

Reprinted 5/78

APR 4 1978

HOUSE FILE 2389

WAYS & MEANS CALENDAR

BY COMMITTEE ON WAYS AND MEANS

(Formerly Study Bill 421)

Passed House, Date 4 27 78 (3 2028) Passed Senate, Date _____
Vote: Ayes 64 Nays 26 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the imposition of an excise tax on the use
2 of aviation fuel and providing penalties.

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

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1 Section 1. Chapter three hundred twenty-four (324), Code
2 1977, is amended by adding sections two (2) through eight
3 (8) of this Act as division five (V).

4 Sec. 2. NEW SECTION. SHORT TITLE. This division shall
5 be known and may be cited as the aviation fuel tax law and
6 referred to in this Act as a division.

7 Sec. 3. NEW SECTION. DEFINITIONS. As used in this di-
8 vision:

9 1. "Aviation fuel" means and includes all combustible
10 fuels suitable for the generation of power for the propulsion
11 of any aircraft. Aviation fuel includes aviation gasoline
12 and aviation turbine fuel commonly known as jet fuel.

13 2. "Aviation gasoline" means motor fuel which has been
14 produced, compounded or blended to meet the standards and
15 requirements of reciprocating internal combustion aircraft
16 engines.

17 3. "Aviation turbine fuel" means fuel of kerosene base
18 which has been produced, compounded or blended to meet the
19 standards and requirements of turbine aircraft engines.

20 4. "Aviation fuel distributor" means and includes any
21 person who:

22 a. Makes aviation fuel available in bulk quantities for
23 receipt at a refinery, marine or pipeline terminal within
24 or outside Iowa or from any other sources outside Iowa and
25 which fuel after being received thereat will be sold or used
26 in the state or exported therefrom.

27 b. First receives aviation fuel, within the meaning of
28 the term "received" as defined in section three hundred twenty-
29 four point two (324.2) of the Code, from an aviation fuel
30 distributor set out in paragraph a of this subsection and
31 who will subsequently distribute the aviation fuel in bulk
32 quantities in the state or export it in bulk quantities from
33 the state.

34 5. "Aviation fuel dealer" means any person in the business
35 of handling aviation fuel who delivers any part of the aviation

1 fuel into a fuel supply tank of any aircraft.

2 6. "Aviation fuel user" means the owner or other person
3 responsible for the operation of an aircraft at the time
4 aviation fuel is placed in the fuel supply tank of the air-
5 craft.

6 7. "Licensee" means any person who holds an uncanceled
7 aviation gasoline distributor or aviation turbine fuel
8 distributor license issued pursuant to this division.

9 8. "Aircraft" means aircraft as defined in section three
10 hundred twenty-eight point one (328.1) of the Code.

11 9. "Receive" or "received" shall have the same meaning
12 as the term "motor fuel deemed received" defined in section
13 three hundred twenty-four point two (324.2) of the Code.

14 10. "Use" means use as defined in section four hundred
15 twenty-three point one (423.1) of the Code.

16 Sec. 4. NEW SECTION. TAX IMPOSED. For the privilege
17 of operating aircraft in this state, there is imposed an ex-
18 cise tax on the use of aviation fuel in any aircraft. The
19 rate of tax on aviation gasoline shall be seven cents per
20 gallon. The rate of tax on aviation turbine fuel shall be
21 one cent per gallon. The tax on aviation gasoline shall be
22 paid in the first instance by the aviation gasoline distributor
23 upon the invoiced gallonage of all aviation gasoline received
24 by the distributor in this state less deductions authorized
25 in this Act. Thereafter, the per gallon amount of such tax
26 shall be added to the selling price of each gallon of aviation
27 gasoline sold in this state and collected from the purchaser
28 in order that the ultimate consumer shall bear the burden
29 of the tax. The tax on aviation turbine fuel shall be imposed
30 upon and paid in the first instance by the aviation turbine
31 fuel distributor upon the invoice gallonage of all aviation
32 turbine fuel received in this state less deductions authorized
33 in this Act. Thereafter, the per gallon amount of the aviation
34 turbine fuel tax may be added to the selling price of each
35 gallon of aviation fuel sold in this state and collected from

1 the purchaser in order that the ultimate consumer may bear
2 the burden of the tax. The tax owing under this section shall
3 be paid to the department of revenue in the form of remittances
4 payable to the treasurer of state. The tax imposed under
5 this section is expressly declared to be a tax upon the use
6 of aviation fuel in this state.

7 Sec. 5. NEW SECTION. EXEMPTIONS. A tax shall not be
8 imposed or collected under this division with respect to
9 aviation fuel used in public aircraft as defined in section
10 three hundred twenty-eight point one (328.1) of the Code.

11 Sec. 6. NEW SECTION. DISTRIBUTOR LICENSE. It is unlawful
12 for any person to (a) make aviation gasoline available in
13 bulk quantities received in this state or to receive aviation
14 gasoline in bulk quantities in this state unless such person
15 holds an uncanceled aviation gasoline distributor license
16 issued by the department of revenue or (b) to make aviation
17 turbine fuel available in bulk quantities received in this
18 state or to receive aviation turbine fuel in bulk quantities
19 in this state unless such person holds an uncanceled aviation
20 turbine fuel distributor license issued by the department
21 of revenue. To obtain either an aviation gasoline or aviation
22 turbine fuel distributor license a person shall file with
23 the department of revenue an application signed under penalty
24 for false certificate and in such form as the department
25 may prescribe information listed in section three hundred
26 twenty-four point four (324.4) of the Code.

27 Sec. 7. NEW SECTION. STATUTES APPLICABLE. The provi-
28 sions of sections three hundred twenty-four point four (324.4),
29 three hundred twenty-four point five (324.5), three hundred
30 twenty-four point eight (324.8) to three hundred twenty-four
31 point fifteen (324.15) and three hundred twenty-four point
32 twenty (324.20) of the Code, consistent with the provisions
33 of this division, shall apply with respect to the tax imposed
34 under this division in the same manner and with the same
35 effect as if the aviation fuel tax was a motor fuel tax within

1 the meaning of those statutes. However the deductions allowed
2 in section three hundred twenty-four point eight (324.8) of
3 the Code for the percentage allowance for evaporation,
4 shrinkage and losses, other than those provided for in section
5 three hundred twenty-four point three (324.3) of the Code,
6 and the distributor's expenses and losses in accounting for,
7 collecting and paying the tax shall not apply to the tax on
8 aviation turbine fuel.

9 Sec. 8. NEW SECTION. AVIATION FUEL DEALERS AND USERS.
10 It shall be unlawful (a) for a dealer of aviation gasoline
11 to procure original bulk supplies of aviation gasoline to
12 be resold under a dealership from other than a licensed avia-
13 tion gasoline distributor, (b) for a bulk user of aviation
14 gasoline to procure bulk supplies of aviation gasoline from
15 other than a licensed aviation distributor, (c) for a dealer
16 of aviation turbine fuel to procure original bulk supplies
17 of aviation turbine fuel to be resold under a dealership from
18 other than a licensed aviation turbine fuel distributor and
19 (d) for a bulk user of aviation turbine fuel to procure bulk
20 supplies of aviation turbine fuel from other than a licensed
21 aviation turbine fuel distributor. All sales of aviation
22 gasoline made in bulk, or other quantities, by an aviation
23 gasoline distributor shall be made to include, as a part of
24 the purchase price, the applicable fuel tax imposed thereon.
25 All sales of aviation turbine fuel made in bulk, or other
26 quantities by an aviation turbine distributor may be made
27 to include, as a part of the purchase price, the applicable
28 fuel tax imposed thereon.

29 Sec. 9. Section three hundred twenty-four point two
30 (324.2), subsection one (1), Code 1977, is amended to read
31 as follows:

32 1. "Motor fuel" shall mean (a) all products commonly or
33 commercially known or sold as gasoline (including casinghead
34 and absorption or natural gasoline) regardless of their
35 classifications or uses; and (b) any liquid advertised, offered

1 for sale, sold for use as, or commonly or commercially used
2 as a fuel for propelling motor vehicles, which when subjected
3 to distillation of gasoline, naphtha, kerosene and similar
4 petroleum products (American Society of Testing Materials
5 Designation D-86), show not less than ten per centum distilled
6 (recovered) below three hundred forty-seven degrees Fahrenheit
7 (one hundred seventy-five degrees Centigrade) and not less
8 than ninety-five per centum distilled (recovered) below four
9 hundred sixty-four degrees Fahrenheit (two hundred forty
10 degrees Centigrade); provided, that the term "motor fuel"
11 shall not include special fuel as defined in section 324.33,
12 subsection 1, aviation fuel as defined in section three (3)
13 of this Act and shall not include liquefied gases which would
14 not exist as liquids at a temperature of sixty degrees
15 Fahrenheit and a pressure of fourteen and seven-tenths pounds
16 per square inch absolute, nor naphthas and solvents as
17 hereinafter defined unless the liquefied gases or naphthas
18 and solvents are used as a component in the manufacture,
19 compounding, or blending of a liquid within (b) above, in
20 which event the resulting product shall be deemed to be motor
21 fuel.

22 Sec. 10. Section three hundred twenty-four point eleven
23 (324.11), subsection one (1), Code 1977, as amended by Acts
24 of the Sixty-seventh General Assembly, 1977 Session, chapter
25 one hundred seven (107), section two (2), is amended to read
26 as follows:

27 1. Any person operating as a common or contract carrier
28 and any distributor who is also engaged in transportation
29 within this state of motor fuel, aviation fuel or special
30 fuel for others, shall register with the department of revenue
31 on or before the first day of the third calendar month which
32 begins after the effective date of this division and current-
33 ly thereafter as additional equipment is put to use, each
34 vehicle used in aforesaid transportation in this state, ex-
35 cept railroad, water-vessel or pipe-line equipment. The

1 registration shall be on forms furnished by and shall con-
2 tain such information as may reasonably be required by the
3 department of revenue. A fee of five dollars shall be paid
4 to the department of revenue for original registration of
5 each vehicle. The department of revenue shall furnish to
6 the registrant for each vehicle registered suitable identifi-
7 cation which shall be permanently attached to the vehicle
8 and shall be available for inspection at all times. Currently
9 as any vehicle is retired or its use for the transportation
10 of motor fuel or aviation fuel for others is discontinued,
11 the registrant shall notify the department of revenue or at
12 the direction of the department of revenue shall either
13 surrender to the department of revenue or destroy the vehicle
14 identification issued under this section. Annually on or
15 before the first day of July of each year, each carrier as
16 aforesaid shall file with the department of revenue a state-
17 ment showing each registered vehicle then in use for trans-
18 portation of motor fuel or aviation fuel for others.

19 Sec. 11. Section three hundred twenty-four point sixteen
20 (324.16), Code 1977, is amended to read as follows:

21 324.16 CREDIT TO LICENSEE--NONMOTOR VEHICLE OR WATERCRAFT
22 USE--CASUALTY LOSSES--NONTAXABLE PRODUCTS--REFUNDS. A licensee
23 as defined under division one (I), two (II) or five (V) of
24 this chapter having received motor fuel, aviation fuel or
25 special fuel which thereafter (1) he or she uses for any
26 purpose other than as fuel for propelling motor vehicles,
27 aircraft or watercraft or (2) while owned by him or her is
28 lost or destroyed through accountable leakage or through fire,
29 accident, lightning, flood, storm, act of war or public enemy
30 or other like cause, shall upon application to the department
31 of revenue supported by two notarized affidavits covering
32 circumstances of loss as proof, be entitled to a memorandum
33 of credit which he may apply be applied against subsequent
34 liability under this chapter, or, if an applicant having paid
35 the tax on the gallonage covered in the application is no

1 longer engaged in activity for which ~~his~~ a license was issued,
2 the department of revenue shall refund the appropriate amount
3 to the applicant.

4 Sec. 12. Section three hundred twenty-four point seventeen
5 (324.17), unnumbered paragraph one (1), Code 1977, is amended
6 to read as follows:

7 Any person other than a licensee as defined under division
8 one (I), two (II) or five (V) of this chapter who shall use
9 motor fuel for the purpose of operating or propelling farm
10 tractors, corn shellers, roller mills, truck-mounted feed
11 grinders, stationary gas engines, ~~aircraft~~, for cleaning or
12 dyeing or for any purpose other than in watercraft, aircraft
13 or in motor vehicles operated or intended to be operated upon
14 the public highways and having paid the motor fuel tax on
15 the fuel either directly to the department of revenue or by
16 having the tax added to the price of the fuel, and who has
17 a refund permit shall, upon presentation to and approval by
18 the department of revenue of a claim for refund be reimbursed
19 and repaid the amount of the tax which the claimant has paid
20 on the gallonage so used. Every claim filed subsequent to
21 July 4, 1957, shall be subject to the following conditions:

22 Sec. 13. Section three hundred twenty-four point seventeen
23 (324.17), subsections four (4), five (5), and six (6), Code
24 1977, are amended to read as follows:

25 4. The claim shall state the gallonage of motor fuel that
26 was used or will be used by the claimant other than in water-
27 craft, aircraft or motor vehicles, the manner in which the
28 motor fuel was used or will be used and the equipment in which
29 it was used or will be used.

30 5. The claim shall also state whether or not the claimant
31 used fuel for watercraft, aircraft or motor vehicles from
32 the same tanks or receptacles in which the claimant kept the
33 motor fuel on which the refund is claimed.

34 6. ~~No~~ A refund will not be paid with respect to any motor
35 fuel taken out of this state in fuel supply tanks of motor

1 vehicles or aircraft.

2 Sec. 14. Section three hundred twenty-four point seven-
3 teen (324.17), Code 1977, is amended by adding the following
4 new subsection:

5 NEW SUBSECTION. Refund may also be made on aviation fuel
6 taxes paid on fuel used for any purpose other than in aircraft,
7 watercraft or motor vehicles operated or intended to be
8 operated upon the public highways under the same conditions
9 as provided by law for refunds on motor vehicle fuel tax.

10 Sec. 15. Section three hundred twenty-four point eighteen
11 (324.18), Code 1977, is amended to read as follows:

12 324.18 REFUND PERMIT. No A person may not claim a refund
13 under section 324.17 until ~~he~~ the person shall have obtained
14 a refund permit from the department of revenue and paid the
15 fee therefor. ~~A special permit shall be obtained by applicants~~
16 ~~claiming a refund under the provisions of this chapter on~~
17 ~~account of motor fuel used for the purpose of operating~~
18 ~~aircraft~~. Application for a refund permit shall be made to
19 the department of revenue on a form provided by the depart-
20 ment of revenue, shall be certified by the applicant under
21 penalty for false certificate and shall contain among other
22 things, the name, the address and occupation of the applicant,
23 the nature of ~~his~~ the applicant's business and a sufficient
24 description for identification of the machines and equipment
25 in which ~~is to be used~~ the motor fuel or aviation fuel is
26 to be used and for which refund may be claimed under the
27 permit. Each permit shall bear a separate number and each
28 claim for refund shall bear the number of the permit under
29 which it is made. The department of revenue shall keep a
30 permanent record of all permits issued and a cumulative record
31 of the amount of refund claimed and paid under each. A fee
32 of one dollar shall be collected by the department of revenue
33 from each person to whom a refund permit is issued. A refund
34 permit shall continue in effect until revoked ~~as hereinafter~~
35 ~~provided~~ or until the claimant shall ~~have moved~~ move from

1 the county with which ~~his~~ the refund permit is identified.

2 Sec. 16. Section three hundred twenty-four point thirty-
3 three (324.33), subsection one (1), Code 1977, is amended
4 to read as follows:

5 1. "Special fuel" means and includes fuel oils and all
6 combustible gases and liquids suitable for the generation
7 of power for propulsion of motor vehicles also any substance
8 used for that purpose, except that it does not include motor
9 fuel as defined in the motor fuel tax law or aviation fuel
10 as defined in the aviation fuel tax law.

11 Sec. 17. Section three hundred twenty-four point fifty-
12 seven (324.57), subsections one (1) and two (2), Code 1977,
13 are amended to read as follows:

14 1. "Fuel taxes" means and includes the per gallon excise
15 taxes imposed under divisions I, II, and III and five (V)
16 of this chapter with respect to motor fuel, and special fuel
17 and aviation fuel.

18 2. "Motor vehicle" shall mean and include all vehicles
19 (except those operated on rails) which are propelled by
20 internal combustion engines and are of such design as to
21 permit their mobile use on public highways for transporting
22 persons or property. A farm tractor while operated on a
23 farm or for the purpose of hauling farm machinery, equipment
24 or produce shall not be deemed to be a motor vehicle. "Motor
25 vehicle" shall not include "mobile machinery and equipment"
26 as hereinafter defined or an aircraft as defined in section
27 three hundred twenty-eight point one (328.1) of the Code.

28 Sec. 18. Section three hundred twenty-four point fifty-
29 seven (324.57), Code 1977, is amended by adding the follow-
30 ing new subsections:

31 NEW SUBSECTION. "Licensee" shall mean any person holding
32 an uncanceled license issued under division one (I), two (II)
33 or five (V) of this chapter.

34 NEW SUBSECTION. "Distributor" shall mean any person who
35 is a distributor as defined in division one (I) or five (V)

1 of this chapter.

2 Sec. 19. Section three hundred twenty-four point sixty
3 (324.60), unnumbered paragraph one (1), Code 1977, is amended
4 to read as follows:

5 The department of revenue shall prescribe and furnish all
6 forms upon which reports and applications shall be made and
7 claims for refund presented under this chapter and may
8 prescribe forms of record to be kept by motor fuel
9 distributors, motor fuel dealers, motor fuel carriers, special
10 fuel dealers, special fuel users, aviation fuel distributors,
11 dealers and users and interstate commercial motor vehicle
12 operators.

13 Sec. 20. Section three hundred twenty-four point sixty-
14 two (324.62), unnumbered paragraph one (1), Code 1977, is
15 amended to read as follows:

16 The department of revenue is hereby given the authority
17 within the time prescribed for keeping records (1) to examine,
18 during the usual business hours of the day, the records,
19 books, papers, receipts, invoices, storage tanks, and any
20 other equipment of (a) any distributor, dealer, purchaser,
21 or common, contract or other carrier, pertaining to motor
22 fuel or aviation fuel received, used, sold, delivered, or
23 otherwise disposed of, or (b) of any special fuel dealer,
24 special fuel user or person supplying special fuel to any
25 dealer therein or user thereof and (c) of any interstate
26 operator of motor vehicles to verify the truth and accuracy
27 of any statement, report or return, or to ascertain whether
28 or not the taxes imposed by this chapter have been paid; (d)
29 any person selling fuel oil that can be used for highway use;
30 (e) any aviation fuel dealer, user or person supplying aviation
31 fuel to any dealer or user; and (2) to examine the records,
32 books, papers, receipts, and invoices of any distributor,
33 special fuel dealer or special fuel user or aviation fuel
34 dealer or user to determine financial responsibility for the
35 payment of the taxes imposed by this chapter.

1 Sec. 21. Section three hundred twenty-four point sixty-
2 three (324.63), unnumbered paragraph (1), Code 1977 Supplement,
3 is amended to read as follows:

4 All information obtained by the department of revenue from
5 the examining of reports or records required to be filed or
6 kept under the provisions of this chapter shall be treated
7 as confidential and shall not be divulged except to other
8 state officers, a member or members of the general assembly
9 or any duly appointed committee of either or both houses
10 thereof or to a representative of the state having some
11 responsibility in connection with the collection of the taxes
12 imposed or in proceedings brought under the provisions of
13 this chapter; provided, however, that the department of revenue
14 shall make available for public information on or before
15 the last day of the month following the month in which the
16 tax is required to be paid the names of the distributors and
17 as to each of them the total gallons received in the state
18 and separately, the received gallons (1) exported or sold
19 for export, (2) sold tax-free in the state to entities that
20 are exempt from the tax and (3) sold tax-free in the state
21 to entities required to report and account for the tax thereon.
22 The department of revenue shall also make available to the
23 public information with respect to special fuel dealers and
24 users and as to each of them the gallonage used and taxes
25 paid. The department of revenue, upon request of officials
26 entrusted with enforcement of the motor vehicle fuel tax laws
27 of the federal government or any other state, may forward
28 to such officials any pertinent information which the
29 department may have relative to motor fuel, aviation fuel,
30 and special fuel provided the officials of the other state
31 furnish to the department of revenue like information.

32 Sec. 22. Section three hundred twenty-four point sixty-
33 five (324.65), Code 1977, is amended to read as follows:

34 324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL
35 TAXES. If a licensee or other person fails to file a required

1 report with the department of revenue on or before the due
2 date, unless it is shown that such failure was due to
3 reasonable cause there shall be added to the amount required
4 to be shown as tax due on the return five percent of the
5 amount of the tax if the failure is for not more than one
6 month, with an additional five percent for each additional
7 month or fraction of a month during which such failure
8 continues, not exceeding twenty-five percent in the aggregate.
9 If a licensee or other person fails to remit the tax due with
10 the filing of the return on or before the due date or fails
11 to pay any amount of the tax required to be shown on the
12 return, there shall be added to the tax a penalty of five
13 percent of the amount of the tax due, unless it is shown that
14 such failure was due to reasonable cause. The taxpayer shall
15 also pay interest on the tax or additional tax at the rate
16 of three-fourths of one percent per month counting each
17 fraction of a month as an entire month, computed from the
18 date the return was required to be filed. The department
19 of revenue shall not remit any part of a penalty for delinquent
20 payment where the delinquency results from the fact that a
21 check given in payment is not honored because of insufficient
22 funds in the account upon which the check was drawn. Provided,
23 further, that if it appears as a result of investigation by
24 the department of revenue or from a preponderance of the
25 evidence adduced at a hearing before the department of revenue
26 that there has been a deliberate attempt on the part of a
27 licensee or other person to evade payment of fuel taxes there
28 shall be added to the assessment against the offending person
29 and collected a penalty of fifty percent of the tax due.
30 When penalties are applicable for failure to file a return
31 and failure to pay the tax due or required on the return,
32 the penalty provision for failure to file shall be in lieu
33 of the penalty for failure to pay the tax due or required
34 on the return, except in the case of a deliberate attempt
35 on the part of the licensee or other person to evade payment

1 of fuel taxes. Any report required of licensees or persons
2 operating under divisions I, II, and III and five (V), upon
3 which no tax may be due, shall be subject to a penalty of
4 ten dollars if such report is not timely filed.

5 Sec. 23. Section three hundred twenty-four point sixty-
6 seven (324.67), subsection one (1), Code 1977, is amended
7 to read as follows:

8 1. It shall be unlawful for any distributor to sell or
9 offer for sale motor fuel or aviation fuel or for any special
10 fuel dealer or user to dispense or offer to dispense special
11 fuel into a fuel supply tank of a motor vehicle, while in
12 default of or delinquent in the payment of the whole or any
13 part of fuel taxes imposed under this chapter, and in the
14 event of the failure or refusal to pay the whole of any of
15 these taxes after assessment and notice thereof by the
16 department of revenue, the delinquent fuel taxes, together
17 with penalties and interest provided for shall be recovered
18 by and in the name of the state of Iowa and the attorney
19 general of the state of Iowa or the county attorney of any
20 county in which the distributor, dealer or user resides or
21 is engaged in business is hereby authorized and directed to
22 institute suit therefor in any court of competent jurisdiction
23 against the distributor, ~~or special-fuel~~ dealer or user or
24 his or her surety or sureties, if any, or both.

25 Sec. 24. Section three hundred twenty-four point seventy-
26 one (324.71), Code 1977, is amended to read as follows:

27 324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any
28 person other than a distributor who has paid or has had charged
29 to his or her account with a distributor, dealer or special
30 fuel dealer fuel taxes imposed under this chapter with respect
31 to motor fuel, aviation fuel or special fuel in excess of
32 one hundred gallons, which is subsequently lost or destroyed,
33 while he or she shall be the owner thereof, through leakage,
34 fire, explosion, lightning, flood, storm, or other casualty,
35 except evaporation, shrinkage, or unknown causes, shall be

1 entitled to a refund of the tax so paid or charged. To qualify
2 for the refund, he the owner shall notify the department of
3 revenue in writing of the loss or destruction and the gallonage
4 lost or destroyed within ten days from the date of discovery
5 of the loss or destruction. Within sixty days after filing
6 the notice, he the owner shall file with the department of
7 revenue an affidavit sworn to by the person having immediate
8 custody of the motor fuel, aviation fuel or special fuel at
9 the time of the loss or destruction setting forth in full
10 the circumstances and amount of the loss or destruction and
11 such other information with respect thereto as the department
12 of revenue may require.

13 Sec. 25. Section three hundred twenty-four point seventy-
14 three (324.73), Code 1977 Supplement, is amended to read as
15 follows:

16 324.73 EMBEZZLEMENT OF FUEL TAX MONEY--PENALTY. Every
17 sale of motor fuel or aviation fuel in this state and every
18 sale of special fuel or aviation fuel dispensed by the seller
19 into a fuel supply tank of a motor vehicle or aircraft shall,
20 unless otherwise provided, be presumed to include as a part
21 of the purchase price the fuel tax due the state of Iowa under
22 the provisions of this chapter. Every person collecting fuel
23 tax money as part of the selling price of motor fuel, aviation
24 fuel or special fuel, shall hold the tax money in trust for
25 the state of Iowa unless the fuel tax on the fuel has been
26 previously paid to the state of Iowa. Any person receiving
27 fuel tax money in trust and failing to remit it to the de-
28 partment of revenue on or before time required shall be guilty
29 of theft.

30 Sec. 26. Section three hundred twenty-four point seventy-
31 four (324.74), subsections two (2), three (3), five (5) and
32 six (6) and unnumbered paragraph two (2), Code 1977, are
33 amended to read as follows:

34 2. For any person to knowingly make any false, incorrect
35 or materially incomplete record required to be kept or made

1 under the provisions of this chapter, to refuse to offer his
2 or her books and records to the department of revenue for
3 inspection on demand or to refuse to permit the department
4 of revenue to examine his or her motor fuel, aviation fuel
5 or special fuel storage tanks and handling or dispensing
6 equipment.

7 3. For any seller to issue or any purchaser to receive
8 and retain any incorrect or false invoice or sales ticket
9 in connection with the sale or purchase of motor fuel,
10 aviation fuel or special fuel.

11 5. For any person to act as a ~~meter-fuel~~ distributor,
12 special fuel dealer or special fuel user without the required
13 license.

14 6. For any person to use motor fuel, aviation fuel or
15 special fuel with respect to which he or she knowingly has
16 not paid or had charged to his or her account with a
17 distributor or dealer, or with respect to which does not
18 within the time required in this chapter report and pay the
19 applicable fuel tax.

20 Any person found guilty of any of the foregoing illegal
21 acts shall for the first offense be fined three hundred
22 dollars, and for the second and subsequent offenses shall
23 be fined five hundred dollars and all of ~~his~~ the licenses
24 held under the "Iowa Motor Fuel Tax Law" or the "Aviation
25 Fuel Tax Law" may, at the discretion of the court, be suspended
26 for a period of up to six months.

27 Sec. 27. Section three hundred twenty-four point seventy-
28 four (324.74), Code 1977, is amended by adding after subsection
29 eight (8) the following new subsections:

30 NEW SUBSECTION. Any person violating section eight (8)
31 of this Act.

32 Sec. 28. Section three hundred twenty-four point seventy-
33 seven (324.77), Code 1977, is amended by adding the following
34 new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. However, the provisions of this

1 section shall not apply to any fees, taxes, interest,
2 penalties, transfers, refunds or administrative expenses im-
3 posed, required or incurred under division five (V) of this
4 chapter.

5 Sec. 29. Section three hundred twenty-four point seventy-
6 eight (324.78), Code 1977, is amended to read as follows:

7 324.78 OTHER REMEDIES AVAILABLE. The special remedies
8 provided under the provisions of this chapter to enable the
9 state to collect ~~motor-vehicle~~ fuel ~~excise-tax~~ taxes shall
10 not be construed as depriving the state of any other remedy
11 it might have either at law or in equity independent of this
12 chapter. The state shall have the right to maintain an action
13 at law for the collection of said taxes required to be paid
14 herein and in connection therewith shall be entitled to a
15 writ of attachment without bond.

16 Sec. 30. Section three hundred twenty-four point seventy-
17 nine (324.79), unnumbered paragraph one (1), Code 1977, is
18 amended to read as follows:

19 The net proceeds of seven and one-half cents per gallon
20 excise tax on the diesel special fuel and six and one-half
21 cents per gallon excise tax on motor fuel and other special
22 fuel, and penalties collected under the provision of this
23 chapter, except penalties collected as a result of the tax
24 imposed under division five (V) of this chapter, shall be
25 credited to the road use tax fund.

26 Sec. 31. Section three hundred twenty-four point eighty
27 (324.80), Code 1977, is amended to read as follows:

28 324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS
29 DESTROYED. The department of revenue shall have the power
30 and authority to record, copy or reproduce by any photographic,
31 photostatic, microfilm, microcard, miniature photographic
32 or other process which accurately reproduces or forms a durable
33 medium for so reproducing the original of any forms or records
34 pertaining to ~~motor-fuel-tax-or-special-fuel-tax~~ fuel taxes,
35 or any paper or document with respect to refund of such ~~tax~~

1 taxes, and when such forms and records shall have been so
2 reproduced, the department of revenue shall have the power
3 to destroy the originals and such reproductions shall be
4 competent evidence in any court in accordance with the
5 provision of section 622.30.

6 Sec. 32. Section three hundred twenty-four point eighty-
7 two (324.82), Code 1977, is amended to read as follows:

8 324.82 AVIATION GAS TAX FUND. The portion of the moneys
9 collected under the provisions of this chapter received on
10 account of aviation ~~gasoline~~ fuel shall be deposited in a
11 separate fund to be maintained by the treasurer. All moneys
12 reimbursed and repaid pursuant to section 324.17 or transferred
13 pursuant to section 422.88 ~~ex-account-of-motor-fuel-used-for~~
14 ~~the-purpose-of-operating-aircraft~~ shall be paid from said
15 separate fund and all moneys remaining in said separate fund
16 after all claims for refund and the cost of administering
17 said fund have been paid shall be credited to the state
18 aviation fund.

19 Sec. 33. Section four hundred twenty-two point forty-
20 five (422.45), subsection eleven (11), Code 1977 Supplement,
21 is amended to read as follows:

22 11. The gross receipts from the sale of motor fuel and
23 special fuel consumed for highway use or in watercraft or
24 the gross receipts from the sale of aviation gasoline, as
25 defined in section three (3) of this Act, where the fuel tax
26 has been imposed and paid and no refund has been or will be
27 allowed.

28 Sec. 34. Section four hundred twenty-two point eighty-
29 six (422.86), subsection one (1), Code 1977, is amended to
30 read as follows:

31 1. Motor fuel as defined in section 324.2, subsection
32 1, used for the purpose of operating or propelling farm
33 tractors, corn shellers, roller mills, truck-mounted feed
34 grinders, stationary engines, ~~aircraft~~, for cleaning or dyeing,
35 or for any purpose other than in watercraft, aircraft or in

1 motor vehicles operated or intended to be operated upon the
2 public highways.

3 Sec. 35. Section four hundred twenty-two point eighty-
4 six (422.86), Code 1977, is amended by adding the following
5 new subsection:

6 NEW SUBSECTION. Aviation fuel as defined in section three
7 (3) of this Act used for the purpose for which an income tax
8 credit is allowed under this section for the tax paid on motor
9 fuel.

10 Sec. 36. Section four hundred twenty-two point eighty-
11 seven (422.87), unnumbered paragraph one (1), Code 1977, is
12 amended to read as follows:

13 The fuel tax credit may be applied against the income tax
14 liability of the person or corporation as determined on the
15 tax return filed for the year in which the fuel tax was paid.

16 ~~The fuel tax credit for tax paid on motor fuel used for the
17 purpose of operating aircraft must be itemized separately.~~

18 The department shall provide forms for claiming the fuel tax
19 credit. If the fuel tax credit would result in an overpayment
20 of income tax, the person or corporation may apply for a
21 refund of the amount of overpayment or may have the overpay-
22 ment credited to income tax due in subsequent years. Each
23 person or corporation that claims a fuel tax credit shall
24 maintain the original invoices showing the purchase of the
25 fuel on which a credit is claimed. No invoice is acceptable
26 in support of a claim for credit unless it is a separate
27 serially numbered invoice covering no more than one purchase
28 of motor fuel, aviation fuel or special fuel, prepared by
29 the seller on a form approved by the department, nor unless
30 it is legibly written with no corrections or erasures and
31 shows the date of sale, the name and address of the seller
32 and of the purchaser, the kind of fuel, the gallonage in
33 figures, the per gallon price of the fuel, the total purchase
34 price including the Iowa fuel tax, and that the total pur-
35 chase price has been paid. However, as to refund invoices

1 made on a billing machine the department may waive these
2 requirements. If an original invoice is lost or destroyed,
3 the department may approve a credit supported by a copy
4 identified and certified by the seller as being a true copy
5 of the original. Each person or corporation that claims a
6 fuel tax credit shall maintain complete records of purchases
7 of motor fuel, aviation fuel or special fuel on which Iowa
8 fuel tax was paid, and for which a fuel tax credit is claimed.

9 Sec. 37. Section four hundred twenty-two point eighty-
10 eight (422.88), Code 1977, is amended to read as follows:

11 422.88 AIRCRAFT FUEL TAX TRANSFER. The department shall
12 certify quarterly to the treasurer of state the amount of
13 credit that has been taken against income tax liability since
14 the time of the last certification, for the Iowa fuel tax
15 paid on motor fuel, special fuel and ~~motor-fuel-used-for-the~~
16 ~~purpose-of-operating-aircraft~~ aviation fuel, and the treasurer
17 of state shall transfer the amount of the total credit from
18 the motor fuel tax fund, or in the case of ~~aircraft-motor~~
19 aviation fuel, from the separate fund established by section
20 324.82, to the general fund of the state.

21 Sec. 38. This Act is effective on January 1, 1979 for
22 motor fuel and aviation fuel taxes paid on or after January
23 1, 1979.

24 EXPLANATION

25 This bill imposes a seven cent a gallon tax on fuel used
26 for the operation of a nonjet aircraft and eliminates the
27 three percent sales tax. It also imposes a one cent a gallon
28 tax on jet fuel but maintains the three percent sales tax.
29 No refund is allowed for tax paid on motor or aviation fuel
30 used in operating an aircraft. Refund is provided for the
31 use of aviation fuel not used in aircraft, motor vehicles
32 used on highways or watercraft. The bill makes numerous
33 coordinating amendments.

34

35

LSB 3576H

FISCAL NOTE
HOUSE FILE 2339

Requested by Representative Rinas
March 30, 1978

In compliance with a written request, there is submitted
a Fiscal Note for H.F. 2339 pursuant to Joint Rule 16:

House File 2339, An Act relating to the imposition of an excise
tax on the use of aviation fuel and providing penalties.

This bill imposes a seven cent a gallon tax on fuel used for
the operation of a nonjet aircraft and eliminates the three
percent sales tax. It also imposes a one cent a gallon tax
on jet fuel but maintains the three percent sales tax.
No refund is allowed for tax paid on motor fuel used in
operating an aircraft. Refund is provided for the use of
aviation fuel not used in aircraft, motor vehicles used on
highways or watercraft.

	Current Law	H.F. 2339	Incr. (Decr.)
<u>Aeronautics Trust Fund:</u>			
Aircraft Registration	\$540,000	540,000	--
Aviation Gas Tax	--	470,000	470,000
Unrefunded Aviation Gas Tax	275,000	--	(275,000)
Jet Fuel Tax	--	305,000	305,000
	<u>\$815,000</u>	<u>1,315,000</u>	<u>500,000</u>
<u>General Fund:</u>			
Sales Tax on Refunded Aviation Gas Tax	<u>\$ 56,000</u>	--	<u>(56,000)</u>

There will be no additional administrative cost.

Additional funds generated will be used for airport improvement
projects.

Source: Department of Transportation
FILED GERRY D. RANKIN
APRIL 10, 1978 Legislative Fiscal Bureau

FISCAL NOTE
HOUSE FILE 2389

Requested by Representative Daggett
April 17, 1978

In compliance with a written request, there is submitted
a Fiscal Note for H.F. 2389, H-5960, pursuant to Joint Rule 16:

The result of enactment of Amendment H-5960 would decrease
state revenue approximately \$24,000 annually.

Source: Department of Revenue
FILED GERRY D. RANKIN
APRIL 24, 1978 Legislative Fiscal Bureau

HOUSE FILE 2389

H-6323

1 Amend House File 2389 as follows:
 2 1. Page 17, by inserting after line 18 the
 3 following new section:
 4 "Sec. ____ . Section three hundred twenty-eight
 5 point thirty-six (328.36), Code 1977, is amended to
 6 read as follows:
 7 328.36 STATE AVIATION FUND. There is hereby
 8 created a fund to be known as the state aviation fund,
 9 which shall consist of all moneys received by the
 10 department, together with all moneys appropriated
 11 to said fund by the state.
 12 Unless otherwise provided, the aeronautics state
 13 aviation fund is hereby appropriated for airport
 14 construction and the department shall give priority
 15 in the distribution of funds to those airports which
 16 need construction or modernization of facilities to
 17 meet state and federal safety standards."

H-6323 FILED *W. L. Adams* BY DAGGETT of Adams
 APRIL 25, 1978 *(by Adams)*

HOUSE FILE 2389

H-6387

1 Amend House File 2389 as follows:
 2 1. Page 17, by inserting after line 18 the follow-
 3 ing section:
 4 "Sec. ____ . Section three hundred twenty-eight
 5 point thirty-six (328.36), Code 1977, is amended to
 6 read as follows:
 7 328.36 STATE AVIATION FUND. There is hereby
 8 created a fund to be known as the state aviation fund,
 9 which shall consist of all moneys received by the
 10 department, together with all moneys appropriated
 11 to said fund by the state.
 12 Unless otherwise provided, ~~the aeronautics fund~~
 13 ~~is hereby appropriated for airport construction~~ all
 14 moneys credited to the aviation fund arising from
 15 the tax imposed on aviation turbine fuel under section
 16 four (4) of this Act are hereby appropriated for
 17 airport construction at any air carrier airport and
 18 the remaining moneys in the aviation fund are hereby
 19 appropriated for airport construction at any general
 20 aviation airport."

H-6387 FILED *W. L. Adams* BY MONROE of Des Moines
 APRIL 29, 1978 *(by Adams)*

HOUSE FILE 2389

H-6388

1 Amend House File 2389 as follows:
 2 1. Page 3, line 10, by inserting after the word
 3 "Code" the words "or with respect to aviation fuel
 4 used in aircraft operated by air carriers certified
 5 by the United States civil aviation board".

H-6388 FILED *W. L. Adams* BY MONROE of Des Moines
 APRIL 29, 1978 *(by Adams)*

H-5950

Amend House File 2329 as follows:

1. Page 2, line 10, by inserting after the word "Code." the words "Aircraft while used in agricultural aircraft operations shall not be deemed to be an aircraft."

2. Page 2, by inserting after line 15 the following subsection:

"_____. "Agricultural aircraft operation" means the operation of an aircraft for the purposes of:

a. dispensing any substance for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, weeds and other forms of plant or animal life or viruses or for use as a plant regulator, defoliant or desiccant,

b. dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control,

c. engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation, but not including the dispensing of live insects,

d. transporting agricultural grain storage containers, or

e. aiding in the construction of agricultural buildings;

and for which a valid agricultural aircraft operator certificate or a valid rotorcraft external-load operator certificate has been issued to the operator by the federal aviation administration and is in effect."

3. Page 7, line 12, by inserting after the word "dyeing" the words "for use in agricultural aircraft operations".

4. Page 8, by striking lines 15 through 18 and inserting in lieu thereof the following: "fee therefor. A special permit shall be obtained by applicants claiming a refund under the provisions of this chapter on account of motor fuel or aviation fuel used for the purpose of operating aircraft in agricultural aircraft operations. Application for a refund permit shall be made to".

5. Page 17, line 34, by inserting after the word "dyeing," the words "for use in agricultural aircraft operations".

6. Page 18, by striking lines 16 and 17 and inserting in lieu thereof the words "The fuel tax credit for tax paid on ~~motor~~ aviation fuel used for the purpose of operating aircraft in agricultural aircraft operations must be itemized separately."

H-5950 FILED *Adopted* BY
APRIL 10, 1973 *April 10, 1973*

DAGGETT of Adams
MIDDLESWART of Warren
PELLETT of Cass
SCHEELHAASE of Woodbury
DANKER of Pottawattamie
BIMMECHSE of Plymouth
LAGESCHULTE of Bremer
BENNETT of Ida

STROMER of Hancock
BRANSTAD of Winnebago
SCHROEDER of Pottawattamie
PERKINS of Greene
CRABB of Crawford
SERGEANT of Calhoun
SPENCER of Clay
OXLEY of Linn
STEPHENS of Plymouth
EVANS of Grundy

Ways and Means
Jenkins, Chairperson
Van Gilst
Hultman

By COMMITTEE ON WAYS AND MEANS

(As Amended and Passed by the House)

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

A BILL FOR

1 An Act relating to the imposition of an excise tax on the use
2 of aviation fuel and providing penalties.

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

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House Amendments _____

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1 Section 1. Chapter three hundred twenty-four (324), Code
2 1977, is amended by adding sections two (2) through eight
3 (8) of this Act as division five (V).

4 Sec. 2. NEW SECTION. SHORT TITLE. This division shall
5 be known and may be cited as the aviation fuel tax law and
6 referred to in this Act as a division.

7 Sec. 3. NEW SECTION. DEFINITIONS. As used in this di-
8 vision:

9 1. "Aviation fuel" means and includes all combustible
10 fuels suitable for the generation of power for the propulsion
11 of any aircraft. Aviation fuel includes aviation gasoline
12 and aviation turbine fuel commonly known as jet fuel.

13 2. "Aviation gasoline" means motor fuel which has been
14 produced, compounded or blended to meet the standards and
15 requirements of reciprocating internal combustion aircraft
16 engines.

17 3. "Aviation turbine fuel" means fuel of kerosene base
18 which has been produced, compounded or blended to meet the
19 standards and requirements of turbine aircraft engines.

20 4. "Aviation fuel distributor" means and includes any
21 person who:

22 a. Makes aviation fuel available in bulk quantities for
23 receipt at a refinery, marine or pipeline terminal within
24 or outside Iowa or from any other sources outside Iowa and
25 which fuel after being received thereat will be sold or used
26 in the state or exported therefrom.

27 b. First receives aviation fuel, within the meaning of
28 the term "received" as defined in section three hundred twenty-
29 four point two (324.2) of the Code, from an aviation fuel
30 distributor set out in paragraph a of this subsection and
31 who will subsequently distribute the aviation fuel in bulk
32 quantities in the state or export it in bulk quantities from
33 the state.

34 5. "Aviation fuel dealer" means any person in the business
35 of handling aviation fuel who delivers any part of the aviation

1 fuel into a fuel supply tank of any aircraft.

2 6. "Aviation fuel user" means the owner or other person
3 responsible for the operation of an aircraft at the time
4 aviation fuel is placed in the fuel supply tank of the air-
5 craft.

6 7. "Licensee" means any person who holds an uncanceled
7 aviation gasoline distributor or aviation turbine fuel
8 distributor license issued pursuant to this division.

9 8. "Aircraft" means aircraft as defined in section three
10 hundred twenty-eight point one (328.1) of the Code. Aircraft
11 while used in agricultural aircraft operations shall not be
12 deemed to be an aircraft.

13 9. "Receive" or "received" shall have the same meaning
14 as the term "motor fuel deemed received" defined in section
15 three hundred twenty-four point two (324.2) of the Code.

16 10. "Use" means use as defined in section four hundred
17 twenty-three point one (423.1) of the Code.

18 11. "Agricultural aircraft operation" means the operation
19 of an aircraft for the purposes of:

20 a. dispensing any substance for preventing, destroying,
21 repelling or mitigating any insects, rodents, nematodes,
22 fungi, weeds and other forms of plant or animal life or viruses
23 or for use as a plant regulator, defoliant or desiccant,

24 b. dispensing any other substance intended for plant
25 nourishment, soil treatment, propagation of plant life, or
26 pest control,

27 c. engaging in dispensing activities directly affect-
28 ing agriculture, horticulture, or forest preservation, but
29 not including the dispensing of live insects,

30 d. transporting agricultural grain storage containers,
31 or

32 e. aiding in the construction of agricultural buildings;
33 and for which a valid agricultural aircraft operator
34 certificate or a valid rotorcraft external-load operator
35 certificate has been issued to the operator by the federal

1 aviation administration and is in effect.

2 Sec. 4. NEW SECTION. TAX IMPOSED. For the privilege
3 of operating aircraft in this state, there is imposed an ex-
4 cise tax on the use of aviation fuel in any aircraft. The
5 rate of tax on aviation gasoline shall be seven cents per
6 gallon. The rate of tax on aviation turbine fuel shall be
7 one cent per gallon. The tax on aviation gasoline shall be
8 paid in the first instance by the aviation gasoline distributor
9 upon the invoiced gallonage of all aviation gasoline received
10 by the distributor in this state less deductions authorized
11 in this Act. Thereafter, the per gallon amount of such tax
12 shall be added to the selling price of each gallon of aviation
13 gasoline sold in this state and collected from the purchaser
14 in order that the ultimate consumer shall bear the burden
15 of the tax. The tax on aviation turbine fuel shall be imposed
16 upon and paid in the first instance by the aviation turbine
17 fuel distributor upon the invoice gallonage of all aviation
18 turbine fuel received in this state less deductions authorized
19 in this Act. Thereafter, the per gallon amount of the aviation
20 turbine fuel tax may be added to the selling price of each
21 gallon of aviation fuel sold in this state and collected from
22 the purchaser in order that the ultimate consumer may bear
23 the burden of the tax. The tax owing under this section shall
24 be paid to the department of revenue in the form of remittances
25 payable to the treasurer of state. The tax imposed under
26 this section is expressly declared to be a tax upon the use
27 of aviation fuel in this state.

28 Sec. 5. NEW SECTION. EXEMPTIONS. A tax shall not be
29 imposed or collected under this division with respect to
30 aviation fuel used in public aircraft as defined in section
31 three hundred twenty-eight point one (328.1) of the Code.

32 Sec. 6. NEW SECTION. DISTRIBUTOR LICENSE. It is unlawful
33 for any person to (a) make aviation gasoline available in
34 bulk quantities received in this state or to receive aviation
35 gasoline in bulk quantities in this state unless such person

1 holds an uncanceled aviation gasoline distributor license
2 issued by the department of revenue or (b) to make aviation
3 turbine fuel available in bulk quantities received in this
4 state or to receive aviation turbine fuel in bulk quantities
5 in this state unless such person holds an uncanceled aviation
6 turbine fuel distributor license issued by the department
7 of revenue. To obtain either an aviation gasoline or aviation
8 turbine fuel distributor license a person shall file with
9 the department of revenue an application signed under penalty
10 for false certificate and in such form as the department may
11 prescribe information listed in section three hundred twenty-
12 four point four (324.4) of the Code.

13 Sec. 7. NEW SECTION. STATUTES APPLICABLE. The provi-
14 sions of sections three hundred twenty-four point four (324.4),
15 three hundred twenty-four point five (324.5), three hundred
16 twenty-four point eight (324.8) to three hundred twenty-four
17 point fifteen (324.15) and three hundred twenty-four point
18 twenty (324.20) of the Code, consistent with the provisions
19 of this division, shall apply with respect to the tax imposed
20 under this division in the same manner and with the same
21 effect as if the aviation fuel tax was a motor fuel tax within
22 the meaning of those statutes. However the deductions allowed
23 in section three hundred twenty-four point eight (324.8) of
24 the Code for the percentage allowance for evaporation,
25 shrinkage and losses, other than those provided for in section
26 three hundred twenty-four point three (324.3) of the Code,
27 and the distributor's expenses and losses in accounting for,
28 collecting and paying the tax shall not apply to the tax on
29 aviation turbine fuel.

30 Sec. 8. NEW SECTION. AVIATION FUEL DEALERS AND USERS.
31 It shall be unlawful (a) for a dealer of aviation gasoline
32 to procure original bulk supplies of aviation gasoline to
33 be resold under a dealership from other than a licensed avia-
34 tion gasoline distributor, (b) for a bulk user of aviation
35 gasoline to procure bulk supplies of aviation gasoline from

1 other than a licensed aviation distributor, (c) for a dealer
2 of aviation turbine fuel to procure original bulk supplies
3 of aviation turbine fuel to be resold under a dealership from
4 other than a licensed aviation turbine fuel distributor and
5 (d) for a bulk user of aviation turbine fuel to procure bulk
6 supplies of aviation turbine fuel from other than a licensed
7 aviation turbine fuel distributor. All sales of aviation
8 gasoline made in bulk, or other quantities, by an aviation
9 gasoline distributor shall be made to include, as a part of
10 the purchase price, the applicable fuel tax imposed thereon.
11 All sales of aviation turbine fuel made in bulk, or other
12 quantities by an aviation turbine distributor may be made
13 to include, as a part of the purchase price, the applicable
14 fuel tax imposed thereon.

15 Sec. 9. Section three hundred twenty-four point two
16 (324.2), subsection one (1), Code 1977, is amended to read
17 as follows:

18 1. "Motor fuel" shall mean (a) all products commonly or
19 commercially known or sold as gasoline (including casinghead
20 and absorption or natural gasoline) regardless of their
21 classifications or uses; and (b) any liquid advertised, offered
22 for sale, sold for use as, or commonly or commercially used
23 as a fuel for propelling motor vehicles, which when subjected
24 to distillation of gasoline, naphtha, kerosene and similar
25 petroleum products (American Society of Testing Materials
26 Designation D-86), show not less than ten per centum distilled
27 (recovered) below three hundred forty-seven degrees Fahrenheit
28 (one hundred seventy-five degrees Centigrade) and not less
29 than ninety-five per centum distilled (recovered) below four
30 hundred sixty-four degrees Fahrenheit (two hundred forty
31 degrees Centigrade); provided, that the term "motor fuel"
32 shall not include special fuel as defined in section 324.33,
33 subsection 1, aviation fuel as defined in section three (3)
34 of this Act and shall not include liquefied gases which would
35 not exist as liquids at a temperature of sixty degrees

1 Fahrenheit and a pressure of fourteen and seven-tenths pounds
2 per square inch absolute, nor naphthas and solvents as
3 hereinafter defined unless the liquefied gases or naphthas
4 and solvents are used as a component in the manufacture,
5 compounding, or blending of a liquid within (b) above, in
6 which event the resulting product shall be deemed to be motor
7 fuel.

8 Sec. 10. Section three hundred twenty-four point eleven
9 (324.11), subsection one (1), Code 1977, as amended by Acts
10 of the Sixty-seventh General Assembly, 1977 Session, chapter
11 one hundred seven (107), section two (2), is amended to read
12 as follows:

13 1. Any person operating as a common or contract carrier
14 and any distributor who is also engaged in transportation
15 within this state of motor fuel, aviation fuel or special
16 fuel for others, shall register with the department of revenue
17 on or before the first day of the third calendar month which
18 begins after the effective date of this division and current-
19 ly thereafter as additional equipment is put to use, each
20 vehicle used in aforesaid transportation in this state, ex-
21 cept railroad, water-vessel or pipe-line equipment. The
22 registration shall be on forms furnished by and shall con-
23 tain such information as may reasonably be required by the
24 department of revenue. A fee of five dollars shall be paid
25 to the department of revenue for original registration of
26 each vehicle. The department of revenue shall furnish to
27 the registrant for each vehicle registered suitable identifi-
28 cation which shall be permanently attached to the vehicle
29 and shall be available for inspection at all times. Currently
30 as any vehicle is retired or its use for the transportation
31 of motor fuel or aviation fuel for others is discontinued,
32 the registrant shall notify the department of revenue or at
33 the direction of the department of revenue shall either
34 surrender to the department of revenue or destroy the vehicle
35 identification issued under this section. Annually on or

1 before the first day of July of each year, each carrier as
2 aforesaid shall file with the department of revenue a state-
3 ment showing each registered vehicle then in use for trans-
4 portation of motor fuel or aviation fuel for others.

5 Sec. 11. Section three hundred twenty-four point sixteen
6 (324.16), Code 1977, is amended to read as follows:

7 324.16 CREDIT TO LICENSEE--NONMOTOR VEHICLE OR WATERCRAFT
8 USE--CASUALTY LOSSES--NONTAXABLE PRODUCTS--REFUNDS. A licensee
9 as defined under division one (I), two (II) or five (V) of
10 this chapter having received motor fuel, aviation fuel or
11 special fuel which thereafter (1) he or she uses for any
12 purpose other than as fuel for propelling motor vehicles,
13 aircraft or watercraft or (2) while owned by him or her is
14 lost or destroyed through accountable leakage or through fire,
15 accident, lightning, flood, storm, act of war or public enemy
16 or other like cause, shall upon application to the department
17 of revenue supported by two notarized affidavits covering
18 circumstances of loss as proof, be entitled to a memorandum
19 of credit which he may ~~apply~~ be applied against subsequent
20 liability under this chapter, or, if an applicant having paid
21 the tax on the gallonage covered in the application is no
22 longer engaged in activity for which ~~his~~ a license was issued,
23 the department of revenue shall refund the appropriate amount
24 to the applicant.

25 Sec. 12. Section three hundred twenty-four point seventeen
26 (324.17), unnumbered paragraph one (1), Code 1977, is amended
27 to read as follows:

28 Any person other than a licensee as defined under division
29 one (I), two (II) or five (V) of this chapter who shall use
30 motor fuel for the purpose of operating or propelling farm
31 tractors, corn shellers, roller mills, truck-mounted feed
32 grinders, stationary gas engines, ~~aircraft~~, for cleaning or
33 dyeing, for use in agricultural aircraft operations or for
34 any purpose other than in watercraft, aircraft or in motor
35 vehicles operated or intended to be operated upon the public

1 highways and having paid the motor fuel tax on the fuel either
2 directly to the department of revenue or by having the tax
3 added to the price of the fuel, and who has a refund permit
4 shall, upon presentation to and approval by the department
5 of revenue of a claim for refund be reimbursed and repaid
6 the amount of the tax which the claimant has paid on the
7 gallonage so used. Every claim filed subsequent to July 4,
8 1957, shall be subject to the following conditions:

9 Sec. 13. Section three hundred twenty-four point seventeen
10 (324.17), subsections four (4), five (5), and six (6), Code
11 1977, are amended to read as follows:

12 4. The claim shall state the gallonage of motor fuel that
13 was used or will be used by the claimant other than in water-
14 craft, aircraft or motor vehicles, the manner in which the
15 motor fuel was used or will be used and the equipment in which
16 it was used or will be used.

17 5. The claim shall also state whether or not the claimant
18 used fuel for watercraft, aircraft or motor vehicles from
19 the same tanks or receptacles in which the claimant kept the
20 motor fuel on which the refund is claimed.

21 6. ~~No~~ A refund will not be paid with respect to any motor
22 fuel taken out of this state in fuel supply tanks of motor
23 vehicles or aircraft.

24 Sec. 14. Section three hundred twenty-four point seven-
25 teen (324.17), Code 1977, is amended by adding the following
26 new subsection:

27 NEW SUBSECTION. Refund may also be made on aviation fuel
28 taxes paid on fuel used for any purpose other than in aircraft,
29 watercraft or motor vehicles operated or intended to be
30 operated upon the public highways under the same conditions
31 as provided by law for refunds on motor vehicle fuel tax.

32 Sec. 15. Section three hundred twenty-four point eighteen
33 (324.18), Code 1977, is amended to read as follows:

34 324.18 REFUND PERMIT. ~~No~~ A person may not claim a refund
35 under section 324.17 until ~~he~~ the person shall have obtained

1 a refund permit from the department of revenue and paid the
2 fee therefor. A special permit shall be obtained by applicants
3 claiming a refund under the provisions of this chapter on
4 account of motor fuel or aviation fuel used for the purpose
5 of operating aircraft in agricultural aircraft operations.
6 Application for a refund permit shall be made to the department
7 of revenue on a form provided by the department of revenue,
8 shall be certified by the applicant under penalty for false
9 certificate and shall contain among other things, the name,
10 the address and occupation of the applicant, the nature of
11 ~~his~~ the applicant's business and a sufficient description
12 for identification of the machines and equipment in which
13 ~~is-to-be-used~~ the motor fuel or aviation fuel is to be used
14 and for which refund may be claimed under the permit. Each
15 permit shall bear a separate number and each claim for refund
16 shall bear the number of the permit under which it is made.
17 The department of revenue shall keep a permanent record of
18 all permits issued and a cumulative record of the amount of
19 refund claimed and paid under each. A fee of one dollar shall
20 be collected by the department of revenue from each person
21 to whom a refund permit is issued. A refund permit shall
22 continue in effect until revoked ~~as-hereinafter-provided~~ or
23 until the claimant shall ~~have-moved~~ move from the county with
24 which ~~his~~ the refund permit is identified.

25 Sec. 16. Section three hundred twenty-four point thirty-
26 three (324.33), subsection one (1), Code 1977, is amended
27 to read as follows:

28 1. "Special fuel" means and includes fuel oils and all
29 combustible gases and liquids suitable for the generation
30 of power for propulsion of motor vehicles also any substance
31 used for that purpose, except that it does not include motor
32 fuel as defined in the motor fuel tax law or aviation fuel
33 as defined in the aviation fuel tax law.

34 Sec. 17. Section three hundred twenty-four point fifty-
35 seven (324.57), subsections one (1) and two (2), Code 1977,

1 are amended to read as follows:

2 1. "Fuel taxes" means and includes the per gallon excise
3 taxes imposed under divisions I, II, and III and five (V)
4 of this chapter with respect to motor fuel, and special fuel
5 and aviation fuel.

6 2. "Motor vehicle" shall mean and include all vehicles
7 (except those operated on rails) which are propelled by
8 internal combustion engines and are of such design as to
9 permit their mobile use on public highways for transporting
10 persons or property. A farm tractor while operated on a farm
11 or for the purpose of hauling farm machinery, equipment or
12 produce shall not be deemed to be a motor vehicle. "Motor
13 vehicle" shall not include "mobile machinery and equipment"
14 as hereinafter defