

FEB 23 2005

COMMERCE, REGULATION & LABOR

HOUSE FILE 413  
BY DIX

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

**A BILL FOR**

1 An Act relating to the transmission of electronic mail including  
2 the transmission of unsolicited bulk electronic mail, and the  
3 solicitation of the purchase of prescription drugs and the  
4 sale of adulterated or misbranded drugs through the use of  
5 electronic mail or the internet, and providing for penalties.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 413

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1 Section 1. NEW SECTION. 716A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "Computer" means the same as defined in section 702.1A.

5 2. "Computer data" means the same as defined in section  
6 702.1A.

7 3. "Computer network" means the same as defined in section  
8 702.1A.

9 4. "Computer operation" means arithmetic, logical,  
10 monitoring, storage, or retrieval functions, or any  
11 combination thereof, and includes, but is not limited to,  
12 communication with, storage of data to, or retrieval of data  
13 from any device or human hand manipulation of electronic or  
14 magnetic impulses. "Computer operation" for a particular  
15 computer may also mean any function for which the computer was  
16 generally designed.

17 5. "Computer program" means an ordered set of data  
18 representing coded instructions or statements that, when  
19 executed by a computer, causes the computer to perform one or  
20 more computer operations.

21 6. "Computer services" means computer time or services,  
22 including data processing services, internet services,  
23 electronic mail services, electronic message services, or  
24 information or data stored in connection therewith.

25 7. "Computer software" means a set of computer programs,  
26 procedures, and associated documentation concerned with  
27 computer data or with computer operation, a computer program,  
28 or a computer network.

29 8. "Electronic mail service provider" means a person who  
30 does either of the following:

31 a. Is an intermediary in sending or receiving electronic  
32 mail.

33 b. Provides to end users of electronic mail services the  
34 ability to send or receive electronic mail.

35 9. "Encryption" means the enciphering of intelligible data

1 into unintelligible form or the deciphering of unintelligible  
2 data into intelligible form.

3 10. "Owner" means an owner or lessee of a computer or a  
4 computer network or an owner, lessee, or licensee of computer  
5 data, a computer program, or computer software.

6 11. "Person" means the same as defined in section 4.1.

7 12. "Property" means all of the following:

8 a. Real property.

9 b. Computers, computer equipment, computer networks, and  
10 computer services.

11 c. Financial instruments, computer data, computer  
12 programs, computer software, and all other personal property  
13 regardless of whether they are any of the following:

14 (1) Tangible or intangible.

15 (2) In a format readable by humans or by a computer.

16 (3) In transit between computers or within a computer  
17 network or between any devices which comprise a computer.

18 (4) Located on any paper or in any device on which it is  
19 stored by a computer or by a person.

20 13. "Uses" means, when referring to a computer or computer  
21 network, causing or attempting to cause any of the following:

22 a. A computer or computer network to perform or to stop  
23 performing computer operations.

24 b. The withholding or denial of the use of a computer,  
25 computer network, computer program, computer data, or computer  
26 software to another user.

27 c. A person to put false information into a computer.

28 Sec. 2. NEW SECTION. 716A.2 TRANSMISSION OF UNSOLICITED  
29 BULK ELECTRONIC MAIL -- CRIMINAL PENALTIES.

30 1. A person who does any of the following is guilty of an  
31 aggravated misdemeanor:

32 a. Uses a computer or computer network with the intent to  
33 falsify or forge electronic mail transmission information or  
34 other routing information in any manner in connection with the  
35 transmission of unsolicited bulk electronic mail through or

1 into the computer network of an electronic mail service  
2 provider or its subscribers.

3 b. Knowingly sells, gives, or otherwise distributes or  
4 possesses with the intent to sell, give, or otherwise  
5 distribute computer software that does any of the following:

6 (1) Is primarily designed or produced for the purpose of  
7 facilitating or enabling the falsification of electronic mail  
8 transmission information or other routing information.

9 (2) Has only limited commercially significant purpose or  
10 use other than to facilitate or enable the falsification of  
11 electronic mail transmission information or other routing  
12 information.

13 (3) Is marketed by that person acting alone or with  
14 another for use in facilitating or enabling the falsification  
15 of electronic mail transmission information or other routing  
16 information.

17 2. A person is guilty of a class "D" felony for committing  
18 a violation of subsection 1 when either of the following  
19 apply:

20 a. The volume of unsolicited bulk electronic mail  
21 transmitted exceeds ten thousand attempted recipients in any  
22 twenty-four-hour period, one hundred thousand attempted  
23 recipients in any thirty-day time period, or one million  
24 attempted recipients in any twelve-month time period.

25 b. The revenue generated from a specific unsolicited bulk  
26 electronic mail transmission exceeds one thousand dollars or  
27 the total revenue generated from all unsolicited bulk  
28 electronic mail transmitted to any electronic mail service  
29 provider by the person exceeds fifty thousand dollars.

30 3. A person is guilty of a class "D" felony if the person  
31 knowingly hires, employs, uses, or permits a person less than  
32 eighteen years of age to assist in the transmission of  
33 unsolicited bulk electronic mail in violation of subsection 2.

34 4. Transmission of electronic mail from an organization to  
35 a member of the organization shall not be a violation of this

1 section.

