

# Senate File 596 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS  
(SUCCESSOR TO SSB 1075)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the policy and technical administration of the  
2 tax and related laws by the department of revenue, including  
3 administration of income, sales, use, cigarette, and tobacco  
4 taxes, the administration and budgeting for tax increment  
5 financing by cities and counties, and creating a reporting  
6 committee, providing an effective date and providing for  
7 retroactive applicability.  
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
9 TLSB 1264SV 82  
10 mg/je/5

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1 1 DIVISION I  
1 2 TAX ADMINISTRATION  
1 3 Section 1. Section 15E.44, subsection 1, Code 2007, is  
1 4 amended to read as follows:  
1 5 1. In order for an equity investment to qualify for a tax  
1 6 credit, the business in which the equity investment is made  
1 7 shall, within one hundred twenty days of the date of the first  
1 8 investment, notify the board of the names, addresses, ~~taxpayer~~  
~~1 9 identification numbers~~, shares issued, consideration paid for  
1 10 the shares, and the amount of any tax credits, of all  
1 11 shareholders who may initially qualify for the tax credits,  
1 12 and the earliest year in which the tax credits may be  
1 13 redeemed. The list of shareholders who may qualify for the  
1 14 tax credits shall be amended as new equity investments are  
1 15 sold or as any information on the list shall change.  
1 16 Sec. 2. Section 15E.45, subsection 3, paragraph a,  
1 17 subparagraph (1), Code 2007, is amended to read as follows:  
1 18 (1) The names, addresses, ~~taxpayer identification numbers~~,  
1 19 equity interests issued, consideration paid for the interests,  
1 20 and the amount of any tax credits.  
1 21 Sec. 3. Section 331.434, subsection 1, Code 2007, is  
1 22 amended to read as follows:  
1 23 1. The budget shall show the amount required for each  
1 24 class of proposed expenditures, a comparison of the amounts  
1 25 proposed to be expended with the amounts expended for like  
1 26 purposes for the two preceding years, the revenues from  
1 27 sources other than property taxation, a tax increment  
~~1 28 financing budget including information required under section~~  
~~1 29 384.16 for each urban renewal area established by the county,~~  
1 30 and the amount to be raised by property taxation, in the  
1 31 detail and form prescribed by the director of the department  
1 32 of management.  
1 33 Sec. 4. Section 384.16, subsection 1, Code 2007, is  
1 34 amended by adding the following new paragraph:  
1 35 NEW PARAGRAPH. d. A tax increment financing budget for  
2 1 each urban renewal area established by the city.  
2 2 Sec. 5. Section 384.16, subsection 1, unnumbered paragraph  
2 3 2, Code 2007, is amended to read as follows:  
2 4 A budget must show comparisons between the estimated  
2 5 expenditures in each program in the following year, the latest  
2 6 estimated expenditures in each program in the current year,  
2 7 and the actual expenditures in each program from the annual  
2 8 report as provided in section 384.22, or as corrected by a  
2 9 subsequent audit report. Wherever practicable, as provided in  
2 10 rules of the committee, a budget, including the tax increment  
~~2 11 financing budget,~~ must show comparisons between the levels of  
2 12 service provided by each program as estimated for the  
2 13 following year, and actual levels of service provided by each

2 14 program during the two preceding years. Wherever practicable,  
2 15 the tax increment financing budget shall include estimated and  
2 16 actual tax increment financing revenues and all estimated and  
2 17 actual expenditures of the revenues, proceeds from debt and  
2 18 all estimated and actual expenditures of the debt proceeds,  
2 19 and identification of any entity receiving a direct payment of  
2 20 taxes funded by tax increment financing revenues.

2 21 Sec. 6. Section 421.26, Code 2007, is amended to read as  
2 22 follows:

2 23 421.26 PERSONAL LIABILITY FOR TAX DUE.

2 24 If a licensee or other person under section 452A.65, a  
2 25 retailer or purchaser under chapter 423A, ~~or 423B, or 423E,~~ or  
2 26 section 423.31 or 423.33, or a retailer or purchaser under  
2 27 section 423.32, ~~or~~ a user under section 423.34, ~~or permit~~  
2 28 ~~holder or licensee under section 453A.13, 453A.16, or 453A.44~~

2 29 fails to pay a tax under those sections when due, an officer  
2 30 of a corporation or association, notwithstanding sections  
2 31 490A.601 and 490A.602, a member or manager of a limited  
2 32 liability company, or a partner of a partnership, having  
2 33 control or supervision of or the authority for remitting the  
2 34 tax payments and having a substantial legal or equitable  
2 35 interest in the ownership of the corporation, association,  
3 1 limited liability company, or partnership, who has  
3 2 intentionally failed to pay the tax is personally liable for  
3 3 the payment of the tax, interest, and penalty due and unpaid.  
3 4 However, this section shall not apply to taxes on accounts  
3 5 receivable. The dissolution of a corporation, association,  
3 6 limited liability company, or partnership shall not discharge  
3 7 a person's liability for failure to remit the tax due.

3 8 Sec. 7. Section 421.27, subsection 1, Code 2007, is  
3 9 amended by adding the following new paragraph:

3 10 NEW PARAGRAPH. m. That an Iowa inheritance tax return is  
3 11 filed for an estate within the later of nine months from the  
3 12 date of death or sixty days from the filing of a disclaimer by  
3 13 the beneficiary of the estate refusing to take the property or  
3 14 right or interest in the property.

3 15 Sec. 8. Section 421.27, subsection 2, Code 2007, is  
3 16 amended by adding the following new paragraph:

3 17 NEW PARAGRAPH. i. That an Iowa inheritance tax return is  
3 18 filed for an estate within the later of nine months from the  
3 19 date of death or sixty days from the filing of a disclaimer by  
3 20 the beneficiary of the estate refusing to take the property or  
3 21 right or interest in the property.

3 22 Sec. 9. Section 422.7, subsection 32, Code 2007, is  
3 23 amended by adding the following new paragraph:

3 24 NEW PARAGRAPH. c. Add the amount resulting from a  
3 25 withdrawal made by a taxpayer from the Iowa educational  
3 26 savings plan trust for purposes other than the payment of  
3 27 qualified education expenses to the extent previously deducted  
3 28 as a contribution to the trust.

