NEW SECTION. 423D.2 TAX IMPOSED.

24 30 A tax of five percent is imposed on the sales price or
24 31 purchase price of all equipment sold or used in the state of
24 32 Iowa. This tax shall be collected and paid over to the
24 33 department by any retailer, retailer maintaining a place of
24 34 business in this state, or user who would be responsible for
24 35 collection and payment of the tax if it were a sales or use
25 1 tax imposed under chapter 423.

25 2 Sec. 34. NEW SECTION. 423D.3 EXEMPTION.

25 3 The sales price on the lease or rental of equipment to
25 4 contractors for direct and primary use in construction is
25 5 exempt from the tax imposed by this chapter.

25 6 Sec. 35. NEW SECTION. 423D.4 ADMINISTRATION BY DIRECTOR.

25 7 The director of revenue shall administer the excise tax on
25 8 the sale and use of equipment as nearly as possible in
25 9 conjunction with the administration of the state sales and use
25 10 tax law, except that portion of the law which implements the
25 11 streamlined sales and use tax agreement. The director shall
25 12 provide appropriate forms, or provide on the regular state tax
25 13 forms, for reporting the sale and use of equipment excise tax
25 14 liability. All moneys received and all refunds shall be
25 15 deposited in or withdrawn from the general fund of the state.

25 16 The director may require all persons who are engaged in the
25 17 business of deriving any sales price or purchase price subject
25 18 to tax under this chapter to register with the department.

25 19 The director may also require a tax permit applicable only to

25 20 this chapter for any retailer not collecting, or any user not
25 21 paying, taxes under chapter 423.
25 22 Section 422.25, subsection 4, sections 422.30, 422.67, and
25 23 422.68, section 422.69, subsection 1, sections 422.70, 422.71,
25 24 422.72, 422.74, and 422.75, section 423.14, subsection 1, and
25 25 sections 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to
25 26 423.42, and 423.47, consistent with the provisions of this
25 27 chapter, apply with respect to the tax authorized under this
25 28 chapter, in the same manner and with the same effect as if the
25 29 excise taxes on equipment sales or use were retail sales taxes
25 30 within the meaning of those statutes. Notwithstanding this
25 31 paragraph, the director shall provide for quarterly filing of
25 32 returns and for other than quarterly filing of returns both as
25 33 prescribed in section 423.31. All taxes collected under this
25 34 chapter by a retailer or any user are deemed to be held in
25 35 trust for the state of Iowa.

26 1 EXPLANATION

26 2 This bill makes changes to the streamlined sales and use
26 3 tax law, provides a separate excise tax on hotel and motel
26 4 room rentals, and imposes a separate excise tax on certain
26 5 construction equipment.

26 6 Division I == STREAMLINED SALES AND USE TAX LAW CHANGES ==
26 7 Code sections 34A.7(2) and 34A.7A(1) are amended to move the
26 8 exemption for E911 surcharges and wireless E911 surcharges to
26 9 the sales tax exemption section. Code section 423.3 is
26 10 amended by adding new subsection 69A to specify those
26 11 exemptions.

26 12 Code section 423.1(47) is amended to specify when certain
26 13 service charges related to a sale may be excluded from the
26 14 definition of sales price.

26 15 Code section 423.2(6) is amended to add certain
26 16 transportation services to the list of taxable services.
26 17 Currently, these services are taxed but are listed as
26 18 exceptions to the exemption. The exemption in Code section
26 19 423.3(70) is amended to eliminate reference to these
26 20 transportation services and to limit the exemption to delivery
26 21 charges.

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

26 27 Code section 423.3(37) amends the exemption for services on
26 28 or connected with new construction, reconstruction,
26 29 alteration, expansion, remodeling, or the services of a
26 30 building contractor, architect, or engineer to expand the
26 31 exemption to include lease or rental of all machinery,
26 32 equipment, and replacement parts that are directly and
26 33 primarily used in construction of buildings and structures.
26 34 The purchase of the machinery, equipment, and replacement
26 35 parts would be subject to the tax. This amendment is

27 1 retroactively applicable to July 1, 2004.
27 2 Code section 423.3(49) is amended to include leasing or
27 3 rental of tangible personal property as part of the food
27 4 manufacturer exemption. The purchase of the tangible personal
27 5 property would be subject to the tax. This amendment is
27 6 retroactively applicable to July 1, 2004.

27 7 Code section 423.3(60) is amended by exempting "durable
27 8 medical equipment", "mobility enhancing equipment", and
27 9 "prosthetic devices" separately from "medical devices", and
27 10 defining those terms as they are defined in the streamlined
27 11 sales tax agreement. The term "medical devices" thus becomes
27 12 a catchall phrase for medical exemptions not defined by the
27 13 streamlined sales tax agreement.

27 14 Code section 423.15(1) is amended by removing certain
27 15 superfluous language relating to leases and rentals from the
27 16 general sourcing rules on sales.

27 17 Code section 423.43(3) is amended by correcting a reference
27 18 to the revenue that is to be deposited into the state general
27 19 fund. The amendment makes the reference to the use tax
27 20 imposed under subchapter III rather than the revenue arising
27 21 under the entire chapter.

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

27 28 Division II == EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS
27 29 == This division removes the taxation of hotel and motel room
27 30 rentals from the state sales tax and includes it with the

27 31 local hotel and motel tax in new Code chapter 423A. The state
27 32 and local hotel and motel tax is imposed on the same basis and
27 33 with the same exemptions as existing under current law.
27 34 Code section 423.3(1) is amended to remove the rental of
27 35 rooms from the state sales tax.
28 1 Code chapter 423A is repealed and new sections are added to
28 2 impose an excise tax on lodging in its place.
28 3 Code sections 423B.5 and 423E.3 are amended to eliminate
28 4 the exemption of lodging rentals from the regular local option
28 5 tax or school local option tax because the lodging rentals are
28 6 no longer subject to sales tax.
28 7 Division III == SPECIFIC CONSTRUCTION MACHINERY AND
28 8 EQUIPMENT == Code section 423.3 is amended by adding a new
28 9 exemption for specifically listed construction equipment that
28 10 includes self-propelled building equipment, pile drivers,
28 11 motorized scaffolding, and attachments to these that are used
28 12 to improve performance and safety of equipment in various
28 13 construction activities. Code chapter 423D is enacted by
28 14 imposing an excise tax on the sale of the equipment exempt
28 15 from the sales tax. In connection with this change, Code
28 16 sections 423B.5 and 423E.3, relating to the specific
28 17 exemptions in favor of sales of that equipment set out in the
28 18 regular local option and school infrastructure sales taxes,
28 19 are stricken because the specific construction equipment is no
28 20 longer subject to the state sales tax.
28 21 The bill includes effective and retroactive applicability
28 22 date provisions.
28 23 LSB 3503XC 81
28 24 mg:rj/cf/24