2 Sec. 3. NEW SECTION. 716A.3 SOLICITATIONS FOR  
3 PRESCRIPTION DRUGS -- CRIMINAL PENALTIES.

4 1. A person, other than a licensed pharmacist, physician,  
5 dentist, podiatric physician, or veterinarian, who solicits  
6 the purchase of a prescription drug, as defined in section  
7 155A.3, through the use of electronic mail or the internet is  
8 guilty of a simple misdemeanor.

9 2. A person who knowingly sells an adulterated or  
10 misbranded drug through the use of electronic mail or the  
11 internet is guilty of a class "D" felony. However, if the  
12 death of a person occurs as the result of consuming a drug, as  
13 defined in section 155A.3, sold in violation of this section,  
14 the violation is a class "B" felony.

15 Sec. 4. NEW SECTION. 716A.4 USE OF ENCRYPTION --  
16 CRIMINAL PENALTY.

17 A person who willfully uses encryption to further a  
18 violation of this chapter is guilty of an offense which is  
19 separate and distinct from the predicate criminal activity and  
20 punishable as an aggravated misdemeanor.

21 Sec. 5. NEW SECTION. 716A.5 VENUE FOR CRIMINAL  
22 VIOLATIONS.

23 For the purpose of venue, a violation of this chapter shall  
24 be considered to have been committed in any county in which  
25 any of the following apply:

26 1. An act was performed in furtherance of any course of  
27 conduct which violated this chapter.

28 2. The owner has a place of business in the state.

29 3. An offender has control or possession of any proceeds  
30 of the violation, or of any books, records, documents,  
31 property, financial instrument, computer software, computer  
32 program, computer data, or other material or objects used in  
33 furtherance of the violation.

34 4. Access to a computer or computer network was made by  
35 wires, electromagnetic waves, microwaves, or any other means

1 of communication.

2 5. The offender resides.

3 6. A computer which is an object or an instrument of the  
4 violation is located at the time of the alleged offense.

5 Sec. 6. NEW SECTION. 716A.6 CIVIL RELIEF -- DAMAGES.

6 1. A person who is injured by a violation of this chapter  
7 may bring a civil action seeking relief from a person whose  
8 conduct violated this chapter and recover any damages incurred  
9 including loss of profits, attorney fees, and court costs.

10 2. A person who is injured by the transmission of  
11 unsolicited bulk electronic mail in violation of this chapter,  
12 may elect, in lieu of actual damages, to recover either of the  
13 following:

14 a. The lesser of ten dollars for each unsolicited bulk  
15 electronic mail message transmitted in violation of this  
16 chapter, or twenty-five thousand dollars per day the messages  
17 are transmitted by the violator.

18 b. One dollar for each intended recipient of an  
19 unsolicited bulk electronic mail message where the intended  
20 recipient is an end user of the electronic mail service  
21 provider, or twenty-five thousand dollars for each day an  
22 attempt is made to transmit an unsolicited bulk electronic  
23 mail message to an end user of the electronic mail service  
24 provider.

25 3. a. A violation of this chapter is a violation of  
26 section 714.16, subsection 2, paragraph "a". All the powers  
27 conferred upon the attorney general to accomplish the  
28 objectives and carry out the duties prescribed pursuant to  
29 section 714.16 are also conferred upon the attorney general to  
30 enforce this chapter, including, but not limited to, the power  
31 to issue subpoenas, adopt rules which shall have the force of  
32 law, and seek injunctive relief and civil penalties.

33 b. In seeking reimbursement pursuant to section 714.16,  
34 subsection 7, from a person who has committed a violation of  
35 this chapter, the attorney general may seek an order from the

1 court that the person pay to the attorney general on behalf of  
2 consumers the amounts for which the person would be liable  
3 under subsection 1 or 2, for each consumer who has a cause of  
4 action pursuant to this section. Section 714.16, as it  
5 relates to consumer reimbursement, shall apply to consumer  
6 reimbursement pursuant to this section.

7 4. At the request of any party to an action brought  
8 pursuant to this section, the court may, in its discretion,  
9 conduct all legal proceedings in such a way as to protect the  
10 secrecy and security of the computer, computer network,  
11 computer data, computer program, and computer software  
12 involved in order to prevent possible recurrence of the same  
13 or a similar act by another person, and to protect any trade  
14 secrets of any party and in such a way as to protect the  
15 privacy of nonparties who complain about violations pursuant  
16 to this section.

17 5. This section shall not be construed to limit a person's  
18 right to pursue any additional civil remedy otherwise allowed  
19 by law.

20 6. An action brought pursuant to this section shall be  
21 commenced before the earlier of five years after the last act  
22 in the course of conduct constituting a violation of this  
23 chapter or two years after the injured person discovers or  
24 reasonably should have discovered the last act in the course  
25 of conduct constituting a violation of this chapter.

26 7. Personal jurisdiction may be exercised over any person  
27 who engages in any conduct in this state governed by this  
28 chapter.

29 8. The injured person shall not have a cause of action  
30 against the electronic mail service provider that merely  
31 transmits the unsolicited bulk electronic mail over its  
32 computer network.

33 Sec. 7. NEW SECTION. 716A.7 FORFEITURES FOR VIOLATIONS  
34 OF THIS CHAPTER.

35 All property, including all income or proceeds earned but

1 not yet received from a third party as a result of a violation  
2 of this chapter, used in connection with a violation of this  
3 chapter, known by the owner thereof to have been used in  
4 violation of this chapter, shall be subject to seizure and  
5 forfeiture pursuant to chapter 809A.

6 Sec. 8. Chapter 714E, Code 2005, is repealed.

7 EXPLANATION

8 This bill relates to the transmission of electronic mail  
9 including the transmission of unsolicited bulk electronic  
10 mail, and the solicitation of the purchase of a prescription  
11 drug and the sale of adulterated or misbranded drugs through  
12 the use of electronic mail or the internet.

13 The bill prohibits the use of a computer or computer  
14 network to falsify or force electronic mail transmission  
15 information through an electronic mail service provider. The  
16 bill prohibits the knowing sale or distribution of computer  
17 software primarily designed to falsify electronic mail  
18 transmission information, has limited commercially significant  
19 purpose or use other than to facilitate false electronic mail  
20 transmission information, or is marketed for use in  
21 facilitating false electronic mail transmission information.  
22 A person violating these provisions is guilty of an aggravated  
23 misdemeanor. An aggravated misdemeanor is punishable by  
24 confinement for no more than two years and a fine of at least  
25 \$500 but not more than \$5,000.

26 However, a person violating the provisions is guilty of a  
27 class "D" felony if the volume of unsolicited bulk electronic  
28 mail is either transmitted to more than 10,000 recipients in  
29 any 24-hour period, 100,000 recipients in any 30-day period,  
30 1,000,000 recipients in any 12-month period, or if the revenue  
31 from a specific transmission exceeds \$1,000 or the revenues  
32 from all transactions of the person exceed \$50,000. A person  
33 committing a violation shall also be guilty of a class "D"  
34 felony if the person employs or uses a minor to assist in the  
35 violation.

1 The bill provides that a person who is not a licensed  
2 pharmacist, physician, dentist, podiatric physician, or  
3 veterinarian that solicits the purchase of a prescription drug  
4 through the use of electronic mail or the internet is guilty  
5 of a simple misdemeanor. A simple misdemeanor is punishable  
6 by confinement for no more than 30 days or a fine of at least  
7 \$50 but not more than \$500 or by both. A person who knowingly  
8 sells an adulterated or misbranded drug through the use of  
9 electronic mail or the internet is guilty of a class "D"  
10 felony. A class "D" felony is punishable by confinement for  
11 no more than five years and a fine of at least \$750 but not  
12 more than \$7,500. In the event the adulterated or misbranded  
13 drug sold causes the death of a person who consumes the drug,  
14 the penalty for the sale is a class "B" felony. A class "B"  
15 felony is punishable by confinement for no more than 25 years.

16 The bill prohibits the use of encryption to further a  
17 violation of new Code chapter 716A and establishes a separate  
18 penalty for the use of encryption as an aggravated  
19 misdemeanor. An aggravated misdemeanor is punishable by  
20 confinement for no more than two years and a fine of at least  
21 \$500 but not more than \$5,000.

22 The bill provides for the appropriate place of venue for  
23 prosecution of criminal violations of new Code chapter 716A.  
24 The bill provides that persons injured by violations of Code  
25 chapter 716A may bring a civil action seeking damages,  
26 attorney fees, and court costs. In a civil action brought by  
27 a person injured by the transmission of unsolicited bulk  
28 electronic mail, the person may choose to seek statutory  
29 damages instead of actual damages. The bill provides that  
30 statutory damages be the lesser of \$10 for each unsolicited  
31 message transmitted in violation of Code chapter 716A or  
32 \$25,000 per day the unsolicited messages are transmitted by  
33 the violator, or may seek statutory damages in the amount of  
34 \$1 for each intended recipient of an unsolicited message or  
35 \$25,000 for each day an attempt is made to transmit an

1 unsolicited message in violation of Code chapter 716A. The  
2 bill provides that the attorney general may enforce violations  
3 of the provisions of Code chapter 716A as violations of Code  
4 section 714.16 relating to consumer frauds and seek such  
5 reimbursement as an injured person is also entitled under Code  
6 chapter 716A.

7 The court may take necessary steps to protect the secrecy  
8 and security of information brought before the court to  
9 prevent recurrence of the actions, to protect trade secrets,  
10 and to protect the privacy of the person bringing the action.  
11 A civil action brought against a violator of Code chapter 716A  
12 must be commenced within five years after the last violation  
13 or within two years after discovery of the violation of the  
14 injured person, whichever is sooner.

15 The bill provides that property used in connection with a  
16 violation of Code chapter 716A shall be subject to seizure and  
17 forfeiture pursuant to Code chapter 809A. The bill repeals  
18 Code chapter 714E relating to bulk electronic mail  
19 transmissions.

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SENATE FILE 413

H-1575

1 Amend Senate File 413, as passed by the Senate, as  
2 follows:

3 1. Page 26, by inserting after line 5 the  
4 following:

5 "DIVISION

6 TAX POLICY AND ADMINISTRATION

7 Sec. \_\_\_\_\_. Section 421.17, subsection 12, Code  
8 2005, is amended to read as follows:

9 12. To make ~~a summary~~ an annual report of the tax  
10 situation in the state, setting out the amount of  
11 moneys raised by both direct and indirect taxation;  
12 and also to formulate and recommend legislation for  
13 the better administration of the fiscal laws so as to  
14 secure just and equal taxation. To recommend such  
15 additions to and changes in the present system of  
16 taxation that in the director's judgment are for the  
17 best interest of the state and will eliminate the  
18 necessity of any levy for state purposes. In  
19 compiling the annual report, state agencies shall  
20 assist the department and the department shall provide  
21 the revenues from, but not limited to, all of the  
22 following sources:

- 23 a. Income tax.  
24 b. Sales tax.  
25 c. Property tax, by category.  
26 d. School income tax.  
27 e. Local option sales taxes.  
28 f. Transfers-in from federal government agencies.  
29 g. Fees and other dollars paid to state government  
30 agencies.