3 29 Sec. 10. Section 422.11S, subsection 6, paragraph d, Code  
3 30 2007, is amended to read as follows:

3 31 d. Each school that is served by a school tuition  
3 32 organization shall submit a participation form annually to the  
3 33 department by ~~October 15~~ November 1 providing the following  
3 34 information:

3 35 (1) Certified enrollment as of ~~the third Friday of~~  
4 1 ~~September~~ October 1, or the first Monday in October if October  
4 2 ~~1 falls on a Saturday or Sunday.~~

4 3 (2) The school tuition organization that represents the  
4 4 school. A school shall only be represented by one school  
4 5 tuition organization.

4 6 Sec. 11. Section 422.11S, subsection 7, paragraph b,  
4 7 unnumbered paragraph 1, Code 2007, is amended to read as  
4 8 follows:

4 9 Each year by ~~November 15~~ December 1, the department shall  
4 10 authorize school tuition organizations to issue tax credit  
4 11 certificates for the following tax year. However, for the tax  
4 12 year beginning in the 2006 calendar year only, the department,  
4 13 by September 1, 2006, shall authorize school tuition  
4 14 organizations to issue tax credit certificates for the 2006  
4 15 calendar tax year. For the tax year beginning in the 2006  
4 16 calendar year only, each school served by a school tuition  
4 17 organization shall submit a participation form to the  
4 18 department by August 1, 2006, providing the certified  
4 19 enrollment as of the third Friday of September 2005, along  
4 20 with the school tuition organization that represents the  
4 21 school. Tax credit certificates available for issue by each  
4 22 school tuition organization shall be determined in the  
4 23 following manner:

4 24 Sec. 12. Section 422.12E, unnumbered paragraph 2, Code

4 25 2007, is amended to read as follows:

4 26 If more checkoffs are enacted in the same session of the  
4 27 general assembly than there is space for inclusion on the  
4 28 individual tax return form, the earliest enacted checkoffs for  
4 29 which there is space for inclusion on the return form shall be  
4 30 included on the return form, and all other checkoffs enacted  
4 31 during that session of the general assembly are repealed. If  
4 32 more checkoffs are enacted in the same session of the general  
4 33 assembly than there is space for inclusion on the individual  
4 34 income tax form and the additional checkoffs are enacted on  
4 35 the same day, the director shall determine which checkoffs  
5 1 shall be included on the return form.

5 2 Sec. 13. Section 422.13, subsection 5, Code 2007, is  
5 3 amended to read as follows:

5 4 5. Notwithstanding subsections 1 through 4 and sections  
5 5 422.15 and 422.36, a partnership, a limited liability company  
5 6 whose members are taxed on the company's income under  
5 7 provisions of the Internal Revenue Code, trust, or corporation  
5 8 whose stockholders are taxed on the corporation's income under  
5 9 the provisions of the Internal Revenue Code may, not later  
5 10 than the due date for filing its return for the taxable year,  
5 11 including any extension thereof, elect to file a composite  
5 12 return for the nonresident partners, members, beneficiaries,  
5 13 or shareholders. Nonresident trusts or estates which are  
5 14 partners, members, beneficiaries, or shareholders in  
5 15 partnerships, limited liability companies, trusts, or S  
5 16 corporations may also be included on a composite return. The

5 17 director may require that a composite return be filed under  
5 18 the conditions deemed appropriate by the director. A  
5 19 partnership, limited liability company, trust, or corporation  
5 20 filing a composite return is liable for tax required to be  
5 21 shown due on the return. All powers of the director and  
5 22 requirements of the director apply to returns filed under this  
5 23 subsection including, but not limited to, the provisions of  
5 24 this division and division VI of this chapter.

5 25 Sec. 14. Section 422.35, subsection 17, Code 2007, is  
5 26 amended to read as follows:

5 27 17. Subtract the amount of the employer social security  
5 28 credit allowable for the tax year under section 45B of the  
5 29 Internal Revenue Code to the extent that the credit increases  
5 30 federal ~~adjusted gross taxable~~ income.

5 31 Sec. 15. Section 422.73, subsection 3, Code 2007, is  
5 32 amended by striking the subsection.

5 33 Sec. 16. Section 422.75, Code 2007, is amended to read as  
5 34 follows:

5 35 422.75 STATISTICS == PUBLICATION.

6 1 The department shall prepare and publish an annual report  
6 2 which shall include statistics reasonably available, with  
6 3 respect to the operation of this chapter, including amounts  
6 4 collected, classification of taxpayers, and such other facts  
6 5 as are deemed pertinent and valuable. The annual report shall  
6 6 also include the reports and information required pursuant to  
6 7 ~~section 421.1, subsection 4, paragraph "e"; section 421.17,~~  
6 8 ~~subsection 13; section 421.17, subsection 27, paragraph "h";~~  
6 9 ~~and section 421.60, subsection 2, paragraphs "i" and "l"; and~~  
6 10 ~~1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph~~  
6 11 ~~"a".~~

6 12 Sec. 17. Section 423.2, subsection 6, unnumbered paragraph  
6 13 2, Code 2007, is amended to read as follows:

6 14 For the purposes of this subsection, "financial  
6 15 institutions" means all national banks, federally chartered  
6 16 savings and loan associations, federally chartered savings  
6 17 banks, federally chartered credit unions, banks organized  
6 18 under chapter 524, savings and loan associations and savings  
6 19 banks organized under chapter 534, ~~and~~ credit unions organized  
6 20 under chapter 533, and all banks, savings banks, credit  
6 21 unions, and savings and loan associations chartered or  
6 22 otherwise created under the laws of any state and doing  
6 23 business in Iowa.

6 24 Sec. 18. Section 423.2, Code 2007, is amended by adding  
6 25 the following new subsection:

6 26 NEW SUBSECTION. 9A. A tax of five percent is imposed upon  
6 27 the sales price of audiovisual works, audio works, books,  
6 28 computer software, or ring tones that are sold as digital  
6 29 products and that are sold by subscription, digital code, or  
6 30 in some other manner and delivered electronically for  
6 31 temporary or permanent retention when sold to an individual  
6 32 for the individual's own use and consumption.

