

**Senate File 2306 - Introduced**

SENATE FILE 2306

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3115)

(COMPANION TO HF 2440 BY

COMMITTEE ON WAYS AND MEANS)

**A BILL FOR**

1 An Act establishing the facilitating business rapid response to  
2 state-declared disasters Act, and including effective date  
3 and retroactive applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.1, subsection 3, Code 2016, is  
2 amended to read as follows:

3 3. To provide for the rendering of mutual aid among the  
4 political subdivisions of the state and with other states,  
5 ~~and~~ to cooperate with the federal government with respect to  
6 the carrying out of emergency management functions, and to  
7 ensure the state government and its departments and agencies  
8 facilitate the rapid response of businesses and workers in the  
9 state and other states to a disaster.

10 Sec. 2. NEW SECTION. **29C.24 Facilitating business rapid**  
11 **response to state-declared disasters Act.**

12 1. *Title.* This section may be cited as the "*Facilitating*  
13 *Business Rapid Response to State-Declared Disasters Act*".

14 2. *Definitions.* For purposes of this section, unless the  
15 context otherwise requires:

16 a. (1) "*Critical infrastructure*" means real and personal  
17 property and equipment owned or used by any of the following  
18 networks or systems, including related support facilities,  
19 which network or system provides service to more than one  
20 customer or person:

21 (a) Communication and video networks.

22 (b) Electric generation, transmission, and distribution  
23 systems.

24 (c) Gas distribution systems.

25 (d) Water and wastewater pipeline systems.

26 (2) "*Critical infrastructure*" includes but is not limited  
27 to buildings, structures, offices, lines, poles, pipes, and  
28 equipment.

29 b. "*Declared state disaster or emergency*" means a disaster  
30 or emergency event that meets at least one of the following  
31 conditions:

32 (1) A disaster emergency proclamation has been issued by the  
33 governor pursuant to section 29C.6 in relation to the event.

34 (2) A presidential declaration of a major disaster has been  
35 issued in relation to the event.

1     *c. "Disaster or emergency-related work"* means repairing,  
2 renovating, installing, building, or rendering services  
3 or other business activities, that relate to critical  
4 infrastructure that has been damaged, impaired, or destroyed by  
5 a declared state disaster or emergency.

6     *d. "Disaster response period"* means, with respect to  
7 each declared state disaster or emergency, a period of time  
8 that begins ten calendar days prior to the day the governor  
9 proclaims a disaster emergency or the president declares a  
10 major disaster, whichever occurs first, and extends for a  
11 period of sixty calendar days after the end of the declared  
12 state disaster or emergency.

13     *e. (1) "Out-of-state business"* means a business entity that  
14 meets all of the following requirements:

15         (i) The business entity is requested to perform disaster or  
16 emergency-related work in the state by a registered business or  
17 by the state or a political subdivision of the state.

18         (ii) Except for disaster and emergency-related work, the  
19 business entity has no presence in the state and conducts no  
20 business in the state.

21         (iii) Except for disaster and emergency-related work, the  
22 business entity had no registrations, tax filings, or nexus in  
23 the state for the tax year immediately preceding the year in  
24 which the relevant declared state disaster or emergency occurs.

25     (2) *"Out-of-state business"* may include a business entity  
26 that is affiliated with a registered business solely through  
27 common ownership.

28     *f. "Out-of-state employee"* means an employee who does  
29 not work in this state except to perform disaster or  
30 emergency-related work during a disaster response period.

31     *g. "Registered business"* means a business entity that is  
32 registered to do business in the state prior to the declared  
33 state disaster or emergency.

34     3. *Business and employee status during disaster response*  
35 *period.*

1     *a.* Notwithstanding any other provision of law to the  
2 contrary, an out-of-state business that conducts operations  
3 within the state solely for the purpose of performing disaster  
4 or emergency-related work during a disaster response period  
5 shall not be considered to have established a level of presence  
6 that would subject the out-of-state business to any of the  
7 following:

8     (1) The requirement to complete or obtain any state or local  
9 registration, license, or similar authorization as a condition  
10 of doing business in this state or engaging in an occupation  
11 in this state, or to pay any related fee, including but not  
12 limited to the requirement to register with the secretary of  
13 state or a political subdivision. This subparagraph (1) does  
14 not apply to the notification requirement in subsection 5.