31 Sec. \_\_\_\_\_. Section 422.9, subsection 1, Code 2005,  
32 is amended to read as follows:

33 1. An optional standard deduction, after deduction  
34 of federal income tax, equal to one thousand two  
35 hundred thirty dollars for a married person who files  
36 separately or a single person or equal to three  
37 thousand thirty dollars for a husband and wife who  
38 file a joint return, a surviving spouse, or an  
39 unmarried head of household. The optional standard  
40 deduction shall not exceed the amount remaining after  
41 deduction of the federal income tax. The amount of  
42 federal income tax deducted shall be computed as  
43 provided in subsection 2, paragraph "b".

44 Sec. \_\_\_\_\_. Section 422.9, subsection 2, paragraph  
45 b, Code 2005, is amended to read as follows:

46 b. Add the amount of federal income taxes paid or  
47 accrued, as the case may be, during the tax year,  
48 ~~adjusted by and subtract~~ any federal income tax  
49 refunds received during the tax year. Provided,  
50 however, that where Where married persons, who have

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1 filed a joint federal income tax return, file  
2 separately, such total shall be divided between them  
3 according to the portion ~~thereof~~ of the total paid or  
4 accrued, as the case may be, by each. Federal income  
5 taxes paid for a tax year in which an Iowa return was  
6 not required to be filed shall not be added and  
7 federal income tax refunds received from a tax year in  
8 which an Iowa return was not required to be filed  
9 shall not be subtracted.

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

13 Sec. \_\_\_\_\_. Section 422.16, subsection 2, unnumbered  
14 paragraph 1, Code 2005, is amended to read as follows:

15 A withholding agent required to deduct and withhold  
16 tax under subsections 1 and 12, ~~except those required~~  
17 ~~to deposit on a semimonthly basis, shall deposit for~~  
18 ~~each calendar quarterly period, shall file a return~~  
19 ~~and remit to the department the amount of tax on or~~  
20 ~~before the last day of the month following the close~~  
21 ~~of the quarterly period, on a quarterly deposit form~~  
22 ~~as on forms prescribed by the director and shall pay~~  
23 ~~to the department, in the form of remittances made~~  
24 ~~payable to "Treasurer, State of Iowa", the tax~~  
25 ~~required to be withheld, or the tax actually withheld,~~  
26 ~~whichever is greater, under subsections 1 and 12.~~

27 However, a withholding agent who withholds more than  
28 fifty five hundred dollars in any one month, except  
29 those required to deposit on a semimonthly basis, and  
30 not more than five thousand dollars in a semimonthly  
31 period shall deposit with the department the amount  
32 withheld, with a monthly deposit form as prescribed by  
33 the director. The monthly deposit form is due on or  
34 before the fifteenth day of the month following the  
35 month of withholding, except that a deposit is not  
36 required for the amount withheld in the third month of  
37 the calendar quarter but the total amount of  
38 withholding for the quarter shall be computed and the  
39 amount by which the deposits for that quarter fail to  
40 equal the total quarterly liability is due with the  
41 filing of the quarterly deposit form. The quarterly  
42 deposit form is due within the month following the end  
43 of the quarter. A The total quarterly amount, less  
44 the amounts deposited for the first two months of the  
45 quarter, is due with the quarterly return due on or  
46 before the last day of the month following the close  
47 of the quarterly period on forms prescribed by the  
48 director. However, a withholding agent who withholds  
49 more than eight five thousand dollars in a semimonthly  
50 period shall deposit with the department the amount

1 withheld, with a semimonthly deposit form as  
2 prescribed by the director. The first semimonthly  
3 deposit form for the period from the first of the  
4 month through the fifteenth of the month is due on the  
5 twenty-fifth day of the month in which the withholding  
6 occurs. The second semimonthly deposit form for the  
7 period from the sixteenth of the month through the end  
8 of the month is due on the tenth day of the month  
9 following the month in which the withholding occurs.  
10 A withholding agent must also file a quarterly return  
11 which reconciles the amount of tax withheld for the  
12 quarter with the amount of semimonthly deposits. The  
13 quarterly return is due on or before the last day of  
14 the month following the close of the quarterly period  
15 on forms prescribed by the director.

16 Sec. \_\_\_\_\_. Section 422.35, subsection 15, Code  
17 2005, is amended by striking the subsection.

18 Sec. \_\_\_\_\_. Section 423.1, subsection 50, Code 2005,  
19 is amended to read as follows:

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

31 Sec. \_\_\_\_\_. Section 423.2, Code 2005, is amended by  
32 adding the following new subsection:

33 NEW SUBSECTION. 9A. Any person or that person's  
34 affiliate, which is a retailer in this state or a  
35 retailer maintaining a business in this state under  
36 this chapter, that enters into a contract with an  
37 agency of this state must register, collect, and remit  
38 Iowa sales tax under this chapter on all sales of  
39 tangible personal property and enumerated services.  
40 Every bid submitted and each contract executed by a  
41 state agency shall contain a certification by the  
42 bidder or contractor stating that the bidder or  
43 contractor is registered with the department and will  
44 collect and remit Iowa sales tax due under this  
45 chapter. In the certification, the bidder or  
46 contractor shall also acknowledge that the state  
47 agency may declare the contract or bid void if the  
48 certification is false. Fraudulent certification, by  
49 act or omission, may result in the state agency or its  
50 representative filing for damages for breach of

1 contract.