6 33 For the purposes of this subsection:

6 34 a. "Audiovisual works" means a series of related images  
6 35 which, when shown in succession, impart an impression of

7 1 motion, together with accompanying sounds, if any.  
7 2 b. "Audio works" means works that result from the fixation  
7 3 of a series of musical, spoken, or other sounds.  
7 4 c. "Book" means a work which is generally recognized in  
7 5 the ordinary and usual sense as a "book". "Book" does not  
7 6 include newspapers, periodicals, databases, chat rooms, blogs,  
7 7 or other similar products.

7 8 d. "Computer software" means the same as defined in  
7 9 section 423.1.

7 10 e. "Delivered electronically" means delivered to or  
7 11 received by the purchaser by means other than tangible storage  
7 12 media.

7 13 f. "Digital code" means a code that provides a purchaser  
7 14 with a right to obtain an item within a specified category of  
7 15 selected digital products. A digital code may be obtained by  
7 16 any means, including email or by tangible means regardless of  
7 17 its designation as "song", "video code", or "book code".

7 18 g. "Ring tones" means digitized sound files which are  
7 19 downloaded onto a device and which may be used to alert a  
7 20 customer with respect to a communication.

7 21 h. "Subscription" means an agreement with a seller which  
7 22 grants a consumer the right to obtain selected digital  
7 23 products in a fixed quantity or for a fixed period of time or  
7 24 both.

7 25 Sec. 19. Section 423.3, subsection 65, Code 2007, is  
7 26 amended to read as follows:

7 27 65. The sales price from charges paid to a provider for  
7 28 access to on-line computer services. For purposes of this  
7 29 subsection, "on-line computer service" means a service that  
7 30 provides or enables computer access by multiple users to the  
7 31 internet or to other information made available through a  
7 32 computer server or other device.

7 33 Sec. 20. Section 423.3, subsection 80, paragraph b, Code  
7 34 2007, is amended to read as follows:

7 35 b. If a contractor, subcontractor, or builder is to use  
8 1 building materials, supplies, and equipment in the performance  
8 2 of a construction contract with a designated exempt entity,  
8 3 the person shall purchase such items of tangible personal  
8 4 property without liability for the tax if such property will  
8 5 be used in the performance of the construction contract and a  
8 6 purchasing agent authorization letter and an exemption  
8 7 certificate, issued by the designated exempt entity, are  
8 8 presented to the retailer. The sales price of building  
8 9 materials, supplies, or equipment is exempt from tax by this  
8 10 subsection only to the extent the building materials,  
8 11 supplies, or equipment are completely consumed in the  
8 12 performance of the construction contract with the designated  
8 13 exempt entity.

8 14 Sec. 21. Section 423.41, Code 2007, is amended to read as  
8 15 follows:

8 16 423.41 BOOKS == EXAMINATION.

8 17 Every retailer required or authorized to collect taxes  
8 18 imposed by this chapter and every person using in this state  
8 19 tangible personal property, services, or the product of  
8 20 services shall keep records, receipts, invoices, and other  
8 21 pertinent papers as the director shall require, in the form  
8 22 that the director shall require, for as long as the director  
8 23 has the authority to examine and determine tax due. The  
8 24 director or any duly authorized agent of the department may  
8 25 examine the books, papers, records, and equipment of any  
8 26 person either selling tangible personal property or services  
8 27 or liable for the tax imposed by this chapter, and investigate  
8 28 the character of the business of any person in order to verify  
8 29 the accuracy of any return made, or if a return was not made  
8 30 by the person, ascertain and determine the amount due under  
8 31 this chapter. These books, papers, and records shall be made  
8 32 available within this state for examination upon reasonable  
8 33 notice when the director deems it advisable and so orders. If  
8 34 the taxpayer maintains any records in an electronic format,

8 35 the taxpayer shall comply with reasonable requests by the  
9 1 director or the director's authorized agents to provide those  
9 2 electronic records in a standard record format. The preceding  
9 3 requirements shall likewise apply to users and persons  
9 4 furnishing services enumerated in section 423.2.

9 5 Sec. 22. Section 423A.4, unnumbered paragraph 3, Code  
9 6 2007, is amended to read as follows:

9 7 A local hotel and motel tax shall be imposed on January 1  
9 8 or July 1, following the notification of the director of  
9 9 revenue. Once imposed, the tax shall remain in effect at the  
9 10 rate imposed for a minimum of one year. A local hotel and  
9 11 motel tax shall terminate only on June 30 or December 31. At

9 12 least forty-five days prior to the tax being effective or  
9 13 prior to a revision in the tax rate, or prior to the repeal of  
9 14 the tax, a city or county shall provide notice by mail of such  
9 15 action to the director of revenue. The director shall have  
9 16 the authority to waive the notice requirement.

9 17 Sec. 23. Section 423B.1, subsection 6, paragraph b, Code  
9 18 2007, is amended to read as follows:

9 19 b. Within ten days of the election at which a majority of  
9 20 those voting on the question favors the imposition, repeal, or  
9 21 change in the rate of a local option tax, the county auditor  
9 22 shall give written notice of the result of the election by  
9 23 sending a copy of the abstract of the votes from the favorable  
9 24 election to the director of revenue or, in the case of a local  
9 25 vehicle tax, to the director of the department of  
9 26 transportation. The appropriate director shall have the  
9 27 authority to waive the notice requirement.

9 28 Sec. 24. Section 423E.2, subsection 5, paragraph b, Code  
9 29 2007, is amended to read as follows:

9 30 b. Within ten days of the election at which a majority of  
9 31 those voting on the question favors the imposition, repeal,  
9 32 extension, or change in the rate of the tax, the county  
9 33 auditor shall give written notice of the result of the  
9 34 election by sending a copy of the abstract of the votes from  
9 35 the favorable election to the director of revenue. Election  
10 1 costs shall be apportioned among school districts within the  
10 2 county on a pro rata basis in proportion to the number of  
10 3 registered voters in each school district who reside within  
10 4 the county and the total number of registered voters within  
10 5 the county. The director shall have the authority to waive  
10 6 the notice requirement.