15     (2) (a) The requirement to collect and remit any tax  
16 imposed upon another person or file any related tax return or  
17 obtain any related tax permit. This subparagraph division (a)  
18 does not apply to an out-of-state business for the collection  
19 and remittance of sales and use taxes under chapter 423 if the  
20 out-of-state business is registered voluntarily as a seller  
21 under the streamlined sales and use tax agreement.

22     (b) Subparagraph division (a) shall not be construed to  
23 protect or otherwise exempt any person liable for the payment  
24 of a tax, other than the out-of-state business, from the  
25 responsibility to pay such tax.

26     (3) The imposition of income taxes under chapter 422,  
27 divisions II and III, including the requirement to file tax  
28 returns under sections 422.13 through 422.15 or 422.36, as  
29 applicable, and including the requirement to withhold and remit  
30 income tax from out-of-state employees under section 422.16.  
31 In addition, the performance of disaster or emergency-related  
32 work during a disaster response period by an out-of-state  
33 business or out-of-state employee shall not require an  
34 out-of-state business to be included in a consolidated return  
35 under section 422.37, and shall not increase the amount of net

1 income of the out-of-state business allocated and apportioned  
2 to the state under sections 422.8 or 422.33, as applicable.

3 (4) The employment security requirements under chapter  
4 96, including but not limited to the payment of employer  
5 contributions under section 96.7.

6 (5) The use tax under chapter 423, subchapter III, or  
7 the equipment tax under chapter 423D, on tangible personal  
8 property or equipment purchased outside the state and brought  
9 into the state to aid in the performance of disaster or  
10 emergency-related work during a disaster response period if  
11 such tangible personal property or equipment does not remain in  
12 the state after the conclusion of the disaster response period.

13 (6) The assessment of property taxes by the department  
14 of revenue under sections 428.24 through 428.26, 428.28, and  
15 428.29, or chapters 433, 434, 435, and 437 through 438, or by  
16 a local assessor under another provision of law, on property  
17 brought into the state to aid in the performance of disaster  
18 or emergency-related work during a disaster period if such  
19 property does not remain in the state after the conclusion of  
20 the disaster response period.

21 *b.* Notwithstanding any other provision of law to the  
22 contrary, the performance of disaster or emergency-related  
23 work during a disaster response period by an out-of-state  
24 employee shall not be used as the basis to determine that the  
25 out-of-state employee has established residency or a level of  
26 presence that would subject the out-of-state employee to any  
27 of the following:

28 (1) The requirement to complete or obtain any state or local  
29 registration, license, or similar authorization as a condition  
30 of doing business in this state or engaging in an occupation  
31 in this state, or to pay any related fee, including but not  
32 limited to the requirement to register with the secretary of  
33 state or a political subdivision.

34 (2) The imposition of income taxes under chapter 422,  
35 division II, including the requirement to file tax returns

1 under section 422.13 and the requirement to be subject to  
2 withholding of income tax under section 422.16. In addition,  
3 the performance of disaster or emergency-related work during a  
4 disaster response period by an out-of-state employee shall not  
5 increase the amount of net income of the out-of-state employee  
6 allocated and apportioned to the state under section 422.8.

7 (3) The use tax under chapter 423, subchapter III, or the  
8 equipment tax under chapter 423D, on tangible personal property  
9 or equipment purchased outside the state and used in the state  
10 to aid in the performance of disaster or emergency-related work  
11 during a disaster response period if such tangible personal  
12 property or equipment does not remain in the state after the  
13 conclusion of the disaster response period.

14 c. During a disaster response period, an out-of-state  
15 business or an out-of-state employee shall be subject to all  
16 taxes and fees not included in paragraphs "a" and "b", and this  
17 subsection shall not be construed to provide protection or  
18 exemption during a disaster response period or any other period  
19 from taxes or taxable events not included in paragraphs "a" and  
20 "b".

21 4. *Business and employee status after a disaster response*  
22 *period.* An out-of-state business or out-of-state employee  
23 that remains in the state after the conclusion of the disaster  
24 response period for which the disaster or emergency-related  
25 work was performed shall be fully subject to the state's  
26 standards for establishing presence, residency, or doing  
27 business as otherwise provided by law, and shall be responsible  
28 for any resulting taxes, fees, licensing, registration, filing,  
29 or other requirements.

30 5. *Notification of out-of-state business during disaster*  
31 *response period.*

32 a. An out-of-state business that enters the state to perform  
33 disaster and emergency-related work during a disaster response  
34 period shall provide notification to the secretary of state,  
35 which notification shall contain all the following information

1 related to the out-of-state business:

- 2 (1) Name.
- 3 (2) State of domicile.
- 4 (3) Principal business address.
- 5 (4) Federal employer identification number.
- 6 (5) The date the out-of-state business entered the state.
- 7 (6) Contact information.
- 8 (7) A statement that the out-of-state business is in  
9 the state for the purpose of responding to a declared state  
10 disaster or emergency.

11 *b.* For an out-of-state business that enters this state to  
12 perform disaster and emergency-related work during a disaster  
13 response period as an affiliate of a registered business, the  
14 registered business shall provide, on behalf of the affiliate  
15 out-of-state business, the notification required in paragraph  
16 "a", which notification shall also include contact information  
17 for the registered business.

18 *c.* The secretary of state shall transmit notification  
19 information to the department, department of revenue, and other  
20 appropriate state and local government agencies and officials.

21 *6. Powers and duties not created.* This Act shall not be  
22 construed to place any new mandates or duties upon a local  
23 emergency management commission or create any new authority or  
24 power for a local emergency management commission not already  
25 expressly granted in another provision of this chapter.

26 *7. Rules.* The department, the secretary of state, and  
27 the department of revenue shall each adopt rules pursuant to  
28 chapter 17A to jointly administer this section.

29 *Sec. 3.* Section 422.8, subsection 2, paragraph a, Code 2016,  
30 is amended to read as follows:

31 *a.* Nonresident's net income allocated to Iowa is the net  
32 income, or portion of net income, which is derived from a  
33 business, trade, profession, or occupation carried on within  
34 this state or income from any property, trust, estate, or  
35 other source within Iowa. However, income derived from a

1 business, trade, profession, or occupation carried on within  
2 this state and income from any property, trust, estate, or  
3 other source within Iowa shall not include distributions from  
4 pensions, including defined benefit or defined contribution  
5 plans, annuities, individual retirement accounts, and deferred  
6 compensation plans or any earnings attributable thereto so long  
7 as the distribution is directly related to an individual's  
8 documented retirement and received while the individual is a  
9 nonresident of this state. If a business, trade, profession,  
10 or occupation is carried on partly within and partly without  
11 the state, only the portion of the net income which is fairly  
12 and equitably attributable to that part of the business, trade,  
13 profession, or occupation carried on within the state is  
14 allocated to Iowa for purposes of [section 422.5, subsection 1,](#)  
15 [paragraph "j",](#) and [section 422.13](#) and income from any property,  
16 trust, estate, or other source partly within and partly without  
17 the state is allocated to Iowa in the same manner, except that  
18 annuities, interest on bank deposits and interest-bearing  
19 obligations, and dividends are allocated to Iowa only to the  
20 extent to which they are derived from a business, trade,  
21 profession, or occupation carried on within the state. Net  
22 income described in section 29C.24, subsection 3, paragraph  
23 "a", subparagraph (3), and paragraph "b", subparagraph (2),  
24 shall not be allocated and apportioned to the state, as  
25 provided in section 29C.24.

26 Sec. 4. Section 422.13, Code 2016, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 6. Notwithstanding subsections 1 through 5  
29 and sections 422.14 and 422.15, a return is not required by a  
30 taxpayer as provided in section 29C.24.

31 Sec. 5. Section 422.16, subsection 1, Code 2016, is amended  
32 by adding the following new paragraph:

33 NEW PARAGRAPH. *g.* Individuals described in section 29C.24  
34 are not subject to withholding, as provided in that section.

35 Sec. 6. Section 422.33, subsection 2, paragraph a,



1 subparagraph (2), Code 2016, is amended by adding the following  
2 new subparagraph division:

3 NEW SUBPARAGRAPH DIVISION. (Of) Notwithstanding  
4 subparagraph division (c), income described in section 29C.24,  
5 subsection 3, paragraph "a", subparagraph (3), shall not be  
6 allocated and apportioned to the state, as provided in section  
7 29C.24.

8 Sec. 7. Section 422.36, Code 2016, is amended by adding the  
9 following new subsection:

10 NEW SUBSECTION. 7. Notwithstanding subsection 1, a return  
11 is not required by a taxpayer as provided in section 29C.24.

12 Sec. 8. Section 422.37, subsection 2, Code 2016, is amended  
13 to read as follows:

14 2. All members of the affiliated group shall join in the  
15 filing of an Iowa consolidated return to the extent they  
16 are subject to the tax imposed by [section 422.33](#), except as  
17 otherwise provided in section 29C.24.

18 Sec. 9. Section 423.6, Code 2016, is amended by adding the  
19 following new subsection:

20 NEW SUBSECTION. 17. Tangible personal property exempt from  
21 the use tax as provided in section 29C.24.

22 Sec. 10. Section 423.33, subsection 1, Code 2016, is amended  
23 to read as follows:

24 1. *Liability of purchaser for sales tax.* If a purchaser  
25 fails to pay sales tax to the retailer required to collect the  
26 tax, then in addition to all of the rights, obligations, and  
27 remedies provided, the tax is payable by the purchaser directly  
28 to the department, and [sections 423.31, 423.32, 423.37, 423.38,](#)  
29 [423.39, 423.40, 423.41, and 423.42](#) apply to the purchaser. For  
30 failure to pay, the retailer and purchaser are liable, unless  
31 the circumstances described in [section 29C.24, subsection 3,](#)  
32 [paragraph "a", subparagraph \(2\), section 421.60, subsection 2,](#)  
33 [paragraph "m", section 423.34A,](#) or section 423.45, subsection  
34 4, paragraph "b" or "e", or [subsection 5, paragraph "c" or "e",](#)  
35 are applicable.

1     Sec. 11. NEW SECTION.   **423.58 Collection, permit, and tax**  
2 **return exemption for certain out-of-state businesses.**

3     Notwithstanding sections 423.14, 423.29, 423.31, 423.32, and  
4 423.36, a person meeting the requirements of section 29C.24 is  
5 not required to obtain a sales or use tax permit, collect and  
6 remit sales and use tax, or make and file applicable sales or  
7 use tax returns, as provided in section 29C.24, subsection 3,  
8 paragraph "a", subparagraph (2).

9     Sec. 12. Section 423D.3, Code 2016, is amended to read as  
10 follows:

11     **423D.3 Exemption.**

12     There is exempted from tax imposed by this chapter the  
13 following:

14     1. The sales price on the lease or rental of equipment  
15 to contractors for direct and primary use in construction ~~is~~  
16 ~~exempt from the tax imposed by this chapter.~~

17     2. The sales price or purchase price of equipment exempt  
18 from the equipment tax as provided in section 29C.24.

19     Sec. 13. Section 427.1, Code 2016, is amended by adding the  
20 following new subsection:

21     NEW SUBSECTION.   41. Property described in and meeting the  
22 requirements of section 29C.24, subsection 3, paragraph "a",  
23 subparagraph (6).

24     Sec. 14. **EFFECTIVE UPON ENACTMENT.** This Act, being deemed  
25 of immediate importance, takes effect upon enactment.

26     Sec. 15. **RETROACTIVE APPLICABILITY.** The following  
27 provision or provisions of this Act apply retroactively to  
28 January 1, 2016, for tax years beginning on or after that date:

- 29     1. The section of this Act amending section 422.8.
- 30     2. The section of this Act amending section 422.13.
- 31     3. The section of this Act amending section 422.16.
- 32     4. The section of this Act amending section 422.33.
- 33     5. The section of this Act amending section 422.36.
- 34     6. The section of this Act amending section 422.37.

35

EXPLANATION

1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill establishes the "Facilitating Business Rapid  
4 Response to State-Declared Disasters Act" and provides  
5 definitions. The bill also amends the statement of policy in  
6 Code chapter 29C (Emergency Management and Security).

7       The bill provides that notwithstanding any law to the  
8 contrary, an out-of-state business or an out-of-state employee  
9 that performs disaster and emergency-related work during a  
10 disaster response period will be protected from, and shall not  
11 be subject to, certain taxes, fees, licensing, registration,  
12 filing, and other requirements, as specified in the bill.

13       "Disaster response period" is defined as a period of time  
14 beginning 10 days before the governor proclaims a state  
15 disaster or emergency or the president declares a major  
16 disaster in the state, and ends 60 days after the end of  
17 the declared state disaster or emergency. "Disaster and  
18 emergency-related work" is defined to include a variety of work  
19 on critical infrastructure damaged, impaired, or destroyed  
20 by the declared state disaster or emergency. "Critical  
21 infrastructure" is defined to include property and equipment  
22 owned or used by a communication and video network; electric  
23 generation, transmission, and distribution system; gas  
24 distribution system; water and wastewater pipeline system;  
25 or a related support facility of those networks or systems.  
26 The network or system must provide service to more than one  
27 customer or person. "Critical infrastructure" includes but is  
28 not limited to buildings, structures, offices, lines, poles,  
29 pipes, and equipment.

30       OUT-OF-STATE BUSINESSES. The bill defines "out-of-state  
31 business" and provides that an out-of-state business performing  
32 disaster and emergency-related work during a disaster response  
33 period shall not be considered to have established a level of  
34 presence that would subject it to the following:

35       1. The requirement to obtain any state or local business or

1 registration, license, or similar authorization as a condition  
2 of doing business or engaging in an occupation in this state,  
3 or pay any related fee.

4 2. The requirement to collect and remit any tax imposed upon  
5 another person, or file any related tax return or obtain any  
6 related tax permit, except for the collection of sales and use  
7 tax by an out-of-state business registered voluntarily as a  
8 seller under the streamlined sales and use tax agreement.

9 3. The requirement to pay the individual or corporate  
10 income tax, including the requirement to file a tax return  
11 or be included in a consolidated tax return, withhold and  
12 remit income tax from out-of-state employees, or increase the  
13 amount of the out-of-state business's net income allocated  
14 and apportioned to Iowa as a result of the disaster and  
15 emergency-related work.

16 4. The requirement to be subject to the employment security  
17 requirements of Code chapter 96, including but not limited to  
18 the requirement to make employer contributions.

19 5. For tangible personal property and equipment purchased  
20 outside of Iowa and brought into the state to aid in the  
21 performance of disaster or emergency-related work, the  
22 requirement to pay use tax or equipment tax on the property, or  
23 have the property assessed for property tax purposes, provided  
24 the property does not remain in the state after the disaster  
25 response period.

26 Out-of-state businesses that enter the state to perform  
27 disaster and emergency-related work during a disaster response  
28 period are required to provide a notification containing  
29 various information to the secretary of state. If the  
30 out-of-state business enters the state as an affiliate of a  
31 registered business, the registered business must provide the  
32 required notification on behalf of the out-of-state business.  
33 "Registered business" is defined in the bill. The secretary of  
34 state is required to share the notification information with  
35 various state and local agencies and officials as specified in

1 the bill.

2       OUT-OF-STATE EMPLOYEES. The bill defines "out-of-state  
3 employee" and provides that the performance of disaster or  
4 emergency-related work during a disaster response period by  
5 an out-of-state employee shall not be used as the basis to  
6 determine the out-of-state employee has established residency  
7 or a level of presence that would subject the out-of-state  
8 employee to the following:

9       1. The requirement to obtain any state or local  
10 registration, license, or similar authorization as a condition  
11 of doing business or engaging in an occupation in this state,  
12 or pay any related fee.

13       2. The requirement to pay the individual income tax or  
14 file a tax return, be subject to income tax withholding, or  
15 increase the amount of the out-of-state employee's net income  
16 allocated and apportioned to Iowa as a result of the disaster  
17 and emergency-related work.

18       3. The requirement to pay use tax or equipment tax on  
19 tangible personal property and equipment purchased outside of  
20 Iowa and brought into the state to aid in the performance of  
21 disaster or emergency-related work, provided the property does  
22 not remain in the state after the disaster response period.

23       The bill provides that out-of-state businesses and  
24 out-of-state employees shall be subject to all taxes and fees  
25 not specifically included in the bill, and provides that  
26 out-of-state businesses and out-of-state employees that remain  
27 in Iowa after the conclusion of the disaster response period  
28 shall be fully subject to Iowa's standards for establishing  
29 presence, residency, or doing business as otherwise provided by  
30 law, and shall be responsible for any resulting taxes, fees,  
31 licensing, registration, filing, or other requirements.

32       The bill includes cross references to the tax exclusions  
33 and exemptions created in the bill in several sections of the  
34 Code relating to the individual and corporate income tax (Code  
35 chapter 422), the sales and use tax (Code chapter 423), the

1 equipment tax (Code chapter 423D), and the property tax (Code  
2 chapter 427). The cross references to the individual and  
3 corporate income tax in Code chapter 422 are retroactive to  
4 January 1, 2016, for tax years beginning on or after that date.

5 The bill provides that the "Facilitating Business Rapid  
6 Response to State-Declared Disasters Act" shall not be  
7 construed to place any new mandates or duties upon a local  
8 emergency management commission or create any new authority or  
9 power for a local emergency management commission not already  
10 expressly provided in another provision of Code chapter 29C  
11 (Emergency Management and Security).

12 The bill takes effect upon enactment.