

CHAPTER 2

MISCELLANEOUS APPROPRIATIONS AND REVISIONS,
 SALES AND USE TAX REVISIONS,
 CRIMINAL CODE REVISIONS, AND OTHER CHANGES

H.F. 683

AN ACT relating to economic development, financial, taxation, and regulatory matters, making and revising appropriations, modifying penalties, providing a fee, and including effective, applicability, and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
 STATE EMPLOYEE SALARIES

Section 1. 2003 Iowa Acts, Senate File 458,¹ section 48, unnumbered paragraphs 1 and 2, if enacted, are amended to read as follows:

There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, and to the state board of regents for those persons employed at the state school for the deaf and the Iowa braille and sight saving school, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the amount of ~~\$28,000,000~~ \$30,000,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

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

Sec. 2. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. Of the amount allocated for the judicial branch in 2003 Iowa Acts, Senate File 458,² section 48, if enacted, \$150,000 is allocated to fund the changes in this section to the salaries of justices, judges, and magistrates.

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

a. Chief justice of the supreme court:	\$	127,040
b. Each justice of the supreme court:	\$	122,500
c. Chief judge of the court of appeals:	\$	122,380
d. Each associate judge of the court of appeals:	\$	117,850
e. Each chief judge of a judicial district:	\$	116,760
f. Each district judge except the chief judge of a judicial district:	\$	112,010

¹ 2003 Iowa Acts, Regular Session, chapter 179 herein

² 2003 Iowa Acts, Regular Session, chapter 179 herein

g. Each district associate judge:	\$	97,610
.....		
h. Each associate juvenile judge:	\$	97,610
.....		
i. Each associate probate judge:	\$	97,610
.....		
j. Each judicial magistrate:	\$	29,100
.....		
k. Each senior judge:	\$	6,500
.....		

3. Persons receiving the salary rates established under subsection 2 shall not receive any additional salary adjustments provided by 2003 Iowa Acts, Senate File 458,³ division V.

DIVISION II
 APPROPRIATIONS AND APPROPRIATIONS REVISIONS
 INSURANCE DIVISION

Sec. 3. INSURANCE STUDY. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the insurance division to implement the school health insurance reform team study in accordance with 2003 Iowa Acts, Senate File 386:⁴

.....	\$	15,000
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DEPARTMENT OF MANAGEMENT

Sec. 4. LOCAL GOVERNMENT INNOVATION FUND APPROPRIATION. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the local government innovation fund created in section 8.64:

.....	\$	1,000,000
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Notwithstanding section 8.64, subsection 4, if enacted by 2003 Iowa Acts, Senate File 453,⁵ section 27, the local government innovation fund committee may provide up to 20 percent of the amount appropriated in this section in the form of forgivable loans or as grants for those projects that propose a new and innovative sharing initiative that would serve as an important model for cities and counties.

DEPARTMENT OF HUMAN SERVICES

Sec. 5. COUNTY HOSPITALS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purpose designated:

For support of mental health care services provided to persons who are elderly or poor by county hospitals in counties having a population of two hundred twenty-five thousand or more:

.....	\$	312,000
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Sec. 6. 2003 Iowa Acts, House File 667,⁶ section 13, subsection 2, is amended to read as follows:

2. The department may either continue or reprocure the contract existing on June 30, 2003, with the department's fiscal agent. If the department initiates reprocurement of the contract, of the amount appropriated in this Act for the medical assistance program, up to \$500,000 may be used to begin the implementation process.

³ 2003 Iowa Acts, Regular Session, chapter 179 herein
⁴ 2003 Iowa Acts, Regular Session, chapter 83 herein
⁵ 2003 Iowa Acts, Regular Session, chapter 178 herein
⁶ 2003 Iowa Acts, Regular Session, chapter 175 herein

DEPARTMENT OF CORRECTIONS

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. For expansion of the Luster Heights facility into a community-based corrections facility and an institutional work and substance abuse treatment center:

.....	\$	92,000
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- 2. For conversion of the Clarinda lodge into minimum security bed space:

.....	\$	730,400
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Sec. 8. 2003 Iowa Acts, Senate File 439,⁷ section 4, subsection 1, paragraphs b and g, as enacted, are amended to read as follows:

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	24,531,917
		<u>25,196,085</u>
..... FTEs		375.75
		<u>385.25</u>

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

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	18,595,788
		<u>19,389,220</u>
..... FTEs		291.76
		<u>304.58</u>

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

Of the funds appropriated in this paragraph "g", \$793,432 is allocated for implementation costs associated with expansion of the conversion of the Clarinda lodge, with \$277,500 of the allocation for one-time costs and \$515,932 for ongoing costs.

PUBLIC TRANSIT

Sec. 9. 2003 Iowa Acts, Senate File 458,⁸ section 8, if enacted, is amended to read as follows:

SEC. 8. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. Notwithstanding section 312.2, subsection 14, the amount appropriated from the general fund of the state under section 312.2, subsection 14, to the state department of transportation for public transit assistance under chapter 324A for the fiscal year beginning July 1, 2003, and ending June 30, 2004, is reduced by the following amount:

.....	\$	1,298,675
		<u>2,582,800</u>

OFFICE OF THE GOVERNOR

Sec. 10. 2003 Iowa Acts, House File 655,⁹ section 5, subsection 1, if enacted, is amended to read as follows:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the

⁷ 2003 Iowa Acts, Regular Session, chapter 174 herein
⁸ 2003 Iowa Acts, Regular Session, chapter 179 herein
⁹ 2003 Iowa Acts, Regular Session, chapter 181 herein

governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

.....	\$	1,243,643
		<u>1,493,643</u>
.....	FTEs	17.25
		<u>19.25</u>

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

DEPARTMENT OF REVENUE

Sec. 11. 2003 Iowa Acts, House File 655,¹⁰ section 31, if enacted, is amended to read as follows:

SEC. 31. DEPARTMENT OF REVENUE. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsection 1:

.....	FTEs	378.87
		<u>380.87</u>

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

1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	23,259,111
		<u>23,359,111</u>

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

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

2. COLLECTION COSTS AND FEES

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

.....	\$	28,166
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DEPARTMENT OF PUBLIC HEALTH

Sec. 12. 2003 Iowa Acts, House File 667,¹¹ section 2, subsection 8, as enacted, is amended to read as follows:

8. INFECTIOUS DISEASES

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

.....	\$	977,340
		<u>1,074,888</u>
.....	FTEs	36.90

DIVISION III
MISCELLANEOUS PROVISIONS

Sec. 13. GOVERNMENT OVERSIGHT COMMITTEE — REVIEW OF CONTINUING CARE RETIREMENT COMMUNITIES — ASSISTED LIVING PROGRAM APPLICABILITY.

¹⁰ 2003 Iowa Acts, Regular Session, chapter 181 herein

¹¹ 2003 Iowa Acts, Regular Session, chapter 175 herein

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

Sec. 14. Section 7J.1, subsection 1, as enacted by 2003 Iowa Acts, Senate File 453,¹² section 32, and amended by 2003 Iowa Acts, Senate File 458,¹³ section 85, is amended to read as follows:

1. DESIGNATION OF CHARTER AGENCIES — PURPOSE. The governor may, by executive order, designate state departments or agencies, as described in section 7E.5, or the Iowa lottery authority established in chapter 99G, other than the department of administrative services, if the department is established in law, or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.

Sec. 15. Section 15E.193B, subsection 4, Code 2003, as amended by 2003 Iowa Acts, Senate File 458,¹⁴ section 100, if enacted, is amended to read as follows:

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7. The department may extend the prescribed two-year completion period for any current or future project which has not been completed if the department determines that completion within the two-year period is impossible or impractical as a result of a substantial loss caused by flood, fire, earthquake, storm, or other catastrophe. For purposes of this subsection, “substantial loss” means damage or destruction in an amount in excess of thirty percent of the project’s expected eligible basis as set forth in the eligible housing business’s application.

Sec. 16. Section 215.14, Code 2003, is amended to read as follows:

215.14 APPROVAL BY DEPARTMENT.

A commercial weighing and measuring device shall not be installed in this state unless approved by the department. ~~All livestock scales and~~

1. ~~A pit type scales scale or any other scale installed in a pit~~, regardless of capacity, that is installed on or after July 1, 1990, shall have a clearance of not less than four feet from the finished floor line of the scale to the bottom of the “I” beam of the scale bridge. Livestock shall not be weighed on any scale other than a livestock scale or pit type scale.

2. An electronic pitless scale shall be placed on concrete footings with concrete floor. The concrete floor shall allow for adequate drainage away from the scale as required by the department. There shall be a clearance of not less than eight inches between the weigh bridge and the concrete floor to facilitate inspection and cleaning.

3. After approval by the department, the specifications for a commercial weighing and measuring device shall be furnished to the purchaser of the device by the manufacturer. The approval shall be based upon the recommendation of the United States national institute of standards and technology.

Sec. 17. Section 231C.17, subsection 4, if enacted by 2003 Iowa Acts, House File 675,¹⁵ section 24, is amended by striking the subsection and inserting in lieu thereof the following:

4. A continuing care retirement community, as defined in section 523D.1, may provide limited personal care services and emergency response services to its independent living tenants if all of the following conditions are met:

a. The provision of such personal care services or emergency response services does not

¹² 2003 Iowa Acts, Regular Session, chapter 178 herein

¹³ 2003 Iowa Acts, Regular Session, chapter 179 herein

¹⁴ 2003 Iowa Acts, Regular Session, chapter 179 herein

¹⁵ 2003 Iowa Acts, Regular Session, chapter 166 herein

result in inadequate staff coverage to meet the service needs of all tenants of the continuing care retirement community.

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

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

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

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

Sec. 18. NEW SECTION. 237A.25 CONSUMER INFORMATION.

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

2. The consumer information material developed by the department for parents and other consumers of child care services shall include but is not limited to all of the following:

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

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

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

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

e. An explanation of what it means for a provider to be licensed, registered, or unregistered.

f. An explanation of the information considered in registry and record background checks.

g. Other information deemed relevant to consumers.

3. The department shall implement and publicize an internet page or site that provides all of the following:

a. The written information developed pursuant to subsections 1 and 2.

b. Regular informational updates, including when a child care provider was last subject to a state quality review or inspection and, based upon a final score or review, the results indicating whether the provider passed or failed the review or inspection.

c. Capability for a consumer to be able to access information concerning child care providers, such as informational updates, identification of provider location, name, and capacity, and identification of providers participating in the state child care assistance program and those participating in the child care food program, by sorting the information or employing other means that provide the information in a manner that is useful to the consumer. Information regarding provider location shall identify providers located in the vicinity of an address selected by a consumer and provide contact information without listing the specific addresses of the providers.

d. Other information deemed appropriate by the department.

Sec. 19. Section 384.84, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 9. Notwithstanding subsection 3, a lien shall not be filed against the land if the premises are located on leased land. If the premises are located on leased land, a lien may be filed against the premises only.

Sec. 20. Section 422E.3A, subsection 2, paragraph a, if enacted by 2003 Iowa Acts, Senate File 445,¹⁶ section 8, is amended to read as follows:

a. A school district that is located in whole or in part in a county that voted on and approved

¹⁶ 2003 Iowa Acts, Regular Session, chapter 157 herein

prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student above the guaranteed school infrastructure amount shall receive for the remainder of the term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, unless the school board passes a resolution by October 1, 2003, agreeing to receive a distribution pursuant to paragraph “b”, subparagraph (1).

Sec. 21. Section 422E.3A, subsection 2, paragraph b, subparagraph (1), if enacted by 2003 Iowa Acts, Senate File 445,¹⁷ section 8, is amended to read as follows:

(1) A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student below its guaranteed school infrastructure amount shall receive for the remainder of the term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, plus an amount equal to its supplemental school infrastructure amount, unless the school district passes a resolution by October 1, 2003, agreeing to receive only an amount equal to its pro rata share as provided in section 422E.3, subsection 5, paragraph “d”, in all subsequent years.

Sec. 22. Section 422E.3A, subsection 3, paragraph a, as enacted by 2003 Iowa Acts, Senate File 445,¹⁸ is amended to read as follows:

a. The director of revenue and finance by June 1 preceding each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district’s sales tax capacity per student for each county, ~~the statewide tax revenues per student,~~ and the supplemental school infrastructure amount for the coming fiscal year.

Sec. 23. Section 422E.3A, subsection 3, paragraph b, subparagraph (3), as enacted by 2003 Iowa Acts, Senate File 445,¹⁹ is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) “Statewide tax revenues per student” means five hundred seventy-five dollars per student. The general assembly shall review this amount annually to determine its appropriateness.

Sec. 24. Section 422E.3A, subsection 5, as enacted by 2003 Iowa Acts, Senate File 445,²⁰ is amended to read as follows:

5. In the case of a deficiency in the fund to pay the supplemental school infrastructure amounts in full, the amount available in the fund less the sales and services tax revenues for school infrastructure purposes attributed to each school district should be allocated ~~based on the proportion of actual enrollment in the district to the combined actual enrollment in the counties where the sales and services tax for school infrastructure purposes has been imposed and the school districts in the counties qualify for the supplemental school infrastructure amount~~ first to increase the school district with the lowest sales tax capacity per student to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and then increase the school districts to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and continue on in this manner until money is no longer available or all school districts reach their guaranteed school infrastructure amount.

Sec. 25. Section 422E.3A, subsection 6, unnumbered paragraph 1, as enacted by 2003 Iowa Acts, Senate File 445,²¹ is amended to read as follows:

A school district ~~with less than two hundred fifty actual enrollment or less than one hundred actual enrollment in the high school~~ shall not expend the supplemental school infrastructure

¹⁷ 2003 Iowa Acts, Regular Session, chapter 157 herein

¹⁸ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

¹⁹ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

²⁰ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

²¹ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

amount received for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. However, a certificate of need is not required for the payment of outstanding bonds issued for new construction pursuant to section 296.1, before April 1, 2003. A certificate of need is also not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101-12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

Sec. 26. Section 435.26A, subsection 5, as enacted by 2003 Iowa Acts, Senate File 134,²² section 7, and as amended by 2003 Iowa Acts, Senate File 458,²³ section 128, if enacted, is amended to read as follows:

5. An owner of a manufactured home who has surrendered a certificate of title under this section and requires another certificate of title for the manufactured home is required to apply for a certificate of title under ~~section 321.42~~ chapter 321. If supporting documents for the reissuance of a title are not available or sufficient, the procedure for the reissuance of a title specified in the rules of the department of transportation shall be used.

Sec. 27. Section 459.315, Code 2003, as amended by 2003 Iowa Acts, House File 644,²⁴ if enacted, is amended by adding the following new subsection:

NEWSUBSECTION. 4A. This section shall not require a person to be certified as a confinement site manure applicator if the person applies manure which originates from a manure storage structure which is part of a small animal feeding operation.

Sec. 28. Section 508.31A, subsection 2, paragraph a, subparagraph (4), as enacted by 2003 Iowa Acts, House File 647,²⁵ section 7, is amended to read as follows:

(4) A person other than a natural person for the purpose of providing collateral security for securities ~~issued by such person and~~ registered with the federal securities and exchange commission.

Sec. 29. 2003 Iowa Acts, Senate File 401,²⁶ section 5, subsection 1, is amended to read as follows:

1. Notwithstanding any provision of law to the contrary, the section of this Act creating section 453A.2, subsection 5A, is applicable to violations pending on the effective date of this Act for which a penalty has not been assessed under section 453A.22, subsection 2. Notwithstanding this subsection, however, if a county health department, a city health department, or a city assesses a penalty under section 453A.22, subsection 2, on or after April 11, 2003 but prior to June 30, 2003, for a violation of section 453A.2, subsection 1, which was pending on April 11, 2003, the county health department, city health department or city assessing the penalty shall be deemed to have jurisdiction to assess the penalty and the penalty assessed is deemed valid.

Sec. 30. 2003 Iowa Acts, Senate File 458,²⁷ section 21, unnumbered paragraph 3, if enacted, is amended to read as follows:

Of the funds appropriated in this section, up to \$10,000 is transferred to the ~~Iowa~~ department of ~~public health~~ human services for allocation to community mental health centers to provide counseling services to persons who are members of the national guard and reservists activated but as yet not sent to combat zones and to the persons' family members. The sessions shall be provided on a first come, first served basis and shall be limited to three visits per family.

²² 2003 Iowa Acts, Regular Session, chapter 24 herein

²³ 2003 Iowa Acts, Regular Session, chapter 179 herein

²⁴ 2003 Iowa Acts, Regular Session, chapter 163 herein

²⁵ 2003 Iowa Acts, Regular Session, chapter 91 herein

²⁶ 2003 Iowa Acts, Regular Session, chapter 26 herein

²⁷ 2003 Iowa Acts, Regular Session, chapter 179 herein

Sec. 31. 2003 Iowa Acts, Senate File 458,²⁸ section 149, if enacted, is amended to read as follows:

SEC. 149. SUPPLEMENTAL PAYMENT ADJUSTMENTS FOR PHYSICIAN SERVICES. To the extent that, pursuant to law enacted by the Eightieth General Assembly, 2003 Session, supplemental payment adjustments are implemented for physician services provided to medical assistance program participants at publicly owned acute care hospitals, the department of human services shall not, directly or indirectly, recoup the supplemental payment adjustments for any reason, unless an amount equivalent to the amount of adjustment funds that were is first transferred to the department by the state university of Iowa college of medicine is transferred by the department to the qualifying physicians. Any such amount transferred and identified as a supplemental payment under this section shall then be refunded to the department of human services, per the agreement executed for this purpose between the department and the university of Iowa.

Sec. 32. 2003 Iowa Acts, House File 667,²⁹ section 27, subsection 1, unnumbered paragraph 2, is amended to read as follows:

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

.....	\$	2,675,179
.....	FTEs	46.00
		<u>57.00</u>

Sec. 33. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The section of this division of this Act amending section 231C.17, being deemed of immediate importance, takes effect upon enactment.
2. The section of this division of this Act amending 2003 Iowa Acts, Senate File 401,³⁰ being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 11, 2003.