10 7 Sec. 25. INDUSTRIAL NEW JOBS TRAINING TAX INCENTIVES  
10 8 REPORTING COMMITTEE. An industrial new jobs training tax  
10 9 incentives reporting committee shall be formed consisting of  
10 10 two representatives of the department of economic development,  
10 11 two representatives of community colleges, and two  
10 12 representatives of the department of revenue. One of the  
10 13 representatives of the department of revenue shall serve as  
10 14 the chairperson of the committee. The committee shall study  
10 15 the reporting of information related to tax incentives  
10 16 received pursuant to chapter 260E. By December 31, 2007, the  
10 17 committee shall submit a written report to the general  
10 18 assembly which shall include but not be limited to a proposed  
10 19 system for collecting data for tax incentives received  
10 20 pursuant to chapter 260E. The system shall collect data  
10 21 including but not limited to the recipient of tax incentives  
10 22 and the aggregate amount of tax incentives received under an  
10 23 agreement pursuant to chapter 260E.

#### DIVISION II

#### CIGARETTES AND TOBACCO

10 26 Sec. 26. Section 421B.3, Code 2007, is amended by adding  
10 27 the following new subsection:

10 28 NEW SUBSECTION. 3. a. The following civil penalties  
10 29 shall be imposed for a violation of this section:

10 30 (1) A two hundred dollar penalty for the first violation.

10 31 (2) A five hundred dollar penalty for a second violation  
10 32 within three years of the first violation.

10 33 (3) A thousand dollar penalty for a third or subsequent  
10 34 violation within three years of the first violation.

10 35 Each day the violation occurs counts as a new violation for  
11 1 purposes of this subsection.

11 2 b. The civil penalty imposed under this subsection is in  
11 3 addition to the penalty imposed under subsection 1. Penalties  
11 4 collected under this subsection shall be deposited into the  
11 5 general fund of the state.

11 6 Sec. 27. Section 453A.7, unnumbered paragraph 2, Code  
11 7 2007, is amended to read as follows:

11 8 There is appropriated annually from the ~~general fund of the~~  
11 9 ~~state the sum of one hundred fifteen thousand dollars state~~  
11 10 ~~treasury from funds not otherwise appropriated an amount~~  
11 11 ~~sufficient~~ to carry out the provisions of this section.

11 12 Sec. 28. Section 453A.13, subsections 5 and 9, Code 2007,  
11 13 are amended to read as follows:

11 14 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be  
11 15 issued only upon applications accompanied by the fee indicated  
11 16 above, and by an adequate bond as provided in section 453A.14,  
11 17 and upon forms furnished by the department upon written  
11 18 request. The failure to furnish such forms shall be no excuse  
11 19 for the failure to file the ~~same forms~~ unless absolute refusal  
11 20 is shown. ~~Said~~ The forms shall set forth all of the  
11 21 following:

11 22 a. The manner under which ~~such~~ the distributor,

11 23 wholesaler, or retailer, transacts or intends to transact such  
11 24 business as a distributor, wholesaler, or retailer.

11 25 b. The principal office, residence, and place of business,  
~~11 26 for which where the permit is to apply.~~

11 27 c. If the applicant is not an individual, the principal  
11 28 officers or members thereof, ~~not to exceed three,~~ and their  
11 29 addresses.

11 30 d. ~~Such~~ Any other information as the director shall by  
11 31 rules prescribe.

11 32 9. PERMIT == FORM AND CONTENTS. Each permit issued shall  
11 33 describe clearly the place of business for which it is issued,  
11 34 shall be nonassignable, consecutively numbered, designating  
11 35 the kind of permit, and shall authorize the sale of cigarettes  
12 1 in this state subject to the limitations and restrictions  
12 2 herein contained. The retail permits shall be upon forms  
12 3 furnished by the department or on forms made available or  
~~12 4 approved by the department.~~

12 5 Sec. 29. Section 453A.13, Code 2007, is amended by adding  
12 6 the following new subsection:

12 7 NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall,  
12 8 at all times, be publicly displayed by the distributor,  
12 9 wholesaler, or retailer at the place of business so as to be  
12 10 easily seen by the public and the persons authorized to  
12 11 inspect the place of business. The proprietor or keeper of  
12 12 any building or place where cigarettes and other tobacco  
12 13 products are kept for sale, or with intent to sell, shall upon  
12 14 request of any agent of the department or any peace officer  
12 15 exhibit the permit. A refusal or failure to exhibit the  
12 16 permit is prima facie evidence that the cigarettes or other  
12 17 tobacco products are kept for sale or with intent to sell in  
12 18 violation of this division.

12 19 Sec. 30. Section 453A.15, subsection 2, Code 2007, is  
12 20 amended to read as follows:

12 21 2. Where a state permit holder sells cigarettes at retail,  
12 22 the holder shall be required to ~~issue an invoice to the~~  
~~12 23 holder's retail department for~~ maintain detailed records for  
~~12 24 sales of cigarettes to be sold at retail and such the~~  
12 25 cigarette invoices sales records shall be kept separate and  
12 26 apart.

12 27 Sec. 31. Section 453A.15, Code 2007, is amended by adding  
12 28 the following new subsection:

12 29 NEW SUBSECTION. 7. The director may require by rule that  
12 30 reports required to be made under this division be filed by  
12 31 electronic transmission.

12 32 Sec. 32. Section 453A.18, Code 2007, is amended to read as  
12 33 follows:

12 34 453A.18 FORMS FOR RECORDS AND REPORTS.

12 35 The department shall furnish or make available in  
~~13 1 electronic form,~~ without charge, to holders of the various  
13 2 permits, forms in sufficient quantities to enable permit  
13 3 holders to make the reports required to be made under this  
13 4 division. The permit holders shall furnish at their own  
13 5 expense the books, records, and invoices, required to be used  
13 6 and kept, but the books, records, and invoices shall be in  
13 7 exact conformity to the forms prescribed for that purpose by  
13 8 the director, and shall be kept and used in the manner  
13 9 prescribed by the director. However, the director may, by  
13 10 express order in certain cases, authorize permit holders to  
13 11 keep their records in a manner and upon forms other than those  
13 12 ~~so~~ prescribed. The authorization may be revoked at any time.