2 For the purposes of this subsection, the following  
3 definitions apply:

4 a. "Affiliate" means any entity to which any of  
5 the following applies:

6 (1) Directly, indirectly, or constructively  
7 controls another entity.

8 (2) Is directly, indirectly, or constructively  
9 controlled by another entity.

10 (3) Is subject to the control of a common entity.  
11 A common entity is one which owns directly or  
12 individually more than ten percent of the voting  
13 securities of the entity.

14 b. "State agency" means an authority, board,  
15 commission, department, instrumentality, or other  
16 administrative office or unit of this state, or any  
17 other state entity reported in the Iowa comprehensive  
18 annual financial report, including public institutions  
19 of higher education.

20 c. "Voting security" means a security to which any  
21 of the following applies:

22 (1) Confers upon the holder the right to vote for  
23 the election of members of the board of directors or  
24 similar governing body of the entity.

25 (2) Is convertible into, or entitles the holder to  
26 receive upon its exercise, a security that confers  
27 such a right to vote.

28 (3) Is a general partnership interest.

29 Sec. \_\_\_\_ . Section 423.3, subsection 5, Code 2005,  
30 is amended to read as follows:

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

41 b. The following enumerated materials associated  
42 with the installation of agricultural drain tile which  
43 is exempt pursuant to paragraph "a" shall also be  
44 exempt under paragraph "a":

45 (1) Tile intakes.

46 (2) Outlet pipes and guards.

47 (3) Aluminum and gabion structures.

48 (4) Erosion control fabric.

49 (5) Water control structures.

50 (6) Miscellaneous tile fittings.

1 Sec. \_\_\_\_\_. Section 423.3, subsection 39, Code 2005,  
2 is amended by adding the following new unnumbered  
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. The exemption under this  
5 subsection does not apply to vehicles subject to  
6 registration, aircraft, or commercial or pleasure  
7 watercraft or water vessels.

8 Sec. \_\_\_\_\_. Section 423.3, Code 2005, is amended by  
9 adding the following new subsection:

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

12 a. The vessel is a licensed vessel under the laws  
13 of the United States coast guard.

14 b. The vessel is not moored or tied to a physical  
15 location in this state.

16 c. The service is used to repair or restore a  
17 defect in the vessel.

18 d. The vessel is engaged in interstate commerce  
19 and will continue in interstate commerce once the  
20 repairs or restoration is completed.

21 e. The vessel is in navigable water that borders  
22 the eastern boundary of this state.

23 Sec. \_\_\_\_\_. Section 423.5, Code 2005, is amended by  
24 adding the following new subsection:

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

43 For the purposes of this subsection, "affiliate",  
44 "state agency", and "voting security" mean the same as  
45 defined in section 423.2, subsection 9A.

46 Sec. \_\_\_\_\_. Section 423A.1, unnumbered paragraph 3,  
47 Code 2005, is amended to read as follows:

48 A local hotel and motel tax shall be imposed on  
49 January 1, ~~April 1,~~ or July 1, ~~or October 1,~~ following  
50 the notification of the director of revenue. Once

1 imposed, the tax shall remain in effect at the rate  
2 imposed for a minimum of one year. A local hotel and  
3 motel tax shall terminate only on ~~March 31~~, June 30,  
4 ~~September 30~~, or December 31. At least sixty days  
5 prior to the tax being effective or prior to a  
6 revision in the tax rate, or prior to the repeal of  
7 the tax, a city or county shall provide notice by mail  
8 of such action to the director of revenue.

9 Sec. \_\_\_\_\_. Section 423E.4, subsection 3, paragraph  
10 a, Code 2005, is amended to read as follows:

11 a. The director of revenue by ~~June 1 preceding~~  
12 August 15 of each fiscal year shall compute the  
13 guaranteed school infrastructure amount for each  
14 school district, each school district's sales tax  
15 capacity per student for each county, and the  
16 supplemental school infrastructure amount for the  
17 coming fiscal year.

18 Sec. \_\_\_\_\_. Section 424.7, Code 2005, is amended by  
19 adding the following new subsection:

20 NEW SUBSECTION. 5. The director may require by  
21 rule that reports and returns be filed by electronic  
22 transmission.

23 Sec. \_\_\_\_\_. Section 424.10, subsection 3, Code 2005,  
24 is amended to read as follows:

25 3. If the amount paid is greater than the correct  
26 charge, penalty, and interest due, the department  
27 shall refund the excess, with interest ~~after sixty~~  
28 ~~days from the date of payment at the rate in effect~~  
29 ~~under section 421.7~~, pursuant to rules prescribed by  
30 the director. However, the director shall not allow a  
31 claim for refund that has not been filed with the  
32 department within three years after the charge payment  
33 upon which a refund is claimed became due, or one year  
34 after the charge payment was made, whichever time is  
35 later. A determination by the department of the  
36 amount of charge, penalty, and interest due, or the  
37 amount of refund for any excess amount paid, is final  
38 unless the person aggrieved by the determination  
39 appeals to the director for a revision of the  
40 determination within sixty days from the date of the  
41 notice of determination of charge, penalty, and  
42 interest due or refund owing. The director shall  
43 grant a hearing, and upon hearing the director shall  
44 determine the correct charge, penalty, and interest  
45 due or refund owing, and notify the appellant of the  
46 decision by mail. The decision of the director is  
47 final unless the appellant seeks judicial review of  
48 the director's decision under section 424.13.

49 Sec. \_\_\_\_\_. Section 425.1, subsection 4, Code 2005,  
50 is amended to read as follows:

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

25 Sec. \_\_\_\_ . NEW SECTION. 427.3 ABATEMENT OF TAXES  
26 OF CERTAIN EXEMPT ENTITIES.

27 The board of supervisors may abate the taxes levied  
28 against property acquired by gift by a person or  
29 entity if the property acquired by gift was  
30 transferred to the person or entity after the deadline  
31 for filing for property tax exemption in the year in  
32 which the property was transferred and the property  
33 acquired by gift would have been exempt under section  
34 427.1, subsection 7, 8, or 9, if the person or entity  
35 had been able to file for exemption in a timely  
36 manner.

37 Sec. \_\_\_\_ . Section 441.6, unnumbered paragraph 2,  
38 Code 2005, is amended to read as follows:

39 Upon receipt of the report of the examining board,  
40 the chairperson of the conference board shall by  
41 written notice call a meeting of the conference board  
42 to appoint an assessor. The meeting shall be held not  
43 later than seven days after the receipt of the report  
44 of the examining board by the conference board. ~~The~~  
45 ~~physical condition, general reputation of the~~  
46 ~~applicants, and their fitness for the position as~~  
47 ~~determined by the examining board shall be taken into~~  
48 ~~consideration in making the appointment.~~ At the  
49 meeting, the conference board shall appoint an  
50 assessor from the register of eligible candidates.

1 However, if a special examination has not been  
2 conducted previously for the same vacancy, the  
3 conference board may request the director of revenue  
4 to hold a special examination pursuant to section  
5 441.7. The chairperson of the conference board shall  
6 give written notice to the director of revenue of the  
7 appointment and its effective date within ten days of  
8 the decision of the board.

9 Sec. \_\_\_\_\_. Section 441.8, unnumbered paragraph 1,  
10 Code 2005, is amended to read as follows:

11 The term of office of an assessor appointed under  
12 this chapter shall be for six years. Appointments for  
13 each succeeding term shall be made in the same manner  
14 as the original appointment except that not less than  
15 ninety days before the expiration of the term of the  
16 assessor the conference board shall hold a meeting to  
17 determine whether or not it desires to reappoint the  
18 incumbent assessor to a new term. If the decision is  
19 made not to reappoint the assessor, the assessor shall  
20 be notified, in writing, of such decision not less  
21 than ninety days prior to the expiration of the  
22 assessor's term of office. Failure of the conference  
23 board to provide timely notification of the decision  
24 not to reappoint the assessor shall result in the  
25 assessor being reappointed.

26 Sec. \_\_\_\_\_. Section 441.8, unnumbered paragraphs 6  
27 and 7, Code 2005, are amended to read as follows:

28 Upon receiving credit equal to one hundred fifty  
29 hours of classroom instruction during the assessor's  
30 current term of office of which at least ninety of the  
31 one hundred fifty hours are from courses requiring an  
32 examination upon conclusion of the course, the  
33 director of revenue shall certify to the assessor's  
34 conference board that the assessor is eligible to be  
35 reappointed to the position. For persons appointed to  
36 complete an unexpired term, the number of credits  
37 required to be certified as eligible for reappointment  
38 shall be prorated according to the amount of time  
39 remaining in the present term of the assessor. If the  
40 person was an assessor in another jurisdiction, the  
41 assessor may carry forward any credit hours received  
42 in the previous position in excess of the number that  
43 would be necessary to be considered current in that  
44 position. Upon written request by the person seeking  
45 a waiver of the continuing education requirements, the  
46 director may waive the continuing education  
47 requirements if the director determines good cause  
48 exists for the waiver.

49 Within each six-year period following the  
50 appointment of a deputy assessor, the deputy assessor

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

22 Sec. \_\_\_\_\_. Section 441.37, subsection 1, Code 2005,  
23 is amended by adding the following new unnumbered  
24 paragraph:

25 NEW UNNUMBERED PARAGRAPH. The property owner or  
26 aggrieved taxpayer may combine on one form protests of  
27 assessment on parcels separately assessed if the same  
28 grounds are relied upon as the basis for protesting  
29 each separate assessment. If an oral hearing is  
30 requested on more than one of such protests, the  
31 person making the combined protests may request that  
32 the oral hearings be held consecutively.

33 Sec. \_\_\_\_\_. Section 441.37, subsection 3, Code 2005,  
34 is amended to read as follows:

35 3. After the board of review has considered any  
36 protest filed by a property owner or aggrieved  
37 taxpayer and made final disposition of the protest,  
38 the board shall give written notice to the property  
39 owner or aggrieved taxpayer who filed the protest of  
40 the action taken by the board of review on the  
41 protest. The written notice to the property owner or  
42 aggrieved taxpayer shall also specify the reasons for  
43 the action taken by the board of review on the  
44 protest. If protests of assessment on multiple  
45 parcels separately assessed were combined, the written  
46 notice shall state the action taken, and the reasons  
47 for the action, for each assessment protested.

48 Sec. \_\_\_\_\_. Section 441.38, subsection 2, Code 2005,  
49 is amended to read as follows:

50 2. Notice of appeal shall be served as an original

1 notice on the chairperson, presiding officer, or clerk  
2 of the board of review ~~after the filing of notice~~  
3 ~~under subsection 1 with the clerk of district court~~  
4 within twenty days after its adjournment or May 31,  
5 whichever is later.

6 Sec. \_\_\_\_ . NEW SECTION. 441.40A REIMBURSEMENT OF  
7 APPELLANT COSTS.

8 1. Notwithstanding section 441.40, where the court  
9 determines the appellant's property was assessed by  
10 the assessor for more than one hundred ten percent of  
11 its post-appeal value, the assessor shall pay all  
12 reasonable attorney fees and any other reasonably  
13 related costs incurred by the appellant. This  
14 subsection applies only to appeals relating to  
15 assessments on property assessed as residential or  
16 agricultural property.

17 2. Notwithstanding section 441.40, where the court  
18 determines the appellant's property was assessed by  
19 the assessor for more than one hundred twenty percent  
20 of its post-appeal value and the court finds that the  
21 assessor's position in regard to assessment of the  
22 property was not substantially justified, the assessor  
23 shall pay all reasonable attorney fees and any other  
24 reasonably related costs incurred by the appellant.  
25 This subsection applies only to appeals relating to  
26 assessments on property assessed as commercial or  
27 industrial property.

28 Sec. \_\_\_\_ . Section 452A.2, subsection 19,  
29 unnumbered paragraph 2, Code 2005, is amended to read  
30 as follows:

31 "Motor fuel" does not include special fuel, and  
32 does not include liquefied gases which would not exist  
33 as liquids at a temperature of sixty degrees  
34 Fahrenheit and a pressure of fourteen and seven-tenths  
35 pounds per square inch absolute, or naphthas and  
36 solvents unless the liquefied gases or naphthas and  
37 solvents are used as a component in the manufacture,  
38 compounding, or blending of a liquid within paragraph  
39 "b", in which event the resulting product shall be  
40 deemed to be motor fuel. "Motor fuel" does not  
41 include methanol unless blended with other motor fuels  
42 for use in an aircraft or for propelling motor  
43 vehicles.

44 Sec. \_\_\_\_ . Section 452A.2, subsection 25, Code  
45 2005, is amended to read as follows:

46 25. "Special fuel" means fuel oils and all  
47 combustible gases and liquids suitable for the  
48 generation of power for propulsion of motor vehicles  
49 or turbine-powered aircraft, and includes any  
50 substance used for that purpose, except that it does

1 not include motor fuel. Kerosene shall not be  
2 considered to be a special fuel, unless blended with  
3 other special fuels for use in a motor vehicle with a  
4 diesel engine. Methanol shall not be considered to be  
5 a special fuel unless blended with other special fuels  
6 for use in a motor vehicle with a diesel engine.

7 Sec. \_\_\_\_\_. Section 452A.8, subsection 2, paragraph  
8 e, unnumbered paragraph 2, Code 2005, is amended to  
9 read as follows:

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

34 Sec. \_\_\_\_\_. Section 452A.8, subsections 3 and 4,  
35 Code 2005, are amended to read as follows:

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

47 4. A person who possesses fuel or uses fuel in a  
48 motor vehicle upon which no tax has been paid by a  
49 licensee in this state is subject to reporting and  
50 paying the applicable tax. The director may require

1 by rule that reports and returns be filed by  
2 electronic transmission.

3 Sec. \_\_\_\_ . Section 452A.10, Code 2005, is amended  
4 to read as follows:

5 452A.10 REQUIRED RECORDS.

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

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

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

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

40 Sec. \_\_\_\_ . Section 452A.62, subsection 1, paragraph  
41 a, Code 2005, is amended to read as follows:

42 a. A distributor, supplier, restrictive supplier,  
43 importer, exporter, blender, terminal operator,  
44 nonterminal storage facility, common carrier, or  
45 contract carrier, pertaining to motor fuel or undyed  
46 special fuel withdrawn from a terminal or nonterminal  
47 storage facility, or brought into this state.

48 Sec. \_\_\_\_ . Section 452A.62, subsection 2,  
49 unnumbered paragraph 1, Code 2005, is amended to read  
50 as follows:

1 To examine the records, books, papers, receipts,  
2 and invoices of any distributor, supplier, restrictive  
3 supplier, importer, blender, exporter, terminal  
4 operator, nonterminal storage facility, licensed  
5 compressed natural gas or liquefied petroleum gas  
6 dealer or user, or any other person who possesses fuel  
7 upon which the tax has not been paid to determine  
8 financial responsibility for the payment of the taxes  
9 imposed by this chapter.

10 Sec. \_\_\_\_\_. Section 452A.85, Code 2005, is amended  
11 by adding the following new subsection:

12 NEW SUBSECTION. 4. This section does not apply to  
13 an increase in the tax rate of a specified fuel,  
14 except for compressed natural gas, unless the increase  
15 in the tax rate of that fuel is in excess of one-half  
16 cent per gallon.

17 Sec. \_\_\_\_\_. NEW SECTION. 602.6703 DECLARATORY  
18 JUDGMENT TO ADJUDICATE CONSTITUTIONAL NEXUS ISSUES  
19 REGARDING TAXATION.

20 1. District courts have original jurisdiction over  
21 civil actions seeking declaratory judgment when both  
22 of the following apply:

23 a. The party seeking declaratory relief is a  
24 business that is any of the following:

25 (1) Organized under the laws of this state.

26 (2) A sole proprietorship owned by a domiciliary  
27 of this state.

28 (3) Authorized to do business in this state.

29 b. The responding party is a government official  
30 of another state, or political subdivision of another  
31 state, who asserts that the business in question is  
32 obliged to collect sales or use taxes for such state  
33 or political subdivision based upon conduct of the  
34 business that occurs wholly or partially within that  
35 state or political subdivision.

36 2. A business meeting the requirements and facing  
37 the circumstances described in subsection 1 shall be  
38 entitled to declaratory relief on the issue of whether  
39 the requirement of another state, or political  
40 subdivision of another state, that the business  
41 collect and remit sales or use taxes to that state, or  
42 political subdivision, in the factual circumstances of  
43 the business' operations giving rise to the demand,  
44 constitutes an undue burden on interstate commerce  
45 within the meaning of the Constitution of the United  
46 States.

47 Sec. \_\_\_\_\_. Section 708.3A, subsections 1 through 4,  
48 Code 2005, are amended to read as follows:

49 1. A person who commits an assault, as defined in  
50 section 708.1, against a peace officer, jailer,

1 correctional staff, member or employee of the board of  
2 parole, health care provider, employee of the  
3 department of human services, employee of the  
4 department of revenue, or fire fighter, whether paid  
5 or volunteer, with the knowledge that the person  
6 against whom the assault is committed is a peace  
7 officer, jailer, correctional staff, member or  
8 employee of the board of parole, health care provider,  
9 employee of the department of human services, employee  
10 of the department of revenue, or fire fighter and with  
11 the intent to inflict a serious injury upon the peace  
12 officer, jailer, correctional staff, member or  
13 employee of the board of parole, health care provider,  
14 employee of the department of human services, employee  
15 of the department of revenue, or fire fighter, is  
16 guilty of a class "D" felony.

17 2. A person who commits an assault, as defined in  
18 section 708.1, against a peace officer, jailer,  
19 correctional staff, member or employee of the board of  
20 parole, health care provider, employee of the  
21 department of human services, employee of the  
22 department of revenue, or fire fighter, whether paid  
23 or volunteer, who knows that the person against whom  
24 the assault is committed is a peace officer, jailer,  
25 correctional staff, member or employee of the board of  
26 parole, health care provider, employee of the  
27 department of human services, employee of the  
28 department of revenue, or fire fighter and who uses or  
29 displays a dangerous weapon in connection with the  
30 assault, is guilty of a class "D" felony.

31 3. A person who commits an assault, as defined in  
32 section 708.1, against a peace officer, jailer,  
33 correctional staff, member or employee of the board of  
34 parole, health care provider, employee of the  
35 department of human services, employee of the  
36 department of revenue, or fire fighter, whether paid  
37 or volunteer, who knows that the person against whom  
38 the assault is committed is a peace officer, jailer,  
39 correctional staff, member or employee of the board of  
40 parole, health care provider, employee of the  
41 department of human services, employee of the  
42 department of revenue, or fire fighter, and who causes  
43 bodily injury or mental illness, is guilty of an  
44 aggravated misdemeanor.

45 4. Any other assault, as defined in section 708.1,  
46 committed against a peace officer, jailer,  
47 correctional staff, member or employee of the board of  
48 parole, health care provider, employee of the  
49 department of human services, employee of the  
50 department of revenue, or fire fighter, whether paid

1 or volunteer, by a person who knows that the person  
2 against whom the assault is committed is a peace  
3 officer, jailer, correctional staff, member or  
4 employee of the board of parole, health care provider,  
5 employee of the department of human services, employee  
6 of the department of revenue, or fire fighter, is a  
7 serious misdemeanor.

8 Sec. \_\_\_\_\_. Section 708.3A, Code 2005, is amended by  
9 adding the following new subsection:

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

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

44 Sec. \_\_\_\_\_. REFUNDS. Refunds of taxes, interest, or  
45 penalties which arise from claims resulting from the  
46 amendment to section 423.3, subsection 5, in this  
47 division of this Act, for the sale of agricultural  
48 drain tile materials occurring between January 1,  
49 1998, and the effective date of the section amending  
50 section 423.3, subsection 5, in this division of this

1 Act, shall be limited to twenty-five thousand dollars  
2 in the aggregate and shall not be allowed unless  
3 refund claims are filed prior to October 1, 2005,  
4 notwithstanding any other provision of law. If the  
5 amount of claims totals more than twenty-five thousand  
6 dollars in the aggregate, the department of revenue  
7 shall prorate the twenty-five thousand dollars among  
8 all claimants in relation to the amounts of the  
9 claimants' valid claims.

10 Sec. \_\_\_\_\_. RETROACTIVE APPLICABILITY.

11 1. The sections of this division of this Act  
12 amending Code sections 422.9 and 422.35 apply  
13 retroactively to January 1, 2005, for tax years  
14 beginning on or after that date.

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

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

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

33 5. The sections of this division of this Act  
34 amending section 441.37 apply to protests of  
35 assessment filed after January 1, 2006."

36 2. Title page, line 3, by inserting after the  
37 word "equipment," the following: "and relating to the  
38 policy and administration of other taxes and tax-  
39 related matters,".

40 3. Title page, line 3, by striking the word "an".

41 4. Title page, line 4, by striking the word  
42 "provision" and inserting the following: "provisions".

By J. K. VAN FOSSEN of Scott  
SHOMSHOR of Pottawattamie