DIVISION IV
CORRECTIVE PROVISIONS

Sec. 34. Section 8A.505, as enacted by 2003 Iowa Acts, House File 534,³¹ section 87, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. There is appropriated annually from the increase in indirect cost reimbursements over the amount of indirect cost reimbursements received during the fiscal year beginning July 1, 2002, to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars. The director shall transfer the funds appropriated to the department of management as provided in this paragraph and shall make the funds resulting from the increase in reimbursements available during the fiscal year to the department of management on a monthly basis. If the amount of the increase in indirect cost reimbursements is insufficient to pay the maximum appropriation provided for in this paragraph, the amount appropriated is equal to the amount of such increase.

Sec. 35. Section 12C.4, Code 2003, as amended by 2003 Iowa Acts, House File 289,³² section 2, is amended to read as follows:

12C.4 LOCATION OF DEPOSITORYES.

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

²⁸ 2003 Iowa Acts, Regular Session, chapter 179 herein
²⁹ 2003 Iowa Acts, Regular Session, chapter 175 herein
³⁰ 2003 Iowa Acts, Regular Session, chapter 26 herein
³¹ 2003 Iowa Acts, Regular Session, chapter 145 herein
³² 2003 Iowa Acts, Regular Session, chapter 18 herein

officer or county public hospital officer or merged area hospital officer, in depositories located in the county or in an adjoining county within this state; by a memorial hospital treasurer, in a depository located within this state which shall be selected by the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in depositories located in the county in which the city is located or in an adjoining county, but if there is no depository in the county in which the city is located or in an adjoining county then in any other depository located in this state which shall be selected as a depository by the city council; by a school treasurer or by a school secretary in a depository within this state which shall be selected by the board of directors or the trustees of the school district; by a township clerk in a depository located within this state which shall be selected by the township clerk and approved by the trustees of the township. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when the deposit is made not more than ten days before the date the principal or interest becomes due. Further, the treasurer of state may maintain an account or accounts outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts. Deposits made for the purpose of completing an electronic financial transaction pursuant to section 14B.203 8A.222 or 331.427 may be made in any depository located in this state.

Sec. 36. Section 29A.28, subsection 3, as enacted by 2003 Iowa Acts, House File 674,³³ section 3, is amended to read as follows:

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry ~~onto~~ into state active duty, active state service, or federal service or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, active state service, or federal service. Under this subsection, "position" includes the geographical location of the position.

Sec. 37. Section 70A.39, subsection 1, paragraph b, as enacted by 2003 Iowa Acts, House File 381,³⁴ section 1, is amended to read as follows:

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

Sec. 38. Section 99B.7, subsection 1, paragraph 1, subparagraph (1), Code 2003, as amended by 2003 Iowa Acts, Senate File 453,³⁵ section 104, if enacted, is amended to read as follows:

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

Sec. 39. Section 507A.4, subsection 9, paragraph e, as enacted by 2003 Iowa Acts, House File 647,³⁶ section 4, is amended to read as follows:

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

Sec. 40. Section 556.11, subsection 5, Code 2003, as amended by 2003 Iowa Acts, Senate File 180,³⁷ section 2, is amended to read as follows:

5. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the

³³ 2003 Iowa Acts, Regular Session, chapter 142 herein

³⁴ 2003 Iowa Acts, Regular Session, chapter 32 herein

³⁵ 2003 Iowa Acts, Regular Session, chapter 178 herein

³⁶ 2003 Iowa Acts, Regular Session, chapter 91 herein

³⁷ 2003 Iowa Acts, Regular Session, chapter 64 herein

holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. A holder is not required to make a due diligence mailing to owners whose property has an aggregate value of less than fifty dollars. The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, five dollars for each name and address account reported if thirty-five percent of or more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report.

Sec. 41. 2003 Iowa Acts, Senate File 438,³⁸ section 3, is repealed.

Sec. 42. 2003 Iowa Acts, Senate File 453,³⁹ section 11, if enacted, is amended to read as follows:

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

Sec. 43. 2003 Iowa Acts, Senate File 458,⁴⁰ section 159, if enacted, is amended to read as follows:

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

1. The amendments to sections 8.23, 8.31, and 8.57 which are first applicable to appropriations made for the fiscal year beginning July 1, 2003.
2. The amendment to section 12E.12.
3. The amendments to sections 15E.42, 15E.43, 15E.45, and 15E.51, which apply retroactively to January 1, 2002, for tax years beginning on or after that date.
4. The amendment to section 15E.193B.
5. The amendment to section 435.26A.
6. The amendment to section 453A.2, which shall only take effect if 2003 Iowa Acts, Senate File 401,⁴¹ is enacted by the Eightieth General Assembly, 2003 Regular Session.
7. The amendments to sections 453C.1 and 453C.2 and the related severability provision.
8. The amendments to sections 518.18 and 518A.35.
9. The section directing the department of corrections to develop a plan for selling certain land.
10. The section relating to the sales and use tax refund.
11. The section relating to the school district reimbursement claim.

The sections of this division of this Act amending section 80B.5 and enacting section 80B.5A are applicable to the appointment of the director of the Iowa law enforcement academy for the term beginning May 1, 2004.

~~Section 29C.8, subsection 3, paragraph "f", as enacted in this division of this Act, and the amendment to section 29C.20, subsection 1, as enacted in this division of this Act, take effect July 1, 2004.~~

Sec. 44. 2003 Iowa Acts, House File 171,⁴² section 112, the bill section amending clause, is amended to read as follows:

Section 656.2, subsection 2, paragraph a, unnumbered paragraph ~~1~~ 3, Code 2003, is amended to read as follows:

Sec. 45. 2003 Iowa Acts, House File 662,⁴³ section 5, subsection 8, paragraphs a and b, if enacted, are amended to read as follows:

- a. Of the amount appropriated in this ~~section~~ subsection, \$347,371 shall be allocated to the

³⁸ 2003 Iowa Acts, Regular Session, chapter 99 herein

³⁹ 2003 Iowa Acts, Regular Session, chapter 178 herein

⁴⁰ 2003 Iowa Acts, Regular Session, chapter 179 herein

⁴¹ 2003 Iowa Acts, Regular Session, chapter 26 herein

⁴² 2003 Iowa Acts, Regular Session, chapter 108 herein

⁴³ 2003 Iowa Acts, Regular Session, chapter 182 herein

public broadcasting division for purposes of providing support for functions related to the Iowa communications network, including but not limited to the following functions: development of distance learning applications; development of a central information source on the internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

b. Of the amount appropriated in this ~~section~~ subsection, \$1,272,285 shall be allocated to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 46. 2003 Iowa Acts, House File 662,⁴⁴ section 6, unnumbered paragraph 2, if enacted, is amended to read as follows:

The funds allocated in this ~~subsection~~ section shall be distributed as follows:

Sec. 47. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act amending section 29A.28, subsection 3, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003.

2. The section of this division of this Act amending 2003 Iowa Acts, Senate File 458,⁴⁵ section 159, being deemed of immediate importance, takes effect upon enactment.

3. 2003 Iowa Acts, Senate File 458,⁴⁶ section 140, relating to nonreversion of funds appropriated in 1996 Iowa Acts, chapter 1218, and 1997 Iowa Acts, chapter 215, if enacted, being deemed of immediate importance, takes effect upon enactment of this Act.

DIVISION V CRIMINAL OFFENDERS AND INMATES

Sec. 48. Section 321J.2, subsection 2, paragraph a, subparagraph (1), Code 2003, is amended to read as follows:

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

Sec. 49. NEW SECTION. 811.2A PRETRIAL RELEASE.

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

1. The arrest for the new criminal offense is based on a set of facts or an event that is different than involved in the earlier arrest.

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

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

Sec. 50. Section 901.4, Code 2003, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL — DISTRIBUTION.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the

⁴⁴ 2003 Iowa Acts, Regular Session, chapter 182 herein

⁴⁵ 2003 Iowa Acts, Regular Session, chapter 179 herein

⁴⁶ 2003 Iowa Acts, Regular Session, chapter 179 herein

court shall serve all of the presentence investigation report upon the defendant's attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. ~~The Pursuant to section 904.602, the~~ presentence investigation report may also be released by the department of corrections or a judicial district department of correctional services ~~pursuant to section 904.602 to another jurisdiction for the purpose of providing interstate probation and parole compact services or evaluations, or to a substance abuse or mental health services provider when referring a defendant for services.~~ The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report to the department which is responsible under section 692A.13A for performing the assessment of risk.

Sec. 51. Section 901B.1, subsection 1, paragraph c, subparagraph (5), Code 2003, is amended to read as follows:

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

Sec. 52. Section 903A.2, subsection 1, paragraph a, Code 2003, is amended to read as follows:

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

- (1) Employment in the institution.
- (2) Iowa state industries.
- (3) An employment program established by the director.
- (4) A treatment program established by the director.
- (5) An inmate educational program approved by the director.

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

Sec. 53. Section 903A.3, subsection 2, Code 2003, is amended to read as follows:

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

Sec. 54. NEW SECTION. 904.117 INTERSTATE COMPACT FUND.

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

Sec. 55. Section 904.503, subsection 2, Code 2003, is amended to read as follows:

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

Sec. 56. Section 904.508, subsection 2, Code 2003, is amended to read as follows:

2. ~~The Pursuant to section 904.702, the director shall establish and maintain an inmate savings fund in an interest-bearing account for the deposit of all or part of an inmate's allowances, as provided in section 904.702 and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department.~~ All or part of an inmate's allowances and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, from a source other than the department shall be deposited into the savings fund, until the inmate's deposit is equal to ~~the amount due the inmate upon discharge, parole, or placement on work release, one hundred dollars~~ as provided in section 906.9. If an inmate's deposits ~~are~~ equal ~~this amount to or in excess of one hundred dollars~~, the inmate may voluntarily withdraw from the savings fund. The director shall notify the inmate of this right to withdraw and shall provide the inmate with a written request form to facilitate the withdrawal. If the inmate withdraws and the inmate's deposits exceed the amount due as provided in section 906.9, the director shall disburse the excess amount as provided for allowances under section 904.702, except the director shall not deposit the excess amount in the inmate savings fund. If the inmate chooses to continue to participate in the savings fund, the inmate's deposits shall be returned to the inmate upon discharge, parole, or placement on work release. Otherwise, the inmate's deposits shall be disposed of as provided in subsection 3. An inmate's deposits into the savings fund may be used to provide the money due the inmate upon discharge, parole, or placement on work release, as required under section 906.9. Interest earned from the savings fund shall be placed in a separate account, and may be used for purchases approved by the director to directly and collectively benefit inmates.

Sec. 57. Section 904.508A, Code 2003, is amended to read as follows:

904.508A INMATE TELEPHONE ~~REBATE~~ FUND.

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

Sec. 58. Section 904.513, subsection 1, paragraph b, subparagraph (4), Code 2003, is amended to read as follows:

(4) Assignment may also be made on the basis of the offender's treatment program perfor-

mance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility, the court may order an offender to be released to the supervision of the judicial district department of correctional services, or held in jail, or committed to the custody of the director of the department of corrections for assignment to an appropriate correctional facility until there is sufficient space at a community residential facility.

Sec. 59. Section 904.702, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. In addition to deducting a portion of the allowance, the director may also deduct from an inmate account any amount, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department of corrections for deposit in the inmate savings fund as required under section 904.508, subsection 2, until the amount in the fund equals the amount due the inmate upon discharge, parole, or placement on work release. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 60. Section 907.4, Code 2003, is amended to read as follows:
907.4 DEFERRED JUDGMENT DOCKET.

A deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court, or the clerk's designee, to the state court administrator for entry in the deferred judgment docket. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall request of the state court administrator a search of the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, and

county attorneys requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney.

Sec. 61. Section 907.9, subsections 1, 2, and 4, Code 2003, are amended to read as follows:

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

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

4. At the expiration of the period of probation and if the fees imposed under section 905.14 have been paid ~~to or waived by the judicial district department of correctional services~~ or on condition that unpaid supervision fees be paid, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 62. NEW SECTION. 907B.4 INTERSTATE COMPACT FEE.

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

Sec. 63. Section 910.3B, Code 2003, is amended to read as follows:

910.3B RESTITUTION FOR DEATH OF VICTIM.

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

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

3. An offender who is ordered to pay a victim's estate or heirs at law under this section is

precluded from denying the elements of the felony offense which resulted in the order for payment in any subsequent civil action for damages arising out of the same facts or event.

Sec. 64. Section 915.100, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate or heirs at law, pursuant to the provisions of section 910.3B.

DIVISION VI
ECONOMIC DEVELOPMENT APPROPRIATIONS

Sec. 65. MARKETING APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁴⁷ or another Act, to the department of economic development, for the fiscal period beginning July 1, 2003, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For implementing and administering the marketing strategy approved under section 15G.108, if enacted by 2003 Iowa Acts, House File 692⁴⁸ or another Act:

FY 2003-2004	\$	2,500,000
FY 2004-2005	\$	7,500,000
FY 2005-2006	\$	10,000,000

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

Sec. 66. DEPARTMENT OF ECONOMIC DEVELOPMENT APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁴⁹ or another Act, to the department of economic development for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For programs administered by the department of economic development:

FY 2003-2004	\$	45,000,000
FY 2004-2005	\$	41,000,000
FY 2005-2006	\$	44,000,000
FY 2006-2007	\$	48,000,000

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

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

- a. Business start-ups.
- b. Business expansion.
- c. Business modernization.
- d. Business attraction.
- e. Business retention.
- f. Marketing.

4. An applicant for moneys appropriated under this section shall be required by the department to include in the application a statement regarding the intended return on investment. A recipient of moneys appropriated under this section shall annually submit a statement to the department regarding the progress achieved on the intended return on investment stated in the application. The department, in cooperation with the department of revenue and finance,

⁴⁷ Chapter 1, §84 herein
⁴⁸ Chapter 1, §85 herein
⁴⁹ Chapter 1, §84 herein

shall develop a method of identifying and tracking each new job created through financial assistance from moneys appropriated under this section.

5. The department may use moneys appropriated under this section to procure technical assistance from either the public or private sector, for information technology purposes, and for rail, air, or river port transportation-related purposes. The use of moneys appropriated for rail, air, or river port transportation-related purposes must be directly related to an economic development project and the moneys must be used to leverage other financial assistance moneys.

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

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

Sec. 67. UNIVERSITY AND COLLEGE FINANCIAL ASSISTANCE APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁰ or another Act, to the grow Iowa values board for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For financial assistance for institutions of higher learning under the control of the state board of regents and for accredited private institutions as defined in section 261.9 for multiuse, goods manufacturing processes approved by the food and drug administration of the United States department of health and human services, protein purification facilities for plant, animal, and chemical manufactured proteins; accelerating new business creation; innovation accelerators and business parks; incubator facilities; upgrading food and drug administration drug approval laboratories in Iowa City to a larger multiclient, goods manufacturing processes facility; crop and animal livestock facilities for the growing of transgenic crops and livestock, protein extraction facilities, containment facilities, and bioanalytical, biochemical, chemical, and microbiological support facilities; a national center for food safety and security; and advanced laboratory space:

FY 2003-2004	\$	6,000,000
FY 2004-2005	\$	7,000,000
FY 2005-2006	\$	7,000,000
FY 2006-2007	\$	7,000,000

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

3. In the distribution of moneys appropriated pursuant to this section, the grow Iowa values board shall examine the potential for using moneys appropriated pursuant to this section to leverage other moneys for financial assistance to accredited private institutions.

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

5. An institution of higher learning under the control of the state board of regents may apply to use financial assistance moneys under this section for purposes of a public and private joint venture to acquire infrastructure assets or research facilities or to leverage moneys in a manner consistent with meeting the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁵¹ or another Act.

6. Of the moneys appropriated under this section and provided applications are submitted meeting the requirements of the grow Iowa values board, not less than \$10,000,000 in financial assistance shall be awarded to the university of Iowa, not less than \$10,000,000 in financial assistance shall be awarded to Iowa state university of science and technology, and not less than \$5,000,000 in financial assistance shall be awarded to the university of northern Iowa.

Sec. 68. REHABILITATION PROJECT TAX CREDITS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if

⁵⁰ Chapter 1, §84 herein

⁵¹ Chapter 1, §83 herein

enacted by 2003 Iowa Acts, House File 692⁵² or another Act, to the general fund of the state, for the fiscal period beginning July 1, 2005, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

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

FY 2005-2006	\$	500,000
FY 2006-2007	\$	500,000

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

Sec. 69. LOAN AND CREDIT GUARANTEE FUND APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵³ or another Act, to the department of economic development for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the loan and credit guarantee fund created in section 15E.227:

FY 2003-2004	\$	2,500,000
FY 2004-2005	\$	5,000,000
FY 2005-2006	\$	7,500,000
FY 2006-2007	\$	7,500,000

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

Sec. 70. ENDOW IOWA TAX CREDITS.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁴ or another Act, to the general fund of the state, for the fiscal period beginning July 1, 2004, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For payment of endow Iowa tax credits authorized pursuant to section 15E.305:

FY 2004-2005	\$	250,000
FY 2005-2006	\$	250,000
FY 2006-2007	\$	500,000

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

Sec. 71. ENDOW IOWA GRANTS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁵ or another Act, to the department of economic development for the fiscal period beginning July 1, 2004, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For endow Iowa grants to lead philanthropic entities pursuant to section 15E.304:

FY 2004-2005	\$	250,000
FY 2005-2006	\$	250,000
FY 2006-2007	\$	500,000

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

Sec. 72. STATE PARKS AND DESTINATION PARKS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if

⁵² See chapter 1, §84 herein

⁵³ See chapter 1, §84 herein

⁵⁴ See chapter 1, §84 herein

⁵⁵ See chapter 1, §84 herein

enacted by 2003 Iowa Acts, House File 692⁵⁶ or another Act, to the grow Iowa values board for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing financial assistance for projects in targeted state parks and destination parks:

FY 2003-2004	\$	500,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0
FY 2006-2007	\$	500,000

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

3. The department of natural resources, in cooperation with the department of economic development, shall submit a plan to the grow Iowa values board for the expenditure of moneys appropriated under this section. The plan shall focus on improving state parks and destination parks for economic development purposes. Based on the report submitted, the grow Iowa values board shall provide financial assistance to the department of natural resources for support of state parks and destination parks.

Sec. 73. IOWA CULTURAL TRUST FUND APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁷ or another Act, to the office of the treasurer of state, for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the Iowa cultural trust fund created in section 303A.4:

FY 2003-2004	\$	500,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0
FY 2006-2007	\$	500,000

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

Sec. 74. ANTICIPATED FEDERAL MONEYS — APPROPRIATION.

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

For deposit in the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁸ or another Act:

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

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

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

Sec. 75. STREAMLINED SALES AND USE TAX REVENUE — APPROPRIATION.

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

⁵⁶ See chapter 1, §84 herein
⁵⁷ See chapter 1, §84 herein
⁵⁸ See chapter 1, §84 herein

For deposit in the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁹ or another Act:

FY 2003-2004	\$	5,000,000
FY 2004-2005	\$	23,000,000
FY 2005-2006	\$	75,000,000
FY 2006-2007	\$	75,000,000
FY 2007-2008	\$	75,000,000
FY 2008-2009	\$	75,000,000
FY 2009-2010	\$	75,000,000

2. For purposes of this section, “moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement” means the amount of sales and use tax receipts credited to the general fund of the state during a fiscal year that exceeds by two percent or more the total sales and use tax receipts credited to the general fund of the state during the previous fiscal year.

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

b. If the appropriation for a fiscal year is reduced pursuant to paragraph “a”, all appropriations made from the grow Iowa values fund for the same fiscal year shall be reduced proportionately to the amount reduced due to paragraph “a”.

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

DIVISION VII WORKFORCE-RELATED ISSUES

Sec. 76. NEW SECTION. 260C.18A WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS.

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

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

2. On July 1 of each year for the fiscal year beginning July 1, 2003, and for every fiscal year thereafter, moneys from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁶⁰ or another Act, are appropriated to the department of economic development for deposit in the workforce training and economic development funds in amounts determined pursuant to subsection 3. Moneys deposited in the funds and disbursed to community colleges for a fiscal year shall be expended for the following purposes, provided seventy percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, and life sciences which include the areas of biotechnology, health care technology, and nursing care technology:

a. Projects in which an agreement between a community college and an employer located within the community college’s merged area meet all of the requirements of the accelerated career education program under chapter 260G.

b. Projects in which an agreement between a community college and a business meet all the requirements of the Iowa jobs training Act under chapter 260F.

c. For the development and implementation of career academies designed to provide new career preparation opportunities for high school students that are formally linked with post-secondary career and technical education programs. For purposes of this section, “career

⁵⁹ See chapter 1, §84 herein

⁶⁰ See chapter 1, §84 herein

academy” means a program of study that combines a minimum of two years of secondary education with an associate degree, or the equivalent, career preparatory program in a nonduplicative, sequential course of study that is standards based, integrates academic and technical instruction, utilizes work-based and worksite learning where appropriate and available, utilizes an individual career planning process with parent involvement, and leads to an associate degree or postsecondary diploma or certificate in a career field that prepares an individual for entry and advancement in a high-skill and reward career field and further education. The department of economic development, in conjunction with the state board of education and the division of community colleges and workforce preparation of the department of education, shall adopt administrative rules for the development and implementation of such career academies pursuant to section 256.11, subsection 5, paragraph “h”, section 260C.1, and Title II of Pub. L. No. 105-332, Carl D. Perkins Vocational and Technical Education Act of 1998.

d. Programs and courses that provide vocational and technical training, and programs for in-service training and retraining under section 260C.1, subsections 2 and 3.

e. Job retention projects under section 260F.9.

3. Of the moneys appropriated in this section, for the fiscal period beginning July 1, 2003, and ending June 30, 2006, the following amounts shall be designated for the purposes of funding job retention projects under section 260F.9:

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

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

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

4. The maximum cumulative total amount of moneys that may be deposited in all the workforce training and economic development funds for distribution to community colleges in a fiscal year shall be determined as follows:

a. Five million dollars for the fiscal year beginning July 1, 2003.

b. Five million dollars for the fiscal year beginning July 1, 2004.

c. Five million dollars for the fiscal year beginning July 1, 2005.

d. Ten million dollars for the fiscal year beginning July 1, 2006.

e. For the fiscal year beginning July 1, 2007, and each succeeding fiscal year, the grow Iowa values board shall make a determination if sufficient moneys exist in the grow Iowa values fund to distribute to community colleges.

5. The department of economic development shall allocate the moneys appropriated pursuant to this section to the community college workforce training and economic development funds utilizing the same distribution formula used for the allocation of state general aid to the community colleges.

6. Each community college shall do all of the following:

a. Adopt a two-year workforce training and economic development fund plan outlining the community college’s proposed use of moneys appropriated under subsection 2.

b. Update the two-year plan annually.

c. Prepare an annual progress report on the two-year plan’s implementation.

d. Annually submit the two-year plan and progress report to the department of economic development in a manner prescribed by rules adopted by the department pursuant to chapter 17A and annually file a copy of the plan and progress report with the grow Iowa values board. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the grow Iowa values board approves the annual progress report of the community college.

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

Sec. 77. NEW SECTION. 260F.9 JOB RETENTION PROGRAM.

1. The department of economic development shall administer the job retention program. The department shall adopt rules pursuant to chapter 17A necessary for the administration of

this section. By January 15 of each year, the department shall submit a written report to the general assembly and the governor regarding the activities of the job retention program during the previous calendar year.

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

- a. The date of the agreement.
 - b. The anticipated number of employees to be trained.
 - c. The estimated cost of training.
 - d. A statement regarding the number of employees employed by the participating business on the date of the agreement which must equal at least the lesser of one thousand employees or four percent or more of the county's resident labor force based on the most recent annual labor force statistics from the department of workforce development.
 - e. A commitment that the participating business shall invest at least fifteen million dollars to retool the workplace and upgrade the facilities of the participating business.
 - f. A commitment that the participating business shall not move the business operation out of this state or close the business operation for at least ten years following the date of the agreement.
 - g. Other criteria established by the department of economic development.
3. A job retention project agreement entered into pursuant to this section must be approved by the board of trustees of the applicable community college, the department of economic development, and the participating business.

Sec. 78. NEW SECTION. 260F.101 REPORTING.

A community college entering into an agreement pursuant to this chapter shall submit an annual written report by the end of each calendar year with the grow Iowa values board created in section 15G.102, if enacted by 2003 Iowa Acts, House File 692⁶¹ or another Act. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁶² or another Act.

Sec. 79. Section 260G.3, subsection 2, Code 2003, is amended to read as follows:

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

- a. Program job credits which the employer receives based on the number of program job positions agreed to by the employer to be available under the agreement.
- b. Cash or in-kind contributions by the employer toward the program cost. At a minimum, the employer contribution shall be twenty percent of the program costs.
- c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs.
- d. Guarantee by the employer of payments to be received under paragraphs "a" and "b".
- e. Moneys from a workforce training and economic development fund created in section 260C.18A, based on the number of program job positions agreed to by the employer to be available under the agreement, the amount of which shall be calculated in the same manner as the program job credits provided for in section 260G.4A.

Sec. 80. NEW SECTION. 260G.101 REPORTING.

A community college entering into an agreement pursuant to this chapter shall submit an annual written report by the end of each calendar year with the grow Iowa values board

⁶¹ See chapter 1, §78 herein

⁶² See chapter 1, §§83 herein

created in section 15G.102, if enacted by 2003 Iowa Acts, House File 692⁶³ or another Act. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁶⁴ or another Act.

DIVISION VIII
LOAN AND CREDIT GUARANTEE FUND

Sec. 81. NEW SECTION. 15E.227 LOAN AND CREDIT GUARANTEE FUND.

1. A loan and credit guarantee fund is created and established as a separate and distinct fund in the state treasury. Moneys in the fund shall only be used for purposes provided in this section. The moneys in the fund are appropriated to the department to be used for all of the following purposes:

a. Payment of claims pursuant to loan and credit guarantee agreements entered into under this division.

b. Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the program.

c. Purchase or buyout of superior or prior liens, mortgages, or security interests.

d. Purchase of insurance to cover the default of loans made pursuant to the requirements of the loan and credit guarantee program.

2. Moneys in the loan and credit guarantee fund shall consist of all of the following:

a. Moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the department for placement in the fund.

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

c. Moneys appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁶⁵ or another Act.

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

4. a. The department shall only pledge moneys in the loan and credit guarantee fund and not any other moneys of the department. In a fiscal year, the department may pledge an amount not to exceed the total amount appropriated to the fund for the same fiscal year to assure the repayment of loan and credit guarantees or other extensions of credit made to or on behalf of qualified businesses or targeted industry businesses for eligible project costs.

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

DIVISION IX
UNIVERSITY-BASED RESEARCH UTILIZATION
PROGRAM APPROPRIATION

Sec. 82. NEW SECTION. 262B.12 APPROPRIATION.

On July 1 of each year there is appropriated from the general fund of the state to each university under the control of the state board of regents, an amount equal to the amount determined by the department of economic development pursuant to section 262B.11, subsection 4, paragraph "c", subparagraph (2), if enacted by 2003 Iowa Acts, House File 692⁶⁶ or another Act.

DIVISION X
ENDOW IOWA TAX CREDIT

Sec. 83. NEW SECTION. 15E.305 ENDOW IOWA TAX CREDIT.

1. For tax years beginning on or after January 1, 2003, a tax credit shall be allowed against

⁶³ See chapter 1, §78 herein

⁶⁴ See chapter 1, §83 herein

⁶⁵ See chapter 1, §84 herein

⁶⁶ See chapter 1, §111 herein

the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 equal to twenty percent of a taxpayer's endowment gift to a qualified community foundation. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. A tax credit shall be allowed only for an endowment gift made to a qualified community foundation for a permanent endowment fund established to benefit a charitable cause in this state. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

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

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

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

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

Sec. 84. NEW SECTION. 422.11H ENDOW IOWA TAX CREDIT.

The tax imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 85. Section 422.33, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 14. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 86. Section 422.60, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 7. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 87. NEW SECTION. 432.12D ENDOW IOWA TAX CREDIT.

The tax imposed under this chapter shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 88. Section 533.24, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The moneys and credits tax imposed under this section shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 89. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2003, for tax years beginning on or after that date.

DIVISION XI REHABILITATION PROJECT TAX CREDITS

Sec. 90. Section 404A.4, subsection 4, Code 2003, is amended to read as follows:

4. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed two million four hundred thousand dollars. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional five hundred thousand dollars of tax credits may be

approved each fiscal year for purposes of projects located in cultural and entertainment districts certified pursuant to section 303.3B, if enacted by 2003 Iowa Acts, House File 692⁶⁷ or another Act. Any of the additional tax credits allocated for projects located in certified cultural and entertainment districts that are not approved during a fiscal year may be carried over to the succeeding fiscal year. Tax credit certificates shall be issued on the basis of the earliest awarding of certifications of completion as provided in subsection 1. The departments of economic development and revenue and finance shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

DIVISION XII
STATE ASSISTANCE FOR EDUCATIONAL INFRASTRUCTURE FUND

Sec. 91. Section 8.57, subsection 5, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. There is appropriated from the rebuild Iowa infrastructure fund to the secure an advanced vision for education fund created in section 422E.3A, for each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2014, the amount of the moneys in excess of the first forty-seven million dollars credited to the rebuild Iowa infrastructure fund during the fiscal year, not to exceed ten million dollars.

Sec. 92. NEW SECTION. 292A.3A APPROPRIATION.

There is appropriated from the general fund of the state from moneys credited to the general fund of the state as a result of the state entering into the streamlined sales and use tax agreement to the secure an advanced vision for education fund created in section 422E.3A, the sum of five million dollars for each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2014. The appropriation in this section shall be made after the appropriation from the same source to the grow Iowa fund created in 2003 Iowa Acts, House File 692⁶⁸ or another Act. For purposes of this section, "moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement" means the amount of sales and use tax receipts credited to the general fund of the state during a fiscal year that exceeds by two percent or more the total sales and use tax receipts credited to the general fund of the state during the previous fiscal year.

DIVISION XIII
REPEALS

Sec. 93. The divisions of this Act designated economic development appropriations, work-force-related issues, loan and credit guarantee fund, university-based research utilization program appropriation, endow Iowa tax credit, and rehabilitation project tax credits are repealed effective June 30, 2010.

DIVISION XIV
STREAMLINED SALES AND USE TAXES
SUBCHAPTER I
DEFINITIONS

Sec. 94. NEW SECTION. 423.1 DEFINITIONS.

As used in this chapter the following words, terms, and phrases have the meanings ascribed to them by this section, except where the context clearly indicates that a different meaning is intended:

1. "Agent" means a person appointed by a seller to represent the seller before the member states.
2. "Agreement" means the streamlined sales and use tax agreement authorized by subchap-

⁶⁷ See chapter 1, §110 herein

⁶⁸ Chapter 1 herein

ter IV of this chapter to provide a mechanism for establishing and maintaining a cooperative, simplified system for the application and administration of sales and use taxes.

3. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise, and production from aquaculture. "Agricultural products" includes flowering, ornamental, or vegetable plants and those products of aquaculture.

4. "Business" includes any activity engaged in by any person or caused to be engaged in by the person with the object of gain, benefit, or advantage, either direct or indirect.

5. "Certificate of title" means a certificate of title issued for a vehicle or for manufactured housing under chapter 321.

6. "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

7. "Certified service provider" means an agent certified under the agreement to perform all of a seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases.

8. "Computer" means an electronic device that accepts information in digital or similar form and manipulates the information for a result based on a sequence of instructions.

9. "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

10. "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

11. "Delivery charges" means charges assessed by a seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing charges.

12. "Department" means the department of revenue and finance.

13. "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

14. "Director" means the director of revenue and finance.

15. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

16. "Farm deer" means the same as defined in section 189A.2.

17. "Farm machinery and equipment" means machinery and equipment used in agricultural production.

18. "First use of a service". A "first use of a service" occurs, for the purposes of this chapter, when a service is rendered, furnished, or performed in Iowa or if rendered, furnished, or performed outside of Iowa, when the product or result of the service is used in Iowa.

19. "Goods, wares, or merchandise" means the same as tangible personal property.

20. "Governing board" means the group comprised of representatives of the member states of the agreement which is created by the agreement to be responsible for the agreement's administration and operation.

21. "Installed purchase price" is the amount charged, valued in money whether paid in money or otherwise, by a building contractor to convert manufactured housing from tangible personal property into realty. "Installed purchase price" includes, but is not limited to, amounts charged for installing a foundation and electrical and plumbing hookups. "Installed purchase price" excludes any amount charged for landscaping in connection with the conversion.

22. "Lease or rental".

a. "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

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

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

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

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

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

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

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

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

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

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

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

28. "Model 2 seller" is a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

29. "Model 3 seller" is a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a "seller" includes an affiliated group of sellers using the same proprietary system.

30. "Nonresidential commercial operations" means industrial, commercial, mining, or agricultural operations, whether for profit or not, but does not include apartment complexes or mobile home parks.

31. "Not registered under the agreement" means lack of registration by a seller with the member states under the central registration system referenced in section 423.11, subsection 4.

32. "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

33. "Place of business" means any warehouse, store, place, office, building, or structure where goods, wares, or merchandise are offered for sale at retail or where any taxable amusement is conducted, or each office where gas, water, heat, communication, or electric services are offered for sale at retail.

When a retailer or amusement operator sells merchandise by means of vending machines or operates music or amusement devices by coin-operated machines at more than one location within the state, the office, building, or place where the books, papers, and records of the taxpayer are kept shall be deemed to be the taxpayer's place of business.

34. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. The combining of two or more prewritten computer software pro-

grams or prewritten portions of prewritten programs does not cause the combination to be other than prewritten computer software. "Prewritten computer software" also means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser.

When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion of the prewritten software that is modified or enhanced to any degree, when such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software. However, when there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

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

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

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

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

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

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

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

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

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

41. "Relief agency" means the state, any county, city and county, city, or district thereof, or any agency engaged in actual relief work.

42. "Retailer" means and includes every person engaged in the business of selling tangible personal property or taxable services at retail, or the furnishing of gas, electricity, water, or communication service, and tickets or admissions to places of amusement and athletic events or operating amusement devices or other forms of commercial amusement from which revenues are derived. However, when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, truckers, peddlers, or canvassers as agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain tangible personal property sold by them irrespective of whether or not they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them, and may regard such dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this chapter. "Retailer" includes a seller obligated to collect sales or use tax.

43. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

44. "Retailers who are not model sellers" means all retailers other than model 1, model 2, or model 3 sellers.

45. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

46. "Sales" or "sale" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

47. "Sales price" applies to the measure subject to sales tax.

a. "Sales price" means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

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

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

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

(4) Delivery charges.

(5) Installation charges.

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

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

b. "Sales price" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

56. "Trailer" shall mean every trailer, as is now or may be hereafter so defined by chapter

321, which is required to be registered or is subject only to the issuance of a certificate of title under chapter 321.

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

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

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

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

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

SUBCHAPTER II SALES TAX

Sec. 95. NEW SECTION. 423.2 TAX IMPOSED.

1. There is imposed a tax of five percent upon the sales price of all sales of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users except as otherwise provided in this subchapter.

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

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

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

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

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

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

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

b. Sales of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property are retail sales of tangible personal property in whatever quantity sold. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the person shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials,

supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail. The tax shall not be due when materials are withdrawn from inventory for use in construction outside of Iowa and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside of Iowa. The sale of carpeting is not a sale of building materials. The sale of carpeting to owners, contractors, subcontractors, or builders shall be treated as the sale of ordinary tangible personal property and subject to the tax imposed under this subsection and the use tax.

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

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

3. A tax of five percent is imposed upon the sales price of all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions. A tax of five percent is imposed on the sales price of an entry fee or like charge imposed solely for the privilege of participating in an activity at a place of amusement, fair, or athletic event unless the sales price of tickets or admissions charges for observing the same activity are taxable under this subchapter. A tax of five percent is imposed upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

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

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

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

6. The sales price of any of the following enumerated services is subject to the tax imposed by subsection 5: alteration and garment repair; armored car; vehicle repair; battery, tire, and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; campgrounds; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; excavating and grading; farm implement

repair of all kinds; flying service; furniture, rug, carpet, and upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; gun and camera repair; house and building moving; household appliance, television, and radio repair; janitorial and building maintenance or cleaning; jewelry and watch repair; lawn care, landscaping, and tree trimming and removal; limousine service, including driver; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pay television; pet grooming; pipe fitting and plumbing; wood preparation; executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; reflexology; security and detective services; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; tanning beds or salons; taxidermy services; telephone answering service; test laboratories, including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; Turkish baths, massage, and reducing salons, excluding services provided by massage therapists licensed under chapter 152C; water conditioning and softening; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables; wrecking service; wrecker and towing.

For the purposes of this subsection, the sales price of a lease or rental includes rents, royalties, and copyright and license fees. For the purposes of this subsection, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations and savings banks organized under chapter 534, and credit unions organized under chapter 533.

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

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

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

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

8. a. A tax of five percent is imposed upon the sales price from sales of bundled services contracts. For purposes of this subsection, a "bundled services contract" means an agreement providing for a retailer's performance of services, one or more of which is a taxable service enumerated in this section and one or more of which is not, in return for a consumer's or user's single payment for the performance of the services, with no separate statement to the con-

sumer or user of what portion of that payment is attributable to any one service which is a part of the contract.

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

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

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

Sec. 96. NEW SECTION. 423.3 EXEMPTIONS.

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

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

2. The sales price of sales for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with the furnishing of taxable services.

3. The sales price of agricultural breeding livestock and domesticated fowl.

4. The sales price of commercial fertilizer.

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

6. The sales price of tangible personal property which will be consumed as fuel in creating heat, power, or steam for grain drying, or for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for use in cultivation of agricultural products by aquaculture, or in implements of husbandry engaged in agricultural production.

7. The sales price of services furnished by specialized flying implements of husbandry used for agricultural aerial spraying.

8. The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if the following conditions are met:

a. The farm machinery and equipment shall be directly and primarily used in production of agricultural products.

b. The farm machinery and equipment shall constitute self-propelled implements or implements customarily drawn or attached to self-propelled implements or the farm machinery or equipment is a grain dryer.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in the production of agricultural products.

Vehicles subject to registration, as defined in section 423.1, or replacement parts for such vehicles, are not eligible for this exemption.

9. The sales price of wood chips, sawdust, hay, straw, paper, or other materials used for bedding in the production of agricultural livestock or fowl.

10. The sales price of gas, electricity, water, or heat to be used in implements of husbandry engaged in agricultural production.

11. The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if all of the following conditions are met:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production, aquaculture production, or the production of flowering, ornamental, or vegetable plants.

b. The implement is not a self-propelled implement or implement customarily drawn or attached to self-propelled implements.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production, aquaculture production, or the production of flowering, ornamental, or vegetable plants.

12. The sales price, exclusive of services, from sales of irrigation equipment used in farming operations.

13. The sales price from the sale or rental of irrigation equipment, whether installed above or below ground, to a contractor or farmer if the equipment will be primarily used in agricultural operations.

14. The sales price from the sales of horses, commonly known as draft horses, when purchased for use and so used as draft horses.

15. The sales price from the sale of property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, shipping case, or other similar article or receptacle sold for use in agricultural, livestock, or dairy production.

16. The sales price from the sale of feed and feed supplements and additives when used for consumption by farm deer or bison.

17. The sales price of all goods, wares, or merchandise, or services, used for educational purposes sold to any private nonprofit educational institution in this state. For the purpose of this subsection, "educational institution" means an institution which primarily functions as a school, college, or university with students, faculty, and an established curriculum. The faculty of an educational institution must be associated with the institution and the curriculum must include basic courses which are offered every year. "Educational institution" includes an institution primarily functioning as a library.

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

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

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

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

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

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

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

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

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

22. The sales price from sales of goods, wares, or merchandise, or from services furnished, to a nonprofit private art center to be used in the operation of the art center.

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

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

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

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

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

28. The sales price of tangible personal property sold, or of services furnished, to a free-standing nonprofit hospice facility which operates a hospice program as defined in 42 C.F.R., ch. IV, § 418.3, which property or services are to be used in the hospice program.

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

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

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

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

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

31. The sales price of goods, wares, or merchandise sold to and of services furnished, and used for public purposes sold to a tax-certifying or tax-levying body of the state or a governmental subdivision of the state, including regional transit systems, as defined in section 324A.1, the state board of regents, department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which have no earnings going to the benefit of an equity investor or stockholder, except any of the following:

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

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

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

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

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

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

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

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

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

33. The sales price of mementos and other items relating to Iowa history and historic sites, the general assembly, and the state capitol, sold by the legislative service bureau and its legislative information office on the premises of property under the control of the legislative council, at the state capitol, and on other state property.

34. The sales price from sales of mementos and other items relating to Iowa history and historic sites by the department of cultural affairs on the premises of property under its control and at the state capitol.

35. The sales price from sales or services furnished by the state fair organized under chapter 173.

36. The sales price from sales of tangible personal property or of the sale or furnishing of electrical energy, natural or artificial gas, or communication service to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivision of this state.

37. The sales price of services on or connected with new construction, reconstruction, alteration, expansion, remodeling, or the services of a general building contractor, architect, or engineer.

38. The sales price from the sale of building materials, supplies, or equipment sold to rural water districts organized under chapter 504A as provided in chapter 357A and used for the construction of facilities of a rural water district.

39. The sales price from "casual sales".

"Casual sales" means:

a. Sales of tangible personal property, or the furnishing of services, of a nonrecurring nature, by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section 423.2.

b. The sale of all or substantially all of the tangible personal property or services held or used by a seller in the course of the seller's trade or business for which the seller is required to hold a sales tax permit when the seller sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

40. The sales price from the sale of automotive fluids to a retailer to be used either in providing a service which includes the installation or application of the fluids in or on a motor vehicle, which service is subject to section 423.2, subsection 6, or to be installed in or applied to a motor vehicle which the retailer intends to sell, which sale is subject to section 423.26. For purposes of this subsection, automotive fluids are all those which are refined, manufactured, or otherwise processed and packaged for sale prior to their installation in or application to a motor vehicle. They include but are not limited to motor oil and other lubricants, hydraulic fluids, brake fluid, transmission fluid, sealants, undercoatings, antifreeze, and gasoline additives.

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

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

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

42. The sales price from the sale of tangible personal property consisting of advertising

material including paper to a person in Iowa if that person or that person's agent will, subsequent to the sale, send that advertising material outside this state and the material is subsequently used solely outside of Iowa. For the purpose of this subsection, "advertising material" means any brochure, catalog, leaflet, flyer, order form, return envelope, or similar item used to promote sales of property or services.

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

44. The sales price from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case, or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

45. The sales price from sales or rentals to a printer or publisher of the following: acetate; anti-halation backing; antistatic spray; back lining; base material used as a carrier for light sensitive emulsions; blankets; blow-ups; bronze powder; carbon tissue; codas; color filters; color separations; contacts; continuous tone separations; creative art; custom dies and die cutting materials; dampener sleeves; dampening solution; design and styling; diazo coating; dot etching; dot etching solutions; drawings; drawsheets; driers; duplicate films or prints; electronically digitized images; electrotypes; end product of image modulation; engravings; etch solutions; film; finished art or final art; fix; fixative spray; flats; flying pasters; foils; goldenrod paper; gum; halftones; illustrations; ink; ink paste; keylines; lacquer; lasering images; layouts; lettering; line negatives and positives; linotypes; lithographic offset plates; magnesium and zinc etchings; masking paper; masks; masters; mats; mat service; metal toner; models and modeling; mylar; negatives; nonoffset spray; opaque film process paper; opaquing; padding compound; paper stock; photographic materials: acids, plastic film, desensitizer emulsion, exposure chemicals, fix, developers, and paper; photography, day rate; photopolymer coating; photographs; photostats; photo-display tape; phototypesetter materials; ph-indicator sticks; positives; press pack; printing cylinders; printing plates, all types; process lettering; proof paper; proofs and proof processes, all types; pumice powder; purchased author alterations; purchased composition; purchased phototypesetting; purchased stripping and pasteups; red litho tape; reducers; roller covering; screen tints; sketches; stepped plates; stereotypes; strip types; substrate; tints; tissue overlays; toners; transparencies; tympan; typesetting; typography; varnishes; veloxes; wood mounts; and any other items used in a like capacity to any of the above enumerated items by the printer or publisher to complete a finished product for sale at retail. Expendable tools and supplies which are not enumerated in this subsection are excluded from the exemption. "Printer" means that portion of a person's business engaged in printing that completes a finished product for ultimate sale at retail or means that portion of a person's business used to complete a finished printed packaging material used to package a product for ultimate sale at retail. "Printer" does not mean an in-house printer who prints or copyrights its own materials.

46. a. The sales price from the sale or rental of computers, machinery, and equipment, including replacement parts, and materials used to construct or self-construct computers, machinery, and equipment if such items are any of the following:

- (1) Directly and primarily used in processing by a manufacturer.
- (2) Directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, machinery, and equipment used in processing by a manufacturer, including test equipment used to control quality and specifications of the product.

(3) Directly and primarily used in research and development of new products or processes of processing.

(4) Computers used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise.

(5) Directly and primarily used in recycling or reprocessing of waste products.

(6) Pollution-control equipment used by a manufacturer, including but not limited to that required or certified by an agency of this state or of the United States government.

b. The sales price from the sale of fuel used in creating heat, power, steam, or for generating electrical current, or from the sale of electricity, consumed by computers, machinery, or equipment used in an exempt manner described in paragraph "a", subparagraph (1), (2), (3), (5), or (6).

c. The sales price from the sale or rental of the following shall not be exempt from the tax imposed by this subchapter:

(1) Hand tools.

(2) Point-of-sale equipment and computers.

(3) Industrial machinery, equipment, and computers, including pollution-control equipment within the scope of section 427A.1, subsection 1, paragraphs "h" and "i".

(4) Vehicles subject to registration, except vehicles subject to registration which are directly and primarily used in recycling or reprocessing of waste products.

d. As used in this subsection:

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

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

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

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

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

(6) "Receipt or producing of raw materials" means activities performed upon tangible personal property only. With respect to raw materials produced from or upon real estate, the receipt or producing of raw materials is deemed to occur immediately following the severance of the raw materials from the real estate.

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

48. The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services when used by a manufacturer of food products to

produce marketable food products for human consumption, including but not limited to treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture.

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

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

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

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

53. The sales price from the sale of wind energy conversion property to be used as an electric power source and the sale of the materials used to manufacture, install, or construct wind energy conversion property used or to be used as an electric power source.

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

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

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

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

For the purposes of this subsection:

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

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

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

- (1) A vitamin.
- (2) A mineral.

- (3) An herb or other botanical.
- (4) An amino acid.
- (5) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(6) A concentrate, metabolite, constituent, extract, or combination of any of the ingredients in subparagraphs (1) through (5) that is intended for ingestion in tablet, capsule, powder, soft-gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label and as required pursuant to 21 C.F.R. § 101.36.

d. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

e. "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment, other than food which would be qualified for exemption under subsection 57 if purchased with a coupon described in subsection 57.

f. "Prepared food" means any of following:

- (1) Food sold in a heated state or heated by the seller, including food sold by a caterer.
- (2) Two or more food ingredients mixed or combined by the seller for sale as a single item.
- (3) "Prepared food", for the purposes of this paragraph, does not include food that is any of the following:

- (a) Only cut, repackaged, or pasteurized by the seller.
- (b) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States food and drug administration in chapter 3, part 401.11 of its food code, so as to prevent food borne illnesses.

- (c) Bakery items sold by the seller which baked them. The words "bakery items" includes but is not limited to breads, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

- (d) Food sold without eating utensils provided by the seller in an unheated state as a single item which is priced by weight or volume.

- (4) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport food.

g. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

f. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

57. The sales price from the sale of items purchased with coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq.

58. In transactions in which tangible personal property is traded toward the sales price of other tangible personal property, that portion of the sales price which is not payable in money to the retailer is exempted from the taxable amount if the following conditions are met:

- a. The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

- b. The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in the remanufacturing of a like item.

59. The sales price from the sale or rental of prescription drugs or medical devices intended for human use or consumption.

For the purposes of this subsection:

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

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

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

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

b. "Medical device" means equipment or a supply, intended to be prescribed by a practitioner, including orthopedic or orthotic devices. However, "medical device" also includes prosthetic devices, ostomy, urological, and tracheostomy equipment and supplies, and diabetic testing materials, hypodermic syringes and needles, anesthesia trays, biopsy trays and biopsy needles, cannula systems, catheter trays and invasive catheters, dialyzers, drug infusion devices, fistula sets, hemodialysis devices, insulin infusion devices, intraocular lenses, irrigation solutions, intravenous administering sets, solutions and stopcocks, myelogram trays, nebulizers, small vein infusion kits, spinal puncture trays, transfusion sets, venous blood sets, and oxygen equipment, intended to be dispensed for human use with or without a prescription to an ultimate user.

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

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

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

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

(2) Prevent or correct physical deformity or malfunction.

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

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

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

61. The sales price from the sale of raffle tickets for a raffle licensed pursuant to section 99B.5.

62. The sales price from the sale of tangible personal property which will be given as prizes to players in games of skill, games of chance, raffles, and bingo games as defined in chapter 99B.

63. The sales price from the sale of a modular home, as defined in section 435.1, to the extent of the portion of the purchase price of the modular home which is not attributable to the cost of the tangible personal property used in the processing of the modular home. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the modular home is forty percent.

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

65. The sales price from the sale or rental of information services. "Information services" means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a buyer or its agent of such information through any tangible or intangible medium. Information accumulated, prepared, or organized for a buyer or its agent is an information service even though it may incorporate preexisting components of data or other information. "Information services" includes, but is not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, and scouting reports, or other similar items.

66. The sales price of a sale at retail if the substance of the transaction is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

67. a. The sales price from the sale of an article of clothing designed to be worn on or about the human body if all of the following apply:

(1) The sales price of the article is less than one hundred dollars.

(2) The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the following Saturday.

b. This subsection does not apply to any of the following:

(1) Sport or recreational equipment and protective equipment.

(2) Clothing accessories or equipment.

(3) The rental of clothing.

c. For purposes of this subsection:

(1) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to the following: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers (children and adults, including disposable diapers); earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoelaces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel.

"Clothing" does not include the following: belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies (including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles); and sewing materials that become part of clothing (including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers).

(2) "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. "Clothing accessories or equipment" includes, but is not limited to, the following: briefcases; cosmetics; hair notions (including, but not limited to, barrettes, hair bows, and hair nets); handbags; handkerchiefs; jewelry; sunglasses, nonprescription; umbrellas; wallets; watches; and wigs and hairpieces.

(3) "Protective equipment" means items for human wear and designed as protection for the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. "Protective equipment" includes, but is not limited to, the following: breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

(4) "Sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. "Sport or recreational equipment" includes, but is not limited to, the following: ballet and tap shoes; cleated or spiked athletic shoes; gloves (including, but not limited to, baseball, bowling, boxing, hockey, and golf); goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins.

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

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

(1) *If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after January 1, 2002, through December 31, 2002, or if the sale or furnishing of fuel for purposes of residential energy and the delivery*

* Item veto; see message at end of the Act

of the fuel occurs on or after January 1, 2002, through December 31, 2002, the rate of tax is four percent of the sales price.

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

(3) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after July 1, 2008, through June 30, 2009, or if the sale or furnishing of fuel for purposes of residential energy and the delivery of the fuel occurs on or after July 1, 2008, through June 30, 2009, the rate of tax is two percent of the sales price.

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

(5) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after July 1, 2010, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after July 1, 2010, the rate of tax is zero percent of the sales price.

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

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

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

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

72. The sales price from the sales of special fuel for diesel engines consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire on rivers bordering on the state if the fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such a river.

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

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

75. The sales price from the sale or rental of aircraft; the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the sales price of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration certificated air carrier operation.

76. The sales price from the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the sales price of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means

* Item veto; see message at end of the Act

aircraft used in nonscheduled interstate federal aviation administration certificated air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

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

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

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

78. The sales price from sales or rental of tangible personal property, or services rendered by any entity where the profits from the sales or rental of the tangible personal property, or services rendered are used by or donated to a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code, a government entity, or a nonprofit private educational institution, and where the entire proceeds from the sales, rental, or services are expended for any of the following purposes:

- a. Educational.
- b. Religious.
- c. Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add to or to improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

This exemption does not apply to the sales price from games of skill, games of chance, raffles, and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the sales price only to the extent the profits from the sales, rental, or services are not used by or donated to the appropriate entity and expended for educational, religious, or charitable purposes.

79. The sales price from the sale or rental of tangible personal property or from services furnished to a recognized community action agency as provided in section 216A.93 to be used for the purposes of the agency.

80. a. For purposes of this subsection, "designated exempt entity" means an entity which is designated in section 423.4, subsection 1.

b. If a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract and a purchasing agent authorization letter and an exemption certificate, issued by the designated exempt entity, are presented to the retailer.

c. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the tax shall not be due when materials are withdrawn from inventory for use in construction performed for a designated exempt entity if an exemption certificate is received from such entity.

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

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

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

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

Sec. 97. NEW SECTION. 423.4 REFUNDS.

1. A private nonprofit educational institution in this state, nonprofit private museum in this state, tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder, may make application to the department for the refund of the sales or use tax upon the sales price of all sales of goods, wares, or merchandise, or from services furnished to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency, or instrumentality of the state or a political subdivision, a private nonprofit educational institution in this state, or a nonprofit private museum in this state if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, is devoted to educational uses, or becomes a nonprofit private museum; except goods, wares, or merchandise, or services furnished which are used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public or in connection with the operation of a municipal pay television system; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares, or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares, or merchandise, or services furnished and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit, private nonprofit educational institution, or nonprofit private museum which has made any written contract for performance by the contractor. The forms shall be filed by the contractor with the governmental unit, educational institution, or nonprofit private museum before final settlement is made.

b. Such governmental unit, educational institution, or nonprofit private museum shall, not more than one year after the final settlement has been made, make application to the department for any refund of the amount of the sales or use tax which shall have been paid upon any goods, wares, or merchandise, or services furnished, the application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit the claim and, if approved, issue a warrant to the governmental unit, educational institution, or nonprofit private museum in the amount of the sales or use tax which has been paid to the state of Iowa under the contract.

Refunds authorized under this subsection shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month following the date the refund claim is received by the department.

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

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

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

b. The contractor is not required to file information with the state department of transportation stating the amount of goods, wares, or merchandise, or services rendered, furnished, or performed and used in the performance of the contract or the amount of sales or use tax paid.

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

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

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

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

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

a. The refunds may be obtained only in the following amounts and manner and only under the following conditions:

(1) On forms furnished by the department, and filed within the time as the director shall provide by rule, the relief agency shall report to the department the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, merchandise, or services furnished, used for free distribution to the poor and needy.

(2) On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.

(3) The relief agency must prove to the satisfaction of the director that the person making the sales has included the amount thereof in the computation of the sales price of such person and that such person has paid the tax levied by this subchapter or subchapter III, based upon such computation of the sales price.

b. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the relief agency.

SUBCHAPTER III USE TAX

Sec. 98. NEW SECTION. 423.5 IMPOSITION OF TAX.

An excise tax at the rate of five percent of the purchase price or installed purchase price is imposed on the following:

1. The use in this state of tangible personal property as defined in section 423.1, including aircraft subject to registration under section 328.20, purchased for use in this state. For the purposes of this subchapter, the furnishing or use of the following services is also treated as the use of tangible personal property: optional service or warranty contracts, except residential service contracts regulated under chapter 523C, vulcanizing, recapping, or retreading services, engraving, photography, retouching, printing, or binding services, and communication service when furnished or delivered to consumers or users within this state.

2. The use of manufactured housing in this state, on the purchase price if the manufactured housing is sold in the form of tangible personal property or on the installed purchase price if the manufactured housing is sold in the form of realty.

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

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

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

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

7. For the purpose of the proper administration of the use tax and to prevent its evasion, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

Sec. 99. NEW SECTION. 423.6 EXEMPTIONS.

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

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

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

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

a. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, and containers used in the collection, recovery, or return of empty beverage containers subject to chapter 455C.

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

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

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

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

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

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

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

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

9. Tangible personal property which, by means of fabrication, compounding, or manufacturing, becomes an integral part of vehicles, as defined in section 321.1, subsections 41, 64A, 71, 85, and 88, manufactured for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transporta-

tion. Vehicles subject to registration which are designed primarily for carrying persons are excluded from this subsection.

10. Vehicles subject to registration which are transferred from a business or individual conducting a business within this state as a sole proprietorship, partnership, or limited liability company to a corporation formed by the sole proprietorship, partnership, or limited liability company for the purpose of continuing the business when all of the stock of the corporation so formed is owned by the sole proprietor and the sole proprietor's spouse, by all the partners in the case of a partnership, or by all the members in the case of a limited liability company. This exemption is equally available where the vehicles subject to registration are transferred from a corporation to a sole proprietorship, partnership, or limited liability company formed by that corporation for the purpose of continuing the business when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

This exemption also applies where the vehicles subject to registration are transferred from a corporation as part of the liquidation of the corporation to its stockholders if within three months of such transfer the stockholders retransfer those vehicles subject to registration to a sole proprietorship, partnership, or limited liability company for the purpose of continuing the business of the corporation when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

10A. Vehicles subject to registration which are transferred from a corporation that is primarily engaged in the business of leasing vehicles subject to registration to a corporation that is primarily engaged in the business of leasing vehicles subject to registration when the transferor and transferee corporations are part of the same controlled group for federal income tax purposes.

11. Vehicles registered or operated under chapter 326 and used substantially in interstate commerce, section 423.5, subsection 7, notwithstanding. For purposes of this subsection, "substantially in interstate commerce" means that a minimum of twenty-five percent of the miles operated by the vehicle accrues in states other than Iowa. This subsection applies only to vehicles which are registered for a gross weight of thirteen tons or more.

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

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

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

13. Mobile homes to the extent of the portion of the purchase price of the mobile home which is not attributable to the cost of the tangible personal property used in the processing of the mobile home, and manufactured housing to the extent of the purchase price or the installed purchase price of the manufactured housing which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the mobile home is forty percent and the portion of the purchase price or installed purchase price which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing is forty percent.

14. Tangible personal property used or to be used as a ship, barge, or waterborne vessel which is used or to be used primarily in or for the transportation of property or cargo for hire on the rivers bordering the state or as materials or parts of such ship, barge, or waterborne vessel.

15. Vehicles subject to registration in any state when purchased for rental or registered and titled by a motor vehicle dealer licensed pursuant to chapter 322 for rental use, and held for rental for a period of one hundred twenty days or more and actually rented for periods of sixty days or less by a person regularly engaged in the business of renting vehicles including, but not limited to, motor vehicle dealers licensed pursuant to chapter 322 who rent automobiles to users, if the rental of the vehicles is subject to taxation under chapter 423C.

16. Motor vehicles subject to registration which were registered and titled between July 1, 1982, and July 1, 1992, to a motor vehicle dealer licensed under chapter 322 and which were rented to a user as defined in section 423C.2 if the following occurred:

- a. The dealer kept the vehicle on the inventory of vehicles for sale at all times.
- b. The vehicle was to be immediately taken from the user of the vehicle when a buyer was found.
- c. The user was aware of this situation.

17. Vehicles subject to registration under chapter 321, with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, when purchased for lease and titled by the lessor licensed pursuant to chapter 321F and actually leased for a period of twelve months or more if the lease of the vehicle is subject to taxation under section 423.27.

A lessor may maintain the exemption from use tax under this subsection for a qualifying lease that terminates at the conclusion or prior to the contracted expiration date, if the lessor does not use the vehicle for any purpose other than for lease. Once the vehicle is used by the lessor for a purpose other than for lease, the exemption from use tax under this subsection no longer applies and, unless there is an exemption from the use tax, use tax is due on the fair market value of the vehicle determined at the time the lessor uses the vehicle for a purpose other than for lease, payable to the department. If the lessor holds the vehicle exclusively for sale, use tax is due and payable on the purchase price of the vehicle at the time of purchase pursuant to this subchapter.

18. Aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

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

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

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

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

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

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

23. Exempted from the purchase price of any vehicle subject to registration is:
- a. The amount of any cash rebate which is provided by a motor vehicle manufacturer to the purchaser of the vehicle subject to registration so long as the rebate is applied to the purchase price of the vehicle.
 - b. That in transactions, except those subject to paragraph "c", in which tangible personal property is traded toward the purchase price of other tangible personal property the purchase price is only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:
 - (1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.
 - (2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in the remanufacturing of a like item.
 - c. In a transaction between persons, neither of which is a retailer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the amount of the trade-in value allowed on the vehicle subject to registration traded.

SUBCHAPTER IV
UNIFORM SALES AND USE TAX ADMINISTRATION ACT

Sec. 100. NEW SECTION. 423.7 TITLE.

This subchapter shall be known and may be cited as the "Uniform Sales and Use Tax Administration Act".

Sec. 101. NEW SECTION. 423.8 LEGISLATIVE FINDING AND INTENT.

The general assembly finds that Iowa should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. It is the intent of the general assembly that entering into this agreement will lead to simplification and modernization of the sales and use tax law and not to the imposition of new taxes or an increase or decrease in the existing number of exemptions, unless such a result is unavoidable under the terms of the agreement.

Sec. 102. NEW SECTION. 423.9 AUTHORITY TO ENTER AGREEMENT AND TO REPRESENT THE STATE.

The director is authorized and directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

The director is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter. Other actions authorized by this section include, but are not limited to, the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The director or the director's designee is authorized to be a member of the governing board established pursuant to the agreement and to represent Iowa before that body.

Sec. 103. NEW SECTION. 423.10 RELATIONSHIP TO STATE LAW.

Entry into the agreement by the director does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, shall be by action of the general assembly.

Sec. 104. NEW SECTION. 423.11 AGREEMENT REQUIREMENTS.

The director shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

1. UNIFORM STATE RATE. The agreement must set restrictions to achieve more uniform state rates through the following:
 - a. Limiting the number of state rates.
 - b. Limiting the application of maximums on the amount of state tax that is due on a transaction.
 - c. Limiting the application of thresholds on the application of state tax.
2. UNIFORM STANDARDS. The agreement must establish uniform standards for the following:
 - a. The sourcing of transactions to taxing jurisdictions.
 - b. The administration of exempt sales.
 - c. The allowances a seller can take for bad debts.
 - d. Sales and use tax returns and remittances.
3. UNIFORM DEFINITIONS. The agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.
4. CENTRAL REGISTRATION. The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all member states.
5. NO NEXUS ATTRIBUTION. The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the member states must not be used as a factor in determining whether the seller has nexus with a state for any tax.
6. LOCAL SALES AND USE TAXES. The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:
 - a. Restricting variances between the state and local tax bases.
 - b. Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes must not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.
 - c. Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.
 - d. Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.
7. MONETARY ALLOWANCES. The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers.
8. STATE COMPLIANCE. The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.
9. CONSUMER PRIVACY. The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.
10. ADVISORY COUNCILS. The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

Sec. 105. NEW SECTION. 423.12 LIMITED BINDING AND BENEFICIAL EFFECT.

1. The agreement binds and inures only to the benefit of Iowa and the other member states. A person, other than a member state, is not an intended beneficiary of the agreement. Any benefit to a person other than a member state is established by the law of Iowa and not by the terms of the agreement.
2. A person shall not have any cause of action or defense under the agreement or by virtue of this state's entry into the agreement. A person may not challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

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

SUBCHAPTER V
SALES AND USE TAX ACT — ADMINISTRATION OF
RETAILERS NOT REGISTERED UNDER THE AGREEMENT AND OF
CONSUMERS OBLIGATED TO PAY USE TAX DIRECTLY

Sec. 106. NEW SECTION. 423.13 PURPOSE OF THIS SUBCHAPTER.

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

Sec. 107. NEW SECTION. 423.14 SALES AND USE TAX COLLECTION.

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

b. In computing the tax to be collected as the result of any transaction, the tax computation must be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax must be rounded up to the next whole cent; whenever the third decimal place is four or less, the tax must be rounded downward to a whole cent. Sellers may elect to compute the tax due on transactions on an item or invoice basis. Sellers are not required to use a bracket system.

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

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

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

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

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

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

e. All persons obligated by paragraph "a", "b", or "d", to collect use tax shall, as far as practicable, add that tax, or the average equivalent thereof, to the purchase price, less trade-ins allowed and taken, and when added the tax shall constitute a part of the purchase price. Use tax which this section requires to be collected by a retailer and any tax collected pursuant to

this section by a retailer shall constitute a debt owed by the retailer to this state. Tax which must be paid directly to the department, pursuant to paragraph “c” or “d”, is to be computed and added by the consumer or user to the purchase price in the same manner as this paragraph requires a seller to compute and add the tax. The tax shall be a debt from the consumer or user to the department until paid, and shall be recoverable at law in the same manner as other debts.

Sec. 108. NEW SECTION. 423.15 GENERAL SOURCING RULES.

All sellers obligated to collect Iowa sales or use tax shall use the standards set out in this section to determine where sales of products occur, excluding sales enumerated in section 423.16. These provisions apply regardless of the characterization of a product as tangible personal property, a digital good, or a service, excluding telecommunications services. This section only applies to determine a seller’s obligation to pay or collect and remit a sales or use tax with respect to the seller’s sale of a product. This section does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions in which the use occurs. A seller’s obligation to collect Iowa sales tax or Iowa use tax only occurs if the sale is sourced to this state. The application of whether Iowa sales tax applies to sales sourced to Iowa depends upon where the sale is consummated by delivery.

1. Sales, excluding leases or rentals other than leases or rentals set out in subsection 2, of products shall be sourced as follows:

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

b. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser’s donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

c. When paragraphs “a” and “b” do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller’s business when use of this address does not constitute bad faith.

d. When paragraphs “a”, “b”, and “c” do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser’s payment instrument, if no other address is available, when use of this address does not constitute bad faith.

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

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

a. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection 1. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

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

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

3. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection 1, notwithstanding the exclusion of lease or rental in that subsection. "Transportation equipment" means any of the following:

a. Locomotives or railcars that are utilized for the carriage of persons or property in interstate commerce.

b. Trucks and truck-tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that meet both of the following requirements:

(1) Are registered through the international registration plan.

(2) Are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

c. Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

d. Containers designed for use on and component parts attached or secured on the items set forth in paragraphs "a" through "c".

Sec. 109. NEW SECTION. 423.16 TRANSACTIONS TO WHICH THE GENERAL SOURCING RULES DO NOT APPLY.

Section 423.15 does not apply to sales or use taxes levied on the following:

1. The retail sale or transfer of watercraft, modular homes, manufactured housing, or mobile homes, and the retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3.

2. The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3, which shall be sourced in accordance with section 423.17.

3. Transactions to which the multiple points use exemption is applicable, which shall be sourced in accordance with section 423.18.

4. Transactions to which direct mail sourcing is applicable, which shall be sourced in accordance with section 423.19.

5. Telecommunications services, as set out in section 423.20, which shall be sourced in accordance with section 423.20, subsection 2.

Sec. 110. NEW SECTION. 423.17 SOURCING RULES FOR VARIOUS TYPES OF LEASED OR RENTED EQUIPMENT WHICH IS NOT TRANSPORTATION EQUIPMENT.

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

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

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

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

Sec. 111. NEW SECTION. 423.18 MULTIPLE POINTS OF USE EXEMPTION FORMS.

A business purchaser that is not a holder of a direct pay tax permit pursuant to section 423.36

that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase a "multiple points of use" or "MPU" exemption form disclosing this fact.

1. Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

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

3. The MPU exemption form will remain in effect for all future sales by the seller to the purchaser except as to the subsequent sale's specific apportionment that is governed by the principle of subsection 2 and the facts existing at the time of the sale until it is revoked in writing.

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

Sec. 112. NEW SECTION. 423.19 DIRECT MAIL SOURCING.

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

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

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

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

3. If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a direct mail form or delivery information to the seller.

Sec. 113. NEW SECTION. 423.20 TELECOMMUNICATIONS SERVICE SOURCING.

1. As used in this section:

a. "Air-to-ground radiotelephone service" means a radio service, as that term is used in 47 C.F.R. § 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

b. "Call-by-call basis" means any method of charging for the telecommunications service where the price is measured by individual calls.

c. "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

d. "Customer" means the person or entity that contracts with the seller of the telecommunications service. If the end user of the telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunica-

tions service, but this sentence only applies for the purpose of sourcing sales of the telecommunications service under this section. "Customer" does not include a reseller of a telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

e. "Customer channel termination point" means the location where the customer either inputs or receives the communications.

f. "End user" means the person who utilizes the telecommunications service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

g. "Home service provider" means the same as that term is defined in the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(5).

h. "Mobile telecommunications service" means the same as that term is defined in federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(7).

i. "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, "place of primary use" must be within the licensed service area of the home service provider.

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

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

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

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

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

(2) If the location in subparagraph (1) is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

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

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

a. Except for the defined telecommunications services in paragraph "c", the sale of telecommunications services sold on a call-by-call basis shall be sourced to one of the following:

(1) Each level of taxing jurisdiction where the call originates and terminates in that jurisdiction.

(2) Each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

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

c. Sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service or prepaid calling service is sourced to the customer's place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

(2) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either of the following:

(a) The seller's telecommunications system.

(b) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service is sourced in accordance with section 423.15. However, in the case of a sale of mobile telecommunications services that is a prepaid telecommunications service, the rule provided in section 423.15, subsection 1, paragraph "e", shall include as an option the location associated with the mobile telephone number.

(4) A sale of a private telecommunications service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(b) Service where all customer termination points are located entirely within one jurisdiction or level of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

Sec. 114. NEW SECTION. 423.21 BAD DEBT DEDUCTIONS.

1. For the purposes of this section, "bad debt" means an amount properly calculated pursuant to section 166 of the Internal Revenue Code then adjusted to exclude financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

2. In computing the amount of tax due, a seller may deduct bad debts from the total amount upon which the tax is calculated for any return. Any deduction taken or refund paid which is attributed to bad debts shall not include interest.

3. A seller may deduct bad debts on the return for the period during which the bad debt is written off as uncollectible in the seller's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subsection, a seller who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the seller's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the seller were required to file a federal income tax return.

4. If a deduction is taken for a bad debt and the seller subsequently collects the debt in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

5. A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable sales within the period allowed for refund claims by section 423.47. However, the period allowed for refund claims shall be measured from the due date of the return on which the bad debt could first be claimed.

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

Sec. 115. NEW SECTION. 423.22 TAXATION IN ANOTHER STATE.

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

Sec. 116. NEW SECTION. 423.23 SELLERS' AGREEMENTS.

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

Sec. 117. NEW SECTION. 423.24 ABSORBING TAX PROHIBITED.

A seller shall not advertise or hold out or state to the public or to any purchaser, consumer, or user, directly or indirectly, that the taxes or any parts thereof imposed by subchapter II or III will be assumed or absorbed by the seller or the taxes will not be added to the sales price of the property sold, or if added that the taxes or any part thereof will be refunded. Any person violating any of the provisions of this section within this state is guilty of a simple misdemeanor.

Sec. 118. NEW SECTION. 423.25 DIRECTOR'S POWER TO ADOPT RULES.

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

Sec. 119. NEW SECTION. 423.26 VEHICLES SUBJECT TO REGISTRATION OR ONLY TO THE ISSUANCE OF TITLE — MANUFACTURED HOUSING.

The use tax imposed upon the use of vehicles subject to registration or subject only to the issuance of a certificate of title or imposed upon the use of manufactured housing shall be paid by the owner of the vehicle or of the manufactured housing to the county treasurer or the state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or certificate of title shall not be issued until the tax has been paid. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a vehicle subject to registration or certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, installed purchase price, and other information relative to the purchase of the vehicle or manufactured housing. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under this section is guilty of a fraudulent practice. A person who willfully makes a false statement in regard to the purchase price of such a vehicle with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid on the actual purchase price less trade-in allowance.

Sec. 120. NEW SECTION. 423.27 MOTOR VEHICLE LEASE TAX.

1. The use tax imposed upon the use of leased vehicles subject to registration under chapter

321, with gross vehicle weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which are leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more shall be paid by the owner of the vehicle to the county treasurer or state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the tax is paid in the initial instance. Tax on the lease transaction that does not require titling or registration of the vehicle shall be remitted to the department. Tax and the reporting of tax due to the department shall be remitted on or before fifteen days from the last day of the month that the vehicle lease tax becomes due. Failure to timely report or remit any of the tax when due shall result in a penalty and interest being imposed on the tax due pursuant to section 423.40, subsection 1, and section 423.42, subsection 1.

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

- a. Title fee.
- b. Registration fees.
- c. Vehicle lease tax pursuant to this section.
- d. Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.
- e. Optional service or warranty contracts subject to tax pursuant to section 423.2, subsection 1.
- f. Insurance.
- g. Manufacturer's rebate.
- h. Refundable deposit.
- i. Finance charges, if any, on items listed in paragraphs "a" through "h".

If any or all of the items in paragraphs "a" through "i" are excluded from the taxable lease price, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the tax imposed under this statute is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the tax shall not be included in the computation of lease price for the purpose of taxation under this section. The county treasurer, the state department of transportation, or the department of revenue and finance shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

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

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid under this section, except as provided in section 322G.4.

Sec. 121. NEW SECTION. 423.28 SALES TAX REPORT — DEDUCTION.

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

Sec. 122. NEW SECTION. 423.29 COLLECTIONS BY SELLERS.

Every seller who is a retailer and who is making taxable sales of tangible personal property in Iowa shall, at the time of selling the property, collect the sales tax. Every seller who is a

retailer maintaining a place of business in this state and selling tangible personal property for use in Iowa shall, at the time of making the sale, whether within or without the state, collect the use tax. Sellers required to collect sales or use tax shall give to any purchaser a receipt for the tax collected in the manner and form prescribed by the director.

Every seller who is a retailer furnishing taxable services in Iowa and every seller who is a retailer maintaining a place of business in this state and furnishing taxable services in Iowa or services outside Iowa if the product or result of the service is used in Iowa shall be subject to the provisions of the preceding paragraph.

Sec. 123. NEW SECTION. 423.30 FOREIGN SELLERS NOT REGISTERED UNDER THE AGREEMENT.

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

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

Sec. 124. NEW SECTION. 423.31 FILING OF SALES TAX RETURNS AND PAYMENT OF SALES TAX.

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

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

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

4. Every retailer at the time of making any return required by this section shall compute and

pay to the department the tax due for the preceding period. The tax on sales prices from the sale or rental of tangible personal property under a consumer rental purchase agreement as defined in section 537.3604, subsection 8, is payable in the tax period of receipt.

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

A business required to file a consolidated sales tax return shall file a form entitled "schedule of consolidated business locations" with its quarterly sales tax return that shows the taxpayer's consolidated permit number, the permit number for each Iowa business location, the state sales tax amount by business location, and the amount of state sales tax due on goods consumed that are not assigned to a specific business location. Consolidated quarterly sales tax returns that are not accompanied by the schedule of consolidated business locations form are considered incomplete and are subject to penalty under section 421.27.

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

Sec. 125. NEW SECTION. 423.32 FILING OF USE TAX RETURNS AND PAYMENT OF USE TAX.

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

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

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

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

3. The director, in cooperation with the department of management, may periodically

change the filing and remittance thresholds by administrative rule if in the best interests of the state and taxpayer to do so.

Sec. 126. NEW SECTION. 423.33 LIABILITY OF PERSONS OTHER THAN RETAILERS FOR PAYMENT OF SALES OR USE TAX.

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

2. IMMEDIATE SUCCESSOR LIABILITY FOR SALES OR USE TAX. If a retailer sells the retailer's business or stock of goods or quits the business, the retailer shall prepare a final return and pay all sales or use tax due within the time required by law. The immediate successor to the retailer, if any, shall withhold a sufficient portion of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest, or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in this subsection, the immediate successor is personally liable for the payment of delinquent taxes, interest, and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this section. The department may waive the liability of the immediate successor under this subsection if the immediate successor exercised good faith in establishing the amount of the previous liability.

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

Sec. 127. NEW SECTION. 423.34 LIABILITY OF USER.

Any person who uses any property or services enumerated in section 423.2 upon which the use tax has not been paid, either to the county treasurer or to a retailer or direct to the department as required by this subchapter, shall be liable for the payment of tax, and shall on or before the last day of the month next succeeding each quarterly period pay the use tax upon all property or services used by the person during the preceding quarterly period in the manner and accompanied by such returns as the director shall prescribe. All of the provisions of sections 423.32 and 423.33 with reference to the returns and payments shall be applicable to the returns and payments required by this section.

Sec. 128. NEW SECTION. 423.35 POSTING OF BOND TO SECURE PAYMENT.

The director may, when necessary and advisable in order to secure the collection of the sales or use tax, authorize any person subject to either tax, and any retailer required or authorized to collect those taxes pursuant to the provisions of section 423.14, to file with the department a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in an amount as the director

may fix, to secure the payment of any tax, interest, or penalties due or which may become due from such person. In lieu of a bond, securities approved by the director, in an amount which the director may prescribe, may be deposited with the department, which securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax, interest, or penalties due. Upon the sale, the surplus, if any, above the amounts due under this chapter shall be returned to the person who deposited the securities.

Sec. 129. NEW SECTION. 423.36 PERMITS REQUIRED TO COLLECT SALES OR USE TAX — APPLICATIONS — REVOCATION.

1. A person shall not engage in or transact business as a retailer making taxable sales of tangible personal property or furnishing services within this state or as a retailer making taxable sales of tangible personal property or furnishing services for use within this state, unless a permit has been issued to the retailer under this section, except as provided in subsection 6. Every person desiring to engage in or transact business as a retailer shall file with the department an application for a permit to collect sales or use tax. Every application for a sales or use tax permit shall be made upon a form prescribed by the director and shall set forth any information the director may require. The application shall be signed by an owner of the business if a natural person; in the case of a retailer which is an association or partnership, by a member or partner; and in the case of a retailer which is a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority.

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

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

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

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

5. If the holder of a permit fails to comply with any of the provisions of this subchapter or of subchapter II or III or any order or rule of the department adopted under those subchapters or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director may revoke the permit. The director shall send notice by mail to a permit holder informing that person of the director's intent to revoke the permit and of the permit holder's right to a hearing on the matter. If the permit holder petitions the director for a hearing on the proposed revocation, after giving ten days' notice of the time and place of the hearing in accordance with section 17A.18, subsection 3, the matter may be heard and a decision rendered. The director may restore permits after revocation. The director shall adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

6. Sellers who are not regularly engaged in selling at retail and do not have a permanent

place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals, or the like, shall report and remit the sales tax on a temporary basis, under rules the director shall provide for the efficient collection of the sales tax. This subsection applies to sellers who are temporarily engaged in furnishing services.

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

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

8. a. Except as provided in paragraph "b", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to subchapter II or III of this chapter or chapters 423B and 423E may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under subchapters II and III in a semi-monthly period and make deposits and file returns pursuant to section 423.31. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

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

- (1) Taxes imposed on the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service.
- (2) Taxes imposed under sections 423.26 and 423.27 and chapter 423C.

Sec. 130. NEW SECTION. 423.37 FAILURE TO FILE SALES OR USE TAX RETURNS — INCORRECT RETURNS.

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

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

3. The three-year period of limitation provided in subsection 1 may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement shall stipulate the period of extension and the tax period to which the extension applies. The agreement shall also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 131. NEW SECTION. 423.38 JUDICIAL REVIEW.

1. Judicial review of actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.
2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.
3. An appeal may be taken by the taxpayer or the director to the supreme court of this state irrespective of the amount involved.

Sec. 132. NEW SECTION. 423.39 SERVICE OF NOTICES.

1. A notice authorized or required under this subchapter may be given by mailing the notice to the person for whom it is intended, addressed to that person at the address given in the last return filed by the person pursuant to this subchapter, or if no return has been filed, then to any address obtainable. The mailing of the notice is presumptive evidence of the receipt of the notice by the person to whom addressed. Any period of time which is determined according to this subchapter by the giving of notice commences to run from the date of mailing of the notice.
2. The provisions of the Code relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this chapter.

Sec. 133. NEW SECTION. 423.40 PENALTIES — OFFENSES — LIMITATION.

1. In addition to the sales or use tax or additional sales or use tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the sales or use tax or additional sales or use tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this subchapter. Unpaid penalties and interest may be enforced in the same manner as the taxes imposed by this chapter.
 - a. Any person who knowingly sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in section 423.2, in this state without procuring a permit to collect tax, as provided in section 423.36, or who violates section 423.24 and the officers of any corporation who so act are guilty of a serious misdemeanor.
 - b. A person who knowingly sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in section 423.2, in this state after the person's sales tax permit has been revoked and before it has been restored as provided in section 423.36, subsection 5, and the officers of any corporation who so act are guilty of an aggravated misdemeanor.
3. A person who willfully attempts in any manner to evade any tax imposed by this chapter or the payment of the tax or a person who makes or causes to be made a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade any tax imposed by subchapter II or III or the payment of the tax is guilty of a class "D" felony.
4. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this subchapter shall be prima facie evidence thereof.
5. A person required to pay sales or use tax, or to make, sign, or file a tax deposit form or return or supplemental return, who willfully makes a false or fraudulent tax deposit form or return, or willfully fails to pay at least ninety percent of the tax or willfully fails to make, sign, or file the tax deposit form or return, at the time required by law, is guilty of a fraudulent practice.

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

Sec. 134. NEW SECTION. 423.41 BOOKS — EXAMINATION.

Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property, services, or the product of services shall keep records, receipts, invoices, and other pertinent papers as the director shall require, in the form that the director shall require, for as long as the director has the authority to examine and determine tax due. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or services or liable for the tax imposed by this chapter, and investigate the character of the business of any person in order to verify the accuracy of any return made, or if a return was not made by the person, ascertain and determine the amount due under this chapter. These books, papers, and records shall be made available within this state for examination upon reasonable notice when the director deems it advisable and so orders. The preceding requirements shall likewise apply to users and persons furnishing services enumerated in section 423.2.

Sec. 135. NEW SECTION. 423.42 STATUTES APPLICABLE.

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

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

Sec. 136. NEW SECTION. 423.43 DEPOSIT OF REVENUE — APPROPRIATIONS.

Except as otherwise provided in section 312.2, subsection 14, all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund and shall be used exclusively for the construction, maintenance, and supervision of public highways.

1. Notwithstanding any provision of this section which provides that all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund, eighty percent of the revenues shall be deposited and credited as follows:

a. Twenty-five percent of all such revenue, up to a maximum of four million two hundred fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

b. Any such revenues remaining shall be credited to the road use tax fund.

2. Notwithstanding any other provision of this section that provides that all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as

collected pursuant to section 423.26 shall be deposited and credited to the road use tax fund, twenty percent of the revenues shall be credited and deposited as follows: one-half to the road use tax fund and one-half to the primary road fund to be used for the commercial and industrial highway network.

3. All other revenue arising under the operation of this chapter shall be credited to the general fund of the state.

Sec. 137. NEW SECTION. 423.44 REIMBURSEMENT FOR PRIMARY ROAD FUND.

From moneys deposited into the road use tax fund, the department may credit to the primary road fund any amount of revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 to the extent necessary to reimburse that fund for the expenditures not otherwise eligible to be made from the primary road fund, which are made for repairing, improving, and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under section 313.63, 313A.34, or 314.10.

Sec. 138. NEW SECTION. 423.45 REFUNDS — EXEMPTION CERTIFICATES.

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

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

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

4. a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director, including certificates not made of paper, which conform to the requirements of paragraph "c", to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for a nontaxable purpose. The department shall also allow the use of exemption certificates for those circumstances in which a sale is taxable but the seller is not obligated to collect tax from the buyer.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalty of perjury that the purchase is for a nontaxable purpose and is not a retail sale as defined in section 423.1, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection

5. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply to the purchaser.

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

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

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

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

b. For purposes of this subsection:

(1) "Fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam.

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

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

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

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

d. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within sixty days after the date of the notice of determination. The director shall grant a hearing, and upon the hearing, the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 423.38 within sixty days after the date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 423.40 both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 423.37.

e. If the circumstances change and the fuel is used or disposed of by the purchaser in a non-exempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department in accordance with paragraph “c”.

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

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

Sec. 139. NEW SECTION. 423.46 RATE AND BASE CHANGES.

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

Sec. 140. NEW SECTION. 423.47 REFUNDS AND CREDITS.

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

SUBCHAPTER VI
SALES AND USE TAX ACT — ADMINISTRATION OF
RETAILERS REGISTERED VOLUNTARILY UNDER THE
AGREEMENT

Sec. 141. NEW SECTION. 423.48 RESPONSIBILITIES AND RIGHTS OF SELLERS REGISTERED UNDER THE AGREEMENT.

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

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

a. The seller may register on-line.

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

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

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

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

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

g. The seller may cancel its registration at any time under procedures adopted by the governing board established pursuant to the agreement. Cancellation does not relieve the seller of its liability for remitting any Iowa taxes collected.

3. The following additional responsibilities and rights apply to model sellers:
 - a. A model 1 seller's obligation to calculate, collect, and remit sales and use taxes shall be performed by its certified service provider, except for the seller's obligation to remit tax on its own purchases. As the seller's agent, the certified service provider is liable for its model 1 seller's sales and use tax due Iowa on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresents the types of items or services it sells or commits fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A model 1 seller is subject to audit for transactions not processed by the certified service provider. The director is authorized to perform a system check of the model 1 seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.
 - b. A model 2 seller shall calculate the amount of tax due on a transaction by the use of a certified automated system, but shall collect and remit tax on its own sales. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to this state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.
 - c. A model 3 seller shall use its own proprietary automated system to calculate tax due and collect and remit tax on its own sales. A model 3 seller is liable for the failure of its proprietary automated system to meet the applicable performance standard.

Sec. 142. NEW SECTION. 423.49 RETURNS.

1. All model 1, 2, or 3 sellers are subject to all of the following return requirements:
 - a. The seller is required to file only one return per month for this state and for all taxing jurisdictions within this state.
 - b. The date for filing returns shall be determined under rules adopted by the director. However, in no case shall the return be due earlier than the twentieth day of the following month.
 - c. The director shall request additional information returns. These returns shall not be required more frequently than every six months.
2. Any registered seller which does not have a legal obligation to register in this state and is not a model 1, 2, or 3 seller is subject to all of the following return requirements:
 - a. The seller is required to file a return within one year of the month of initial registration and shall file a return on an annual basis in succeeding years.
 - b. In addition to the return required in paragraph "a", if the seller accumulates more than one thousand dollars in total state and local tax, the seller is required to file a return in the following month.
 - c. The format of the return and the due date of the initial return and the annual return shall be determined under rules adopted by the department.

Sec. 143. NEW SECTION. 423.50 REMITTANCE OF FUNDS.

1. Only one remittance of tax per return is required except as provided in this subsection. Sellers that collect more than thirty thousand dollars in sales and use taxes for this state during the preceding calendar year shall be required to make additional remittances as required under rules adopted by the director. The filing of a return is not required with an additional remittance.
2. All remittances shall be remitted electronically.
3. Electronic payments may be made either by automated clearinghouse credit or automated clearinghouse debit. Any data accompanying a remittance must be formatted using uniform tax type and payment codes approved by the governing board established pursuant

to the agreement. An alternative method for making same-day payments shall be determined under rules adopted by the director.

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

Sec. 144. NEW SECTION. 423.51 ADMINISTRATION OF EXEMPTIONS.

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

a. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the member states acting jointly.

b. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper certificate is used.

c. The seller shall use the standard form for claiming an exemption electronically as adopted jointly by the member states.

d. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

e. The department may authorize a system wherein the purchaser exempt from the payment of the tax is issued an identification number which shall be presented to the seller at the time of the sale.

f. The seller shall maintain proper records of exempt transactions and provide them to the department when requested.

g. The department shall administer entity-based and use-based exemptions when practicable through a direct pay tax permit, an exemption certificate, or another means that does not burden sellers. For the purposes of this paragraph:

(1) An "entity-based exemption" is an exemption based on who purchases the product or who sells the product.

(2) A "use-based exemption" is an exemption based on the purchaser's use of the product.

2. Sellers that follow the requirements of this section are relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and that the purchaser is liable for the nonpayment of tax. This relief from liability does not apply to a seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claim of an exemption.

Sec. 145. NEW SECTION. 423.52 RELIEF FROM LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.

Sellers and certified service providers are relieved from liability to this state or its local taxing jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments. If this state provides an address-based system for assigning taxing jurisdictions whether or not pursuant to the federal Mobile Telecommunications Sourcing Act, the director is not required to provide liability relief for errors resulting from reliance on the information provided by this state.

Sec. 146. NEW SECTION. 423.53 BAD DEBTS AND MODEL 1 SELLERS.

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

Sec. 147. NEW SECTION. 423.54 AMNESTY FOR REGISTERED SELLERS.

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

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

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

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

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

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

4. Amnesty is fully effective absent the seller's fraud or intentional misrepresentation of a material fact as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for a period of at least thirty-six months. The statute of limitations applicable to asserting a tax liability is tolled during this thirty-six month period.

5. Amnesty is applicable only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

6. The director may allow amnesty on terms and conditions more favorable to a seller than the terms required by this section.

Sec. 148. NEW SECTION. 423.55 DATABASES.

The department shall provide and maintain databases required by the agreement for the benefit of sellers registered under the agreement.

Sec. 149. NEW SECTION. 423.56 CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1.

1. As used in this section:

a. "Anonymous data" means information that does not identify a person.

b. "Confidential taxpayer information" means all information that is protected under this state's laws, rules, and privileges.

c. "Personally identifiable information" means information that identifies a person.

2. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

3. A certified service provider may perform its services in this state only if the certified service provider certifies that:

a. Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected.

b. Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 sellers with respect to exempt purchasers.

c. It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. This notice shall be satisfied by a written privacy policy statement accessible by the public on the official web site of the certified service provider.

d. Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased.

e. It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

4. The department shall provide public notification of its practices relating to the collection, use, and retention of personally identifiable information.

5. When any personally identifiable information that has been collected and retained by the department or certified service provider is no longer required for the purposes set forth in subsection 3, paragraph “d”, that information shall no longer be retained by the department or certified service provider.

6. When personally identifiable information regarding an individual is retained by or on behalf of this state, this state shall provide reasonable access by such individual to his or her own information in the state’s possession and a right to correct any inaccurately recorded information.

7. This privacy policy is subject to enforcement by the department and the attorney general.

8. This state’s laws and rules regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, the agreement does not enlarge or limit the state’s or department’s authority to:

- a. Conduct audits or other review as provided under the agreement and state law.
- b. Provide records pursuant to its examination of public records law, disclosure laws of individual governmental agencies, or other regulations.
- c. Prevent, consistent with state law, disclosures of confidential taxpayer information.
- d. Prevent, consistent with federal law, disclosures or misuse of federal return information obtained under a disclosure agreement with the internal revenue service.
- e. Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

9. This privacy policy does not preclude the certification of a certified service provider whose privacy policy is more protective of confidential taxpayer information or personally identifiable information than is required by the agreement.

Sec. 150. NEW SECTION. 423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.18, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 3, and sections 423.45, 423.46, and 423.47.

Sec. 151.

1. Sections 422.42 through 422.59, Code 2003, are repealed.
2. Chapter 423, Code 2003, is repealed.

COORDINATING AMENDMENTS

Sec. 152. Section 15.331A, Code 2003, is amended to read as follows:

15.331A SALES, SERVICES, AND USE TAX REFUND — CONTRACTOR OR SUBCONTRACTOR.

The eligible business or a supporting business shall be entitled to a refund of the sales and use taxes paid under chapters 422 and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the eligible business or a supporting business with the department of revenue and finance as follows:

1. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the economic development area upon which sales or use tax has been paid prior to the project completion,

and shall file the forms with the eligible business or supporting business before final settlement is made.

2. The eligible business or a supporting business shall, not more than one year after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter ~~422~~ or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421, ~~422~~, or 423.

3. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this section is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 153. Section 15.334A, Code 2003, is amended to read as follows:

15.334A SALES AND USE TAX EXEMPTION.

An eligible business may claim an exemption from sales and use taxation under section ~~422.45~~ 423.3, subsection ~~27 46~~, for property which is exempt from taxation under section 15.334, notwithstanding the requirements of section ~~422.45~~ 423.3, subsection ~~27 46~~, or any other provision of the Code to the contrary.

Sec. 154. Section 15A.9, subsections 5, 6, and 7, Code 2003, are amended to read as follows:

5. PROPERTY TAX EXEMPTION.

a. All property, as defined in section 427A.1, subsection 1, paragraphs “e” and “j”, Code 1993, used by the primary business or a supporting business and located within the zone, shall be exempt from property taxation for a period of twenty years beginning with the year it is first assessed for taxation. In order to be eligible for this exemption, the property shall be acquired or leased by the primary business or a supporting business or relocated by the primary business or a supporting business to the zone from outside the state prior to project completion.

b. Property which is exempt for property tax purposes under this subsection is eligible for the sales and use tax exemption under section ~~422.45~~ 423.3, subsection ~~27 46~~, notwithstanding that subsection or any other provision of the Code to the contrary.

6. SALES, SERVICES, AND USE TAX REFUND. Taxes paid pursuant to chapter ~~422~~ or 423 on the ~~gross receipts~~ sales price or rental price of property purchased or rented by the primary business or a supporting business for use by the primary business or a supporting business within the zone or on gas, electricity, water, and sewer utility services prior to project completion shall be refunded to the primary business or supporting business if the item was purchased or the service was performed or received prior to project completion. Claims under this section shall be submitted on forms provided by the department of revenue and finance not later than six months after project completion. The refund in this subsection shall not apply to furniture or furnishings, or intangible property.

7. SALES, SERVICES, AND USE TAX REFUND — CONTRACTOR OR SUBCONTRACTOR. The primary business or a supporting business shall be entitled to a refund of the sales and use taxes paid under chapters ~~422~~ and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the zone of the primary business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the primary business or a supporting business with the department of revenue and finance as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the depart-

ment, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the zone upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the primary business or supporting business before final settlement is made.

b. The primary business or a supporting business shall, not more than six months after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter ~~422~~ or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the primary business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the primary business or a supporting business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

c. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 155. Section 28A.17, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If an authority is established as provided in section 28A.6 and after approval of a referendum by a simple majority of votes cast in each metropolitan area in favor of the sales and services tax, the governing board of a county in this state within a metropolitan area which is part of the authority shall impose, at the request of the authority, a local sales and services tax at the rate of one-fourth of one percent on ~~gross receipts~~ the sales price taxed by this state under ~~chapter 422, division IV section 423.2~~, within the metropolitan area located in this state. The referendum shall be called by resolution of the board and shall be held as provided in section 28A.6 to the extent applicable. The ballot proposition shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended and the date of expiration of the tax. The local sales and services tax shall be imposed on the same basis, with the same exceptions, and following the same administrative procedures as provided for a county under sections 422B.8 and 422B.9. The amount of the sale, for the purposes of determining the amount of the local sales and services tax under this section, does not include the amount of any local sales and services tax imposed under sections 422B.8 and 422B.9.

Sec. 156. Section 29C.15, Code 2003, is amended to read as follows:
29C.15 TAX-EXEMPT PURCHASES.

All purchases under the provisions of this chapter shall be exempt from the taxes imposed by sections ~~422.43~~ 423.2 and ~~423.2~~ 423.5.

Sec. 157. Section 99E.10, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. An amount equal to the product of the state sales tax rate under section ~~422.43~~ 423.2 multiplied by the gross sales price of each ticket or share sold shall be deducted as the sales tax on the sale of that ticket or share, remitted to the treasurer of state and deposited into the state general fund.

Sec. 158. Section 123.187, subsection 2, Code 2003, is amended to read as follows:

2. A winery licensed or permitted pursuant to laws regulating alcoholic beverages in a state which affords this state an equal reciprocal shipping privilege may ship into this state by private common carrier, to a person twenty-one years of age or older, not more than eighteen liters of wine per month, for consumption or use by the person. Such wine shall not be resold. Shipment of wine pursuant to this subsection is not subject to sales tax under section ~~422.43~~ 423.2, use tax under section ~~423.2~~ 423.5, or the wine gallonage tax under section 123.183,

and does not require a refund value for beverage container control purposes under chapter 455C.

Sec. 159. Section 262.54, Code 2003, is amended to read as follows:

262.54 COMPUTER SALES.

Sales, by an institution under the control of the board of regents, of computer equipment, computer software, and computer supplies to students and faculty at the institution are retail sales under chapter ~~422, division IV~~ 423.

Sec. 160. Section 303.9, subsection 2, Code 2003, is amended to read as follows:

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. Notwithstanding sections 18.12 and 18.16, the department may directly and independently enter into rental and lease agreements with private vendors for the purpose of selling mementos. All fees and income produced by the sales and rental or lease agreements shall be credited to the account of the department. The mementos and other items sold by the department or vendors under this subsection are exempt from section 18.6. ~~The department is not a retailer under chapter 422 and the sale of such mementos and other items by the department is not a retail sale under chapter 422 and is exempt from the sales tax.~~

Sec. 161. Section 312.1, subsection 4, Code 2003, is amended to read as follows:

4. To the extent provided in section ~~423.24~~ 423.43, subsection 1, paragraph "b", from revenue derived from the use tax, under chapter 423 on motor vehicles, trailers, and motor vehicle accessories and equipment.

Sec. 162. Section 312.2, subsections 14 and 16, Code 2003, are amended to read as follows:

14. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the general fund of the state from revenue credited to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", an amount equal to one-twentieth of eighty percent of the revenue from the operation of section ~~423.7~~ 423.26.

There is appropriated from the general fund of the state for each fiscal year to the state department of transportation the amount of revenues credited to the general fund of the state during the fiscal year under this subsection to be used for purposes of public transit assistance under chapter 324A.

16. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section 321.180B, an amount equal to one dollar per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section ~~423.24~~ 423.43.

Sec. 163. Section 321.20, subsection 5, Code 2003, is amended to read as follows:

5. The amount of tax to be paid under section ~~423.7~~ 423.26.

Sec. 164. Section 321.24, subsections 1 and 3, Code 2003, are amended to read as follows:

1. Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured home, that taxes are not owing under chapter 435, issue a certificate of title and, except for a mobile home or manufactured home, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registra-

tion number assigned to the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section ~~423.7~~ 423.26, the type of fuel used, and a description of the vehicle as determined by the department, and upon the reverse side a form for notice of transfer of the vehicle. The name and address of any lessee of the vehicle shall not be printed on the registration receipt or certificate of title. Up to three owners may be listed on the registration receipt and certificate of title.

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, the amount of tax paid pursuant to section ~~423.7~~ 423.26, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of notation, and name and address of the secured party.

Sec. 165. Section 321.34, subsection 7, paragraph c, Code 2003, is amended to read as follows:

c. The fees for a collegiate registration plate are as follows:

- (1) A registration fee of twenty-five dollars.
- (2) A special collegiate registration fee of twenty-five dollars.

These fees are in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited by the treasurer of state to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43 and prior to the revenues being credited to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly from those revenues respectively, to Iowa state university of science and technology, the university of northern Iowa, and the state university of Iowa, the amount of the special collegiate registration fees collected in the previous month for collegiate registration plates designed for the university. The moneys credited are appropriated to the respective universities to be used for scholarships for students attending the universities.

Sec. 166. Section 321.34, subsection 11, paragraph c, Code 2003, is amended to read as follows:

c. The special natural resources fee for letter number designated natural resources plates is thirty-five dollars. The fee for personalized natural resources plates is forty-five dollars which shall be paid in addition to the special natural resources fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly from those revenues to the Iowa resources enhancement and protection fund created pursuant to section 455A.18, the amount of the special natural resources fees collected in the previous month for the natural resources plates.

Sec. 167. Section 321.34, subsection 11A, paragraph c, Code 2003, is amended to read as follows:

c. The special fee for letter number designated love our kids plates is thirty-five dollars. The fee for personalized love our kids plates is twenty-five dollars, which shall be paid in addition to the special love our kids fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the love our kids plates. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

Sec. 168. Section 321.34, subsection 11B, paragraph c, Code 2003, is amended to read as follows:

c. The special fee for letter number designated motorcycle rider education plates is thirty-five dollars. The fee for personalized motorcycle rider education plates is twenty-five dollars, which shall be paid in addition to the special motorcycle rider education fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the department for use in accordance with section 321.180B, subsection 6, the amount of the special fees collected in the previous month for the motorcycle rider education plates.

Sec. 169. Section 321.34, subsection 13, paragraph d, Code 2003, is amended to read as follows:

d. A state agency may submit a request to the department recommending a special registration plate. The alternate fee for letter number designated plates is thirty-five dollars with a ten dollar annual special renewal fee. The fee for personalized plates is twenty-five dollars which is in addition to the alternative fee of thirty-five dollars with an annual personalized plate renewal fee of five dollars which is in addition to the special renewal fee of ten dollars. The alternate fees are in addition to the regular annual registration fee. The alternate fees collected under this paragraph shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of the revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly the amount of the alternate fees collected in the previous month to the state agency that recommended the special registration plate.

Sec. 170. Section 321.34, subsection 21, paragraph c, Code 2003, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly to the Iowa heritage fund created under section 303.9A the amount of the special fees collected in the previous month for the Iowa heritage plates.

Sec. 171. Section 321.34, subsection 22, paragraph b, Code 2003, is amended to read as follows:

b. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The annual special school transportation fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the school budget review committee in accordance with section 257.31, subsection 17, the amount of the special school transportation fees collected in the previous month for the education plates.

Sec. 172. Section 321F.9, Code 2003, is amended to read as follows:

321F.9 OPTION TO PURCHASE — DEALER'S LICENSE.

Any person engaged in business in this state shall not enter into any agreement for the use of a motor vehicle under the terms of which such ~~that~~ that person grants to another an option to

purchase ~~such the~~ motor vehicle without first having obtained a motor vehicle dealer's license under the provisions of chapter 322, and all sales of motor vehicles under such options shall be subject to sales or use taxes imposed under the provisions of ~~chapters 422 and~~ chapter 423. Nothing contained in this section shall require such person to have a place of business as provided by section 322.6, subsection 8.

Sec. 173. Section 327I.26, Code 2003, is amended to read as follows:
327I.26 APPROPRIATION TO AUTHORITY.

Notwithstanding section ~~423.24~~ 423.43, and prior to the application of section ~~423.24~~ 423.43, subsection 1, paragraph "b", there shall be deposited into the general fund of the state and is appropriated to the authority from eighty percent of the revenues derived from the operation of section ~~423.7~~ 423.26, the amounts certified by the authority under section 327I.25. However, the total amount deposited into the general fund and appropriated to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys appropriated to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 327I.25.

Sec. 174. Section 328.26, unnumbered paragraph 2, Code 2003, is amended to read as follows:

When an aircraft is registered to a person for the first time the fee submitted to the department shall include the tax imposed by section ~~422.43~~ 423.2 or section ~~423.2~~ 423.5 or evidence of the exemption of the aircraft from the tax imposed under section ~~422.43~~ 423.2 or ~~423.2~~ 423.5.

Sec. 175. Section 331.557, subsection 3, Code 2003, is amended to read as follows:

3. Collect the use tax on vehicles subject to registration as provided in sections ~~423.6, 423.7, and 423.7A~~ 423.14, 423.26, and 423.27.

Sec. 176. Section 357A.15, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A rural water district organized under chapter 504A shall receive a refund of sales or use taxes upon submitting an application to the department of revenue and finance for ~~such the~~ refund of taxes imposed upon the ~~gross receipts~~ sales price of all sales of building materials, supplies, or equipment sold to a contractor or used in the fulfillment of a written contract for the construction of facilities for ~~such the~~ rural water district to the same extent as a rural water district organized under this chapter may obtain a refund under section ~~422.45~~ 423.4, subsection 7 1.

Sec. 177. Section 421.10, Code 2003, is amended to read as follows:
421.10 APPEAL PERIOD — APPLICABILITY.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, ~~422.54~~ 423.37, 437A.9, 437A.22, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 178. Section 421.17, subsection 22B, Code 2003, is amended to read as follows:

22B. ~~Enter~~ To enter into agreements or compacts with remote sellers, retailers, or third-party providers for the voluntary collection of Iowa sales or use taxes attributable to sales into Iowa ~~and to enter~~. The director has the authority to enter into and perform all duties required of the office of director by multistate agreements or compacts that provide for the voluntary collection of sales and use taxes, including joint audits with other states or audits on behalf of other states. The agreements or compacts shall generally conform to the provisions of Iowa

sales and use tax statutes. All fees for services, reimbursements, remuneration, incentives, and costs incurred by the department associated with these agreements or compacts may be paid or reimbursed from the additional revenue generated. An amount is appropriated from amounts generated to pay or reimburse all costs associated with this subsection. Persons entering into an agreement or compact with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. Notwithstanding any other provisions of law, the contract, agreement, or compact shall provide for the registration, collection, report, and verification of amounts subject to this subsection.

Sec. 179. Section 421.17, subsection 29, paragraph j, Code 2003, is amended to read as follows:

j. The department's existing right to credit against tax due or to become due under section 422.73 or 423.47 is not to be impaired by a right granted to or a duty imposed upon the department or other state agency by this subsection. This subsection is not intended to impose upon the department any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73 or 423.47.

Sec. 180. Section 421.17, subsection 34, paragraph i, Code 2003, is amended to read as follows:

i. The director may distribute to credit reporting entities and for publication the names, addresses, and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in this subsection. The director shall adopt rules to administer this paragraph, and the rules shall provide guidelines by which the director shall determine which names, addresses, and amounts of indebtedness may be distributed for publication. The director may distribute information for publication pursuant to this paragraph, notwithstanding sections 422.20, 422.72, and ~~423.23~~ 423.42, or any other provision of state law to the contrary pertaining to confidentiality of information.

Sec. 181. Section 421.26, Code 2003, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 422A or 422B, or section ~~422.52~~ 423.31 or 423.33, or a retailer or purchaser under section ~~423.13~~ 423.32 or a user under section ~~423.14~~ 423.34 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding sections 490A.601 and 490A.602, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 182. Section 421.28, Code 2003, is amended to read as follows:

421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 422A or 422B, or section ~~422.52~~, ~~423.13~~, ~~423.14~~, 423.33 or 452A.65, is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that the department had provided the immediate successor with a certified statement that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee,

retailer, or seller that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue and finance shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 422.20, 422.72, or 452A.63.

Sec. 183. Section 421B.11, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, and section ~~422.55~~ 423.38.

Sec. 184. Section 422.7, subsection 21, paragraph a, subparagraph (1), unnumbered paragraph 1, Code 2003, is amended to read as follows:

Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section ~~422.42~~ 423.1, in which the taxpayer was employed or in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

Sec. 185. Section 422.73, subsection 1, Code 2003, is amended by striking the subsection.

Sec. 186. Section 422A.1, unnumbered paragraphs 1, 3, 7, and 8, Code 2003, are amended to read as follows:

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the ~~gross receipts~~ sales price from the renting of sleeping rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the ~~gross receipts~~ sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa and the guests of a religious institution if the property is exempt under section 427.1, subsection 8, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use. However, the tax does not apply to the ~~gross receipts~~ sales price from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

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

No tax permit other than the state sales tax permit required under section ~~422.53~~ 423.36 may be required by local authorities.

The tax levied shall be in addition to any state sales tax imposed under section ~~422.43~~ 423.2. Section 422.25, subsection 4, sections 422.30, ~~422.48 to 422.52, 422.54 to 422.58, 422.67, and~~

422.68, ~~section 422.69, subsection 1, and sections 422.70 to 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and 423.47,~~ consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns as ~~prescribed in section 422.51~~ and for other than quarterly filing of returns ~~both~~ as prescribed in section 422.51, ~~subsection 2~~ 423.31. The director may require all persons, as defined in section ~~422.42~~ 423.1, who are engaged in the business of deriving gross receipts any sales price subject to tax under this chapter, to register with the department.

Sec. 187. Section 422B.8, Code 2003, is amended to read as follows:

422B.8 LOCAL SALES AND SERVICES TAX.

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the ~~gross receipts~~ sales price taxed by the state under chapter ~~422~~ 423, ~~division IV subchapter II~~. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the ~~gross receipts~~ sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the ~~gross receipts~~ sales price from the sale of equipment by the state department of transportation, on the ~~gross receipts~~ sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the ~~gross receipts~~ sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the ~~gross receipts~~ sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state ~~gross receipts~~ sales taxes. However, a person required to collect state retail sales tax under chapter ~~422~~ 423, ~~division IV subchapter V or VI~~, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

The amount of the sale, for purposes of determining the amount of the local sales and services tax, does not include the amount of any state ~~gross receipts taxes~~ sales tax.

A tax permit other than the state sales tax permit required under section ~~422.53 or 423.10~~ 423.36 shall not be required by local authorities.

If a local sales and services tax is imposed by a county pursuant to this chapter, a local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423, subchapter III, and not exempted from tax by any provision of chapter 423, subchapter III. The local excise

tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter, "local sales and services tax" shall also include the local excise tax.

Sec. 188. Section 422B.9, subsections 1 and 2, Code 2003, are amended to read as follows:

1. a. A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election and not sooner than sixty days following notice to sellers, as defined in section 423.1. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

b. A local sales and services tax shall be repealed only on June 30 or December 31 but not sooner than ninety days following the favorable election if one is held. However, a local sales and services tax shall not be repealed before the tax has been in effect for one year. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue and finance.

c. The imposition of or a rate change for a local sales and service tax shall not be applied to purchases from a printed catalog wherein a purchaser computes the local tax based on rates published in the catalog unless a minimum of one hundred twenty days' notice of the imposition or rate change has been given to the seller from the catalog and the first day of a calendar quarter has occurred on or after the one hundred twentieth day.

~~e.~~ d. If a local sales and services tax has been imposed prior to April 1, 2000, and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph "b".

2. a. The director of revenue and finance shall administer a local sales and services tax as nearly as possible in conjunction with the administration of state ~~gross receipts sales~~ tax laws. The director shall provide appropriate forms or provide on the regular state tax forms for reporting local sales and services tax liability.

b. The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of ~~chapter 422, division IV, and chapter 423.~~ All powers and requirements of the director to administer the state ~~gross receipts sales~~ tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to, the provisions of section 422.25, subsection 4, sections 422.30, ~~422.48 to 422.52, 422.54 to 422.58, 422.67, and 422.68,~~ section 422.69, subsection 1, sections 422.70 to 422.75, 423.6, subsections 2 to 4, and sections 423.11 to 423.18, and 423.21 section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, 423.46, and 423.47. Local officials shall confer with the director of revenue and finance for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

c. Frequency of deposits and quarterly reports of a local sales and services tax with the department of revenue and finance are governed by the tax provisions in section ~~422.52~~ 423.31. Local tax collections shall not be included in computation of the total tax to determine frequency of filing under section ~~422.52~~ 423.31.

d. The director shall apply a boundary change of a county or city imposing or collecting the local sales and service tax to the imposition or collection of that tax only on the first day of a calendar quarter which occurs sixty days or more after the director has given notice of the boundary change to sellers.

Sec. 189. Section 422C.2, subsections 4 and 6, Code 2003, are amended to read as follows:

4. "Person" means as defined in section ~~422.42~~ 423.1.

6. "Rental price" means the consideration for renting an automobile valued in money, and means the same as ~~"gross taxable services"~~ "sales price" as defined in section ~~422.42~~ 423.1.

Sec. 190. Section 422C.3, Code 2003, is amended to read as follows:

422C.3 TAX ON RENTAL OF AUTOMOBILES.

1. A tax of five percent is imposed upon the rental price of an automobile if the rental transaction is subject to the sales and services tax under chapter ~~422~~ 423, ~~division IV subchapter II~~, or the use tax under chapter ~~423~~ subchapter III. The tax shall not be imposed on any rental transaction not taxable under the state sales and services tax, as provided in section ~~422.45~~ 423.3, or the state use tax, as provided in section ~~423.4~~ 423.6, on automobile rental receipts.
2. The lessor shall collect the tax by adding the tax to the rental price of the automobile.
3. The tax, when collected, shall be stated as a distinct item separate and apart from the rental price of the automobile and the sales and services tax imposed under chapter ~~422~~ 423, ~~division IV subchapter II~~, or the use tax imposed under chapter ~~423~~ subchapter III.

Sec. 191. Section 422C.4, Code 2003, is amended to read as follows:

422C.4 ADMINISTRATION AND ENFORCEMENT.

All powers and requirements of the director of revenue and finance to administer the state ~~gross receipts sales~~ tax law under chapter ~~422~~, ~~division IV~~, ~~423~~ are applicable to the administration of the tax imposed under section 422C.3, including but not limited to section 422.25, subsection 4, sections 422.30, ~~422.48 through 422.52~~, ~~422.54 through 422.58~~, 422.67, and 422.68, section 422.69, subsection 1, and sections 422.70 through 422.75, section 423.14, subsection 1, and sections 423.15, 423.23, 423.24, 423.25, 423.31, 423.33, 423.35 and 423.37 through 423.42, 423.45, 423.46, and 423.47. However, as an exception to the powers specified in section ~~422.52~~, ~~subsection 1~~ 423.31, the director shall only require the filing of quarterly reports.

Sec. 192. Section 422E.1, subsection 1,⁶⁹ is amended to read as follows:

1. A local sales and services tax for school infrastructure purposes may be imposed by a county on behalf of school districts as provided in this chapter.

If a local sales and services tax for school infrastructure is imposed by a county pursuant to this chapter, a local excise tax for school infrastructure at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter ~~423~~ subchapter III, and not exempted from tax by any provision of chapter ~~423~~ subchapter III. The local excise tax for school infrastructure is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax for school infrastructure. For purposes of this chapter, "local sales and services tax for school infrastructure" shall also include the local excise tax for school infrastructure.

Sec. 193. Section 422E.3, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. If a majority of those voting on the question of imposition of a local sales and services tax for school infrastructure purposes favors imposition of the tax, the tax shall be imposed by the county board of supervisors within the county pursuant to section 422E.2, at the rate specified for a ten-year duration on the ~~gross receipts sales price~~ taxed by the state under chapter ~~422~~ 423, ~~division IV subchapter II~~.
2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the ~~gross receipts sales price~~ from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the ~~gross receipts sales price~~ from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the ~~gross receipts sales price~~ from the sale of equipment by the state department of transportation, on the ~~gross receipts sales price~~ from the sale of self-propelled building

⁶⁹ "Code 2003," probably intended

equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the ~~gross receipts~~ sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the ~~gross receipts~~ sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state ~~gross receipts~~ sales or local excise taxes. However, a person required to collect state ~~retail~~ sales tax under chapter ~~422, division IV, 423~~ is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state ~~gross receipts~~ sales taxes or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section ~~422.53 or 423.10~~ 423.36 shall not be required by local authorities.

Sec. 194. Section 425.30, Code 2003, is amended to read as follows:
425.30 NOTICES.

Section ~~422.57~~ 423.39, subsection 1, shall apply to all notices under this division.

Sec. 195. Section 425.31, Code 2003, is amended to read as follows:
425.31 APPEALS.

Any person aggrieved by an act or decision of the director of revenue and finance or the department of revenue and finance under this division shall have the same rights of appeal and review as provided in sections 421.1 and ~~422.55~~ 423.38 and the rules of the department of revenue and finance.

Sec. 196. Section 452A.66, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The appropriate state agency shall administer the taxes imposed by this chapter in the same manner as and subject to section 422.25, subsection 4 and section ~~422.52, subsection 3~~ 423.35.

Sec. 197. Section 455B.455, Code 2003, is amended to read as follows:
455B.455 SURCHARGE IMPOSED.

A land burial surcharge tax of two percent is imposed on the fee for land burial of a hazardous waste. The owner of the land burial facility shall remit the tax collected to the director of revenue and finance after consultation with the director according to rules that the director shall adopt. The director shall forward a copy of the site license to the director of revenue and finance which shall be the appropriate license for the collection of the land burial surcharge tax and shall be subject to suspension or revocation if the site license holder fails to collect or remit the tax collected under this section. The provisions of ~~sections~~ section 422.25, subsection 4, ~~sections~~ section 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, and 422.68, ~~section~~ 422.69, subsection 1, and ~~sections~~ section 422.70 to 422.75, ~~section~~ section 423.14, ~~subsection 1, and sections~~ subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and 423.47, consistent with the provisions of this part 6 of division IV, shall apply with respect to the taxes authorized under this part, in the same manner and with the same effect as if the land burial surcharge tax were retail sales taxes within the meaning of those statutes. Notwithstanding the provisions of this ~~paragraph~~ section, the director shall provide for only quarterly filing of returns as prescribed in section ~~422.51~~ 423.31. Taxes collected by the director of revenue and finance under this section shall be deposited in the general fund of the state.

Sec. 198. Section 455G.3, subsection 1, Code 2003, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section ~~423.24~~ 423.43, subsection 1, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 199. Section 455G.6, subsection 4, Code 2003, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the use tax under section ~~423.24~~ 423.43, subsection 1, paragraph "a", and deposited in the fund or an account of the fund.

Sec. 200. Section 455G.8, subsection 2, Code 2003, is amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423, ~~subchapter III~~. The proceeds of the use tax under section ~~423.24~~ 423.43, subsection 1, paragraph "a", shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board.

Sec. 201. Section 455G.9, subsection 2, Code 2003, is amended to read as follows:

2. REMEDIAL ACCOUNT FUNDING. The remedial account shall be funded by that portion of the proceeds of the use tax imposed under chapter 423, ~~subchapter III~~, and other moneys and revenues budgeted to the remedial account by the board.

Sec. 202. Section 2.67, Code 2003, is repealed.

Sec. 203. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer Code chapter 423A to Code chapter 421A and to transfer Code chapters 422A, 422B, 422C, and 422E to Code chapters 423A, 423B, 423C, and 423E, respectively. The Code editor is directed to correct Code references as required due to the changes made in this Act.

SALES TAX ADVISORY COUNCIL

Sec. 204. IOWA STREAMLINED SALES TAX ADVISORY COUNCIL.

1. An Iowa streamlined sales tax advisory council is created. The advisory council shall review, study, and submit recommendations to the Iowa streamlined sales and use tax delegation regarding the proposed streamlined sales and use tax agreement formalized by the project's implementing sales on November 12, 2002, the proposed language conforming Iowa's sales and use tax to the national agreement, and the following issues:

- a. Uniform definitions proposed in the current streamlined sales and use tax agreement and future proposals.
- b. Effects upon taxability of items newly defined in Iowa.

- c. Impacts upon business as a result of the streamlined sales and use tax.
- d. Technology implementation issues.
- e. Any other issues that are brought before the streamlined sales and use tax implementing state or the streamlined sales and use tax governing board.

2. The department shall provide administrative support to the Iowa streamlined sales tax advisory council. The advisory council shall be representative of Iowa's business community and economy when reviewing and recommending solutions to streamlined sales and use tax issues. The advisory council shall provide the general assembly and the governor with final recommendations made to the Iowa streamlined sales and use tax delegation upon the conclusion of each calendar year.

3. The director of revenue, in consultation with the Iowa taxpayers association and the Iowa association of business and industry, shall appoint members to the Iowa streamlined sales tax advisory council, which shall consist of the following members:

- a. One member from the department of revenue and finance.
- b. Three members representing small Iowa businesses, at least one of whom must be a retailer, and at least one of whom shall be a supplier.
- c. Three members representing medium Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- d. Three members representing large Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- e. One member representing taxpayers as a whole.
- f. One member representing the retail community as a whole.
- g. Any other member the director of revenue and finance deems appropriate.

Sec. 205. **EFFECTIVE DATE.** Except for the section creating the Iowa streamlined sales tax advisory council, this division of this Act takes effect July 1, 2004.

DIVISION XV CAPITOL COMPLEX PARKING STRUCTURE

**Sec. 206. NEW SECTION. 18A.8 CAPITOL COMPLEX PARKING STRUCTURE REVOLVING FUND.*

*A capitol complex parking structure revolving fund is created in the state treasury. The capitol complex parking structure revolving fund shall be administered by the department of administrative services and shall consist of moneys collected by the department as parking fees, moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department for costs associated with the management, operation, and maintenance of the capitol complex parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative services agency, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.**

Sec. 207. **CAPITOL COMPLEX PARKING STRUCTURE MANAGEMENT — REQUEST FOR PROPOSALS. The department of administrative services shall issue a request for proposals for the management, operation, and maintenance of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The request for proposals shall include all of the following services:*

- 1. *The collection of parking fees and administration of parking permits.*
- 2. *Daily janitorial maintenance and necessary annual maintenance, pursuant to standards outlined in the parking garage maintenance manual published by the parking consultants council of the national parking association.*

* Item veto; see message at end of the Act

3. *Long-term structural maintenance.*

*Awarding of a contract for the management, operation, and maintenance of the parking structure is subject to approval by the general assembly.**

Sec. 208. CAPITOL COMPLEX PARKING STRUCTURE — EMPLOYEE PARKING FEES. The department of administrative services shall establish reasonable parking fees for state employees for the use of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. Parking fees shall not be established or collected for use of the parking structure by members of the general public. Such fees shall be deposited in the capitol complex parking structure revolving fund created in section 18A.8, as enacted by this Act.

DIVISION XVI
EFFECTIVE DATE

Sec. 209. EFFECTIVE DATE. Unless otherwise provided in this Act, this Act takes effect July 1, 2003.

Approved June 19, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 683, an Act relating to economic development, financial, taxation, and regulatory matters, making and revising appropriations, modifying penalties, providing a fee, and including effective, applicability, and retroactive applicability provisions.

House File 683 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 96, subsection 68, in its entirety. These paragraphs conform the postponement of the phase-out of the sales tax on residential utilities with the streamlined sales tax initiative. I have item vetoed the postponing of this tax cut, so this language is unnecessary. I will recommend language to the next legislature in January 2004 to bring our continued reduction in the sales tax on residential utilities into alignment with the streamlined sales tax initiative.

I am unable to approve the items designated as Division 15 that consists of Sections 206–208 in their entirety. These sections would require the establishment of a parking fee for the State Capitol Complex Parking Structure located at Pennsylvania and Grand Avenues in Des Moines for only those citizens who work for the State of Iowa. I had earlier vetoed similar language in SF 452 because I do not think it is appropriate to charge such fees to citizens who would use this facility to visit the State Capitol. My earlier concern still exists because we should not discriminate against our state employees, who are Iowa citizens. Additionally, since we make free parking available to state employees elsewhere around the State Capitol Complex, creating a system where some state employees are charged a parking fee and other state employees can park for free is not equitable. Therefore, such a fee should not be approved.

For the above reasons, I respectfully disapprove these items in accordance with Article 3, Section 16 of the Constitution of the State of Iowa. All other items in House File 683 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

* Item veto; see message at end of the Act