13 13 Sec. 33. Section 453A.24, Code 2007, is amended to read as  
13 14 follows:

13 15 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.

13 16 1. Every common carrier or person in this state having  
13 17 custody of books or records showing the transportation of  
13 18 cigarettes both interstate and intrastate shall give and allow  
13 19 the department free access to ~~such those~~ books and records.

13 20 2. The director may require by rule that common carriers  
~~13 21 or the appropriate persons provide monthly reports to the~~  
~~13 22 department detailing all information the department deems~~  
~~13 23 necessary on shipments into and out of Iowa of cigarettes and~~  
~~13 24 tobacco products as set forth in divisions I and II of this~~  
~~13 25 chapter. The director may require by rule that the reports be~~  
~~13 26 filed by electronic transmission.~~

13 27 Sec. 34. Section 453A.25, subsection 3, Code 2007, is  
13 28 amended to read as follows:

13 29 3. The director ~~is hereby authorized to appoint an~~  
~~13 30 assistant, whose sole duty it shall be~~ may designate employees  
13 31 to administer and enforce the provisions of this chapter,  
13 32 including the collection of all taxes provided for herein in  
~~13 33 this chapter. In such the enforcement,~~ the director may

13 34 request aid from the attorney general, the special agents of  
13 35 the state, any county attorney, or any peace officer. The  
14 1 director ~~is authorized to may~~ appoint such clerks and  
14 2 additional help as may be needed to ~~carry out the provisions~~  
~~14 3 of administer~~ this chapter.

14 4 Sec. 35. Section 453A.30, Code 2007, is amended to read as  
14 5 follows:

14 6 453A.30 ASSESSMENT OF COST OF AUDIT.

14 7 The department may employ auditors or other persons to  
14 8 audit and examine the books and records of any permit holder  
14 9 or other person dealing in cigarettes to ascertain whether  
14 10 ~~such the~~ permit holder or other person has paid the amount of  
14 11 the taxes required to be paid by the holder or person ~~or filed~~  
~~14 12 all reports containing all required information as specified~~

~~14 13 by the department~~ under the provisions of this chapter. If  
14 14 such taxes have not been paid ~~or such reports not filed~~, as  
14 15 required, the department shall assess against ~~such the~~ permit  
14 16 holder or other person, as additional penalty, the reasonable  
14 17 expenses and costs of ~~such the~~ investigation and audit.

14 18 Sec. 36. Section 453A.31, Code 2007, is amended by adding  
14 19 the following new unnumbered paragraph:

14 20 NEW UNNUMBERED PARAGRAPH. If a cigarette distributor fails  
14 21 to file a return or to report timely, stamps shall not be  
14 22 provided to that cigarette distributor until all returns and  
14 23 reports are filed properly and all tax, penalties, and  
14 24 interest are paid.

14 25 Sec. 37. Section 453A.32, Code 2007, is amended by adding  
14 26 the following new subsection:

14 27 NEW SUBSECTION. 6. The provisions of this section  
14 28 applying to cigarettes shall also apply to tobacco products  
14 29 taxed under division II of this chapter.

14 30 Sec. 38. Section 453A.36, subsection 6, Code 2007, is  
14 31 amended to read as follows:

14 32 6. Any sales of cigarettes or tobacco products made  
14 33 through a cigarette vending machine are subject to rules and  
14 34 penalties relative to retail sales of cigarettes and tobacco  
14 35 products provided for in this chapter. ~~No cigarettes shall~~  
15 1 Cigarettes shall not be sold through any cigarette vending  
15 2 machine unless the cigarettes have been properly stamped or  
15 3 metered as provided by this division, and in case of violation  
15 4 of this provision, the permit of the dealer authorizing retail  
15 5 sales of cigarettes shall be  ~~canceled~~ revoked. Payment of the  
15 6 license permit fee as provided in section 453A.13 authorizes a  
15 7 cigarette vendor to sell cigarettes or tobacco products  
15 8 through vending machines. However, cigarettes or tobacco  
15 9 products shall not be sold through a vending machine unless  
15 10 the vending machine is located in a place where the retailer  
15 11 ensures that no person younger than eighteen years of age is  
15 12 present or permitted to enter at any time. This section does  
15 13 not require a retail ~~licensee~~ permit holder to buy a cigarette  
15 14 vendor's permit if the retail ~~licensee~~ permit holder is in  
15 15 fact the owner of the cigarette vending machines and the  
15 16 machines are operated in the location described in the retail  
15 17 permit.

15 18 Sec. 39. Section 453A.43, subsections 1 and 2, Code 2007,  
15 19 as amended by 2007 Iowa Acts, Senate File 128, are amended to  
15 20 read as follows:

15 21 1. a. A tax is imposed upon all tobacco products in this  
15 22 state and upon any person engaged in business as a distributor  
15 23 of tobacco products, at the rate of twenty-two percent of the  
15 24 wholesale sales price of the tobacco products, except little  
15 25 cigars and snuff as defined in section 453A.42.

15 26 b. In addition to the tax imposed under paragraph "a", a  
15 27 tax is imposed upon all tobacco products in this state and  
15 28 upon any person engaged in business as a distributor of  
15 29 tobacco products, at the rate of twenty-eight percent of the  
15 30 wholesale sales price of the tobacco products, except little  
15 31 cigars and snuff as defined in section 453A.42, ~~with the~~  
~~15 32 limitation that if the tobacco product is a cigar, the~~  
~~15 33 additional tax shall not exceed fifty cents per cigar.~~

15 34 c. Notwithstanding the rate of tax imposed pursuant to  
15 35 paragraphs "a" and "b", if the tobacco product is a cigar, the  
~~16 1 total amount of the tax imposed pursuant to paragraphs "a" and~~  
~~16 2 "b" combined shall not exceed fifty cents per cigar.~~

16 3 ~~e. d.~~ Little cigars shall be subject to the same rate of  
16 4 tax imposed upon cigarettes in section 453A.6, payable at the  
16 5 time and in the manner provided in section 453A.6; and stamps  
16 6 shall be affixed as provided in division I of this chapter.  
16 7 Snuff shall be subject to the tax as provided in subsections 3  
16 8 and 4.

16 9 ~~d. e.~~ The taxes on tobacco products, excluding little

16 10 cigars and snuff, shall be imposed at the time the distributor  
16 11 does any of the following:

- 16 12 (1) Brings, or causes to be brought, into this state from  
16 13 outside the state tobacco products for sale.  
16 14 (2) Makes, manufactures, or fabricates tobacco products in  
16 15 this state for sale in this state.  
16 16 (3) Ships or transports tobacco products to retailers in  
16 17 this state, to be sold by those retailers.

16 18 2. a. A tax is imposed upon the use or storage by  
16 19 consumers of tobacco products in this state, and upon the  
16 20 consumers, at the rate of twenty-two percent of the cost of  
16 21 the tobacco products.

16 22 b. In addition to the tax imposed in paragraph "a", a tax  
16 23 is imposed upon the use or storage by consumers of tobacco  
16 24 products in this state, and upon the consumers, at a rate of  
16 25 twenty-eight percent of the cost of the tobacco products, ~~with~~  
~~16 26 the limitation that if the tobacco product is a cigar, the~~  
~~16 27 additional tax shall not exceed fifty cents per cigar.~~

~~16 28 c. Notwithstanding the rate of tax imposed pursuant to~~  
~~16 29 paragraphs "a" and "b", if the tobacco product is a cigar, the~~  
~~16 30 total amount of the tax imposed pursuant to paragraphs "a" and~~  
~~16 31 "b" combined shall not exceed fifty cents per cigar.~~

16 32 ~~e. d.~~ The taxes imposed by this subsection shall not  
16 33 apply if the taxes imposed by subsection 1 on the tobacco  
16 34 products have been paid.

16 35 ~~d. e.~~ The taxes imposed under this subsection shall not  
17 1 apply to the use or storage of tobacco products in quantities  
17 2 of:

- 17 3 (1) Less than twenty-five cigars.  
17 4 (2) Less than one pound smoking or chewing tobacco or  
17 5 other tobacco products not specifically mentioned herein, in  
17 6 the possession of any one consumer.

17 7 Sec. 40. Section 453A.45, subsection 5, unnumbered  
17 8 paragraphs 2 and 4, Code 2007, are amended to read as follows:

17 9 ~~Such~~ The report shall be made on forms provided by the  
17 10 director or the director may require by rule that the report  
17 11 be filed by electronic transmission.

17 12 Any person who fails or refuses to transmit to the director  
17 13 the required reports or whoever refuses to permit the  
17 14 examination of the records by the director shall be guilty of  
17 15 a ~~simple~~ serious misdemeanor.

17 16 Sec. 41. Section 453A.46, subsections 1 and 3, Code 2007,  
17 17 are amended to read as follows:

17 18 1. On or before the twentieth day of each calendar month  
17 19 every distributor with a place of business in this state shall  
17 20 file a return with the director showing for the preceding  
17 21 calendar month the quantity and wholesale sales price of each  
17 22 tobacco product brought, or caused to be brought, into this  
17 23 state for sale; ~~and~~ made, manufactured, or fabricated in this  
17 24 state for sale in this state, ~~during the preceding calendar~~  
~~17 25 month; and any other information the director may require.~~

17 26 Every licensed distributor outside this state shall in like  
17 27 manner file a return with the director showing for the  
17 28 preceding calendar month the quantity and wholesale sales  
17 29 price of each tobacco product shipped or transported to  
17 30 retailers in this state to be sold by those retailers, ~~during~~  
~~17 31 the preceding calendar month and any other information the~~  
17 32 director may require. Returns shall be made upon forms

17 33 furnished or made available in electronic form and prescribed  
17 34 by the director and shall contain other information as the  
17 35 director may require. Each return shall be accompanied by a  
18 1 remittance for the full tax liability shown on the return,  
18 2 less a discount as fixed by the director not to exceed five  
18 3 percent of the tax. Within three years after the return is  
18 4 filed or within three years after the return became due,  
18 5 whichever is later, the department shall examine it, determine  
18 6 the correct amount of tax, and assess the tax against the  
18 7 taxpayer for any deficiency. The period for examination and  
18 8 determination of the correct amount of tax is unlimited in the  
18 9 case of a false or fraudulent return made with the intent to  
18 10 evade tax, or in the case of a failure to file a return.

18 11 The three-year ~~period of~~ limitation period may be extended  
18 12 by a taxpayer by signing a waiver agreement form ~~to be~~  
18 13 provided by the department. The agreement must stipulate the  
18 14 period of extension period and the tax period to which the  
18 15 extension applies. The agreement must also ~~provide~~ stipulate  
18 16 that a claim for refund may be filed by the taxpayer at any  
18 17 time during the period of extension period.

18 18 3. In addition to the tax or additional tax, the taxpayer  
18 19 shall also pay a penalty as provided in section 421.27 and be  
18 20 subject to the civil penalties set forth in sections 421.27;



18 21 453A.31, subsection 2; and 453A.50, subsection 3, as  
18 22 applicable.

18 23 Sec. 42. Section 453A.46, Code 2007, is amended by adding  
18 24 the following new subsection:

18 25 NEW SUBSECTION. 7. The director may require by rule that  
18 26 reports be filed by electronic transmission.

18 27 Sec. 43. Section 453A.50, subsection 2, Code 2007, is  
18 28 amended to read as follows:

18 29 2. ~~Any~~ Except as otherwise provided, any person who  
18 30 ~~otherwise~~ violates any provisions of this division shall be  
18 31 guilty of a simple misdemeanor.

18 32 Sec. 44. Section 453A.50, Code 2007, is amended by adding  
18 33 the following new subsection:

18 34 NEW SUBSECTION. 3. The following civil penalties shall be  
18 35 imposed for a violation of this division:

19 1 a. A two hundred dollar penalty for the first violation.

19 2 b. A five hundred dollar penalty for a second violation  
19 3 within three years of the first violation.

19 4 c. A thousand dollar penalty for a third or subsequent  
19 5 violation within three years of the first violation.

19 6 The penalty imposed in this subsection is in addition to  
19 7 the tax, penalty, and interest imposed in other sections of  
19 8 this division. Each day a violation occurs counts as a new  
19 9 violation for purposes of this subsection.

19 10 Sec. 45. NEW SECTION. 453A.51 ASSESSMENT OF COST OF  
19 11 AUDIT.

19 12 The department may employ auditors or other persons to  
19 13 audit and examine the books and records of a permit holder or  
19 14 other person dealing in tobacco products to ascertain whether  
19 15 the permit holder or other person has paid the amount of the  
19 16 taxes required to be paid by the permit holder or other person  
19 17 under the provisions of this chapter. If the taxes have not  
19 18 been paid, as required, the department shall assess against  
19 19 the permit holder or other person, as additional penalty, the  
19 20 reasonable expenses and costs of the investigation and audit.

19 21 Sec. 46. Section 453C.1, subsection 10, Code 2007, is  
19 22 amended to read as follows:

19 23 10. "Units sold" means the number of individual cigarettes  
19 24 sold in the state by the applicable tobacco product  
19 25 manufacturer, whether directly or through a distributor,  
19 26 retailer, or similar intermediary or intermediaries, during  
19 27 the year in question, as measured by excise taxes collected by  
19 28 the state on packs bearing the excise stamp of the state or on  
19 29 roll-your-own tobacco containers. The department of revenue  
19 30 shall adopt rules as are necessary to ascertain the amount of  
19 31 state excise tax paid on the cigarettes of such tobacco  
19 32 product manufacturer for each year.

19 33 Sec. 47. REFUNDS. Refunds of taxes which result from the  
19 34 amendment to section 453A.43, in this division of this Act,  
19 35 relating to the limitation on the taxes imposed on cigars  
20 1 occurring between March 15, 2007, and the effective date of  
20 2 the amendment to section 453A.43 in this division of this Act,  
20 3 shall not be allowed unless refund claims are filed prior to  
20 4 October 1, 2007, notwithstanding any other provision of law.  
20 5 Claimants shall not be entitled to interest on any refunds.

20 6 Sec. 48. EFFECTIVE DATE AND APPLICABILITY. The provision  
20 7 in this division of this Act amending section 453A.43, and the  
20 8 section of this division of this Act providing refunds  
20 9 resulting from the amendment of section 453A.43, being deemed  
20 10 of immediate importance, take effect upon enactment and are  
20 11 retroactively applicable to March 15, 2007.

20 12 EXPLANATION

20 13 DIVISION I == TAX ADMINISTRATION. Code sections 15E.44,  
20 14 subsection 1, and 15E.45, subsection 3, are amended to  
20 15 eliminate the requirement that tax identification numbers of  
20 16 investors (social security numbers) must be provided at the  
20 17 time that a qualifying business or community-based seed  
20 18 capital fund submits an application to the Iowa capital  
20 19 investment board. The tax identification numbers are provided  
20 20 at the time that the investors apply for a tax credit  
20 21 certificate.

20 22 Code sections 331.434 and 384.16 are amended to require  
20 23 cities and counties to include as part of their annual  
20 24 budgeting procedures a tax increment financing budget. The  
20 25 amendments provide that the tax increment financing budget,  
20 26 wherever practicable, shall include estimated and actual tax  
20 27 increment financing revenues and all estimated and actual  
20 28 expenditures of the revenues, proceeds from debt and all of  
20 29 the expenditure of debt proceeds, and identification of any  
20 30 entity receiving a direct tax increment financing rebate of  
20 31 taxes.

20 32 Code section 421.26 is amended to require cigarette permit  
20 33 holders to be personally liable for unpaid cigarette taxes.  
20 34 This requirement is the same as presently exists for  
20 35 licensees, retailers, purchasers, users, and permit holders  
21 1 for other taxes.

21 2 Code section 421.27, subsections 1 and 2, are amended to  
21 3 allow a penalty waiver which reflects a legislative change  
21 4 made to correct an inconsistent time frame for filing  
21 5 disclaimers by the beneficiary of an estate refusing to take  
21 6 the property.

21 7 Code section 422.7, subsection 32, is amended to provide  
21 8 that withdrawals from the Iowa educational savings plan trust  
21 9 that are not used for qualified education expenses must be  
21 10 added back on the Iowa individual income tax return to the  
21 11 extent that a deduction for a contribution was previously  
21 12 allowed.

21 13 Code section 422.11S, subsections 6 and 7, are amended to  
21 14 change the deadlines for certified enrollment and notification  
21 15 requirements for the school tuition organization tax credit to  
21 16 be consistent with the notification requirements of Code  
21 17 section 257.6 relating to the school aid formula.

21 18 Code section 422.12E is amended to state that the director  
21 19 will determine which checkoffs will be included on the  
21 20 individual income tax form in situations where additional  
21 21 checkoffs in excess of the number allowed are enacted on the  
21 22 same day.

21 23 Code section 422.13, subsection 5, is amended to allow  
21 24 nonresident trusts and estates that are members of  
21 25 partnerships, limited liability, trusts, or S corporations to  
21 26 be included on an Iowa composite return.

21 27 Code section 422.35, subsection 17, is amended to correct  
21 28 the reference to federal taxable income for the deduction  
21 29 allowed for the social security credit for corporation income  
21 30 tax.

21 31 Code section 422.73, subsection 3, adopted as part of 2006  
21 32 Iowa Acts, House File 2351, is repealed. Because any capital  
21 33 or ordinary gain from the involuntary conversion relating to  
21 34 eminent domain is exempt from Iowa individual or corporation  
21 35 income tax, there is no need to file a claim for refund  
22 1 relating to the repurchase of property when tax was not paid  
22 2 on the gain in the initial instance.

22 3 Code section 422.75 is amended to update current reporting  
22 4 requirements related to the annual report filed by the  
22 5 department.

22 6 Code section 423.2, subsection 6, is amended to require  
22 7 financial institutions unregulated by federal or Iowa  
22 8 authorities to pay sales tax on service charges if they are  
22 9 doing business in Iowa.

22 10 Code section 423.2 is amended to impose a sales tax on the  
22 11 sale of audiovisual works, audio works, books, computer  
22 12 software, and ring tones that are sold to an individual for  
22 13 the individual's use and consumption. The tax is imposed on  
22 14 these items when they are digitally or electronically  
22 15 delivered to the individual. This proposal equalizes the sale  
22 16 of these items between an Iowa retail business and an internet  
22 17 business.

22 18 Code section 423.3, subsection 65, is amended to exempt  
22 19 from sales tax charges paid for access to the internet by  
22 20 means of any device and not solely by means of a computer  
22 21 server.

22 22 Code section 423.3, subsection 80, is amended to exempt  
22 23 from sales tax sales of building materials, supplies, or  
22 24 equipment only to the extent those items are consumed in an  
22 25 exempt construction project.

22 26 Code section 423.41 is amended to require a taxpayer  
22 27 maintaining electronic records to provide those electronic  
22 28 records relating to sales and use taxes to the director for  
22 29 examination upon request.

22 30 Code sections 423A.4, 423B.1, subsection 6, and 423E.2,  
22 31 subsection 5, are amended to grant the director the authority  
22 32 to waive the requirement that a city or county notify the  
22 33 director of the imposition, repeal, extension, or change in  
22 34 the rate of the local option tax.

22 35 The division requires an industrial new jobs training tax  
23 1 incentives reporting committee to be formed consisting of two  
23 2 representatives of the department of economic development, two  
23 3 representatives of community colleges, and two representatives  
23 4 of the department of revenue. The committee is to study the  
23 5 reporting of information related to tax incentives received  
23 6 pursuant to Code chapter 260E. By December 31, 2007, the  
23 7 committee is to submit a written report to the general

23 8 assembly which shall include but not be limited to a proposed  
23 9 system for collecting data for tax incentives received  
23 10 pursuant to Code chapter 260E.  
23 11 DIVISION II == CIGARETTE/TOBACCO TAXES. Code section  
23 12 421B.3 is amended to impose civil penalties for the sale of  
23 13 cigarettes below minimum price. These penalties are  
23 14 consistent with those for violations of other cigarette and  
23 15 tobacco tax laws and rules. The penalties are in addition to  
23 16 other penalties for violating the chapter and moneys collected  
23 17 are to be deposited into the state general fund.  
23 18 Code section 453A.7 is amended to provide sufficient funds  
23 19 for the department to purchase tax stamps for placement on  
23 20 packages of cigarettes as evidence that the tax has been paid.  
23 21 Code section 453A.13 is amended to require furnishing of  
23 22 the names and addresses of all officers of the business  
23 23 applying for a bond to obtain a cigarette permit. Code  
23 24 section 453A.13 is further amended to permit the use of  
23 25 cigarette retail permit forms approved by the department.  
23 26 Code section 453A.13 is also amended to require the public  
23 27 display of the permit at the place of business.  
23 28 Code section 453A.15, subsection 2, requires cigarette  
23 29 permit holders to maintain separate records for cigarette  
23 30 sales that are sold at wholesale and sold at retail from the  
23 31 same location.  
23 32 Code section 453A.15 is amended to require the permit  
23 33 holder to maintain detailed records and to give the director  
23 34 the authority to require that cigarette reports be filed by  
23 35 electronic transmission.  
24 1 Code section 453A.18 authorizes the department to furnish  
24 2 permit holders with electronic forms in lieu of paper forms.  
24 3 Code section 453A.24 is amended to require common carriers  
24 4 or other persons to provide monthly reports to the department  
24 5 by electronic transmission if the director requires by rule.  
24 6 Code section 453A.25, subsection 3, is amended to delete  
24 7 the requirement that the director appoint a person whose only  
24 8 responsibility is to administer cigarette and tobacco taxes.  
24 9 Code section 453A.30 is amended to include the requirements  
24 10 for the filing of cigarette reports the same as those for the  
24 11 filing of cigarette returns relating to the cost of an audit.  
24 12 Code section 453A.31 is amended to prohibit the sale of  
24 13 cigarette stamps to distributors who do not file appropriate  
24 14 returns or reports in a timely manner.  
24 15 Code section 453A.32 is amended to make the cigarette  
24 16 seizure provisions applicable to tobacco products.  
24 17 Code section 453A.36, subsection 6, is amended to specify  
24 18 that cigarette retailers receive a permit, not a license, to  
24 19 do business in Iowa.  
24 20 Code section 453A.43 is amended to provide that the  
24 21 increase in tobacco products tax pursuant to 2007 Iowa Acts,  
24 22 Senate File 128, plus the prior tax on tobacco products shall  
24 23 not exceed fifty cents per cigar. A refund provision is  
24 24 provided for those who have paid a higher rate of tax than the  
24 25 fifty cents between March 15, 2007, and the effective date of  
24 26 this provision.  
24 27 Code section 453A.45, subsection 5, is amended to give the  
24 28 director the authority to require by rule that tobacco  
24 29 transportation reports be filed electronically and makes the  
24 30 failure or refusal to file or allow the examination of the  
24 31 required reports a serious misdemeanor rather than a simple  
24 32 misdemeanor.  
24 33 Code section 453A.46 is amended to give the director the  
24 34 authority to require by rule any additional information that  
24 35 should be included on a return, adds language to reference  
25 1 civil penalties, and gives the director the authority to  
25 2 require by rule that distributors file tobacco reports  
25 3 electronically.  
25 4 Code section 453A.50, subsection 2, is amended to specify  
25 5 that unless otherwise stated, violations of the tobacco  
25 6 products division are simple misdemeanors.  
25 7 Code section 453A.50 is also amended to impose civil  
25 8 penalties for violation of the tobacco tax laws and  
25 9 regulations. These penalties are consistent with penalties  
25 10 that are applicable to cigarettes.  
25 11 Code section 453A.51 is enacted to make tobacco products  
25 12 tax enforcement provisions similar to cigarette tax  
25 13 enforcement provisions related to the cost of an audit.  
25 14 Code section 453C.1 is amended to provide a more specific  
25 15 definition of "units sold" for the purposes of the tobacco  
25 16 product manufacturers' obligations which is the basis for  
25 17 determining the amount that a nonparticipating manufacturer in  
25 18 the tobacco master settlement agreement must place in escrow.

25 19 The amended definition provides that "units sold" is measured  
25 20 only by those packs bearing an excise stamp of the state.  
25 21 LSB 1264SV 82  
25 22 mg:sc/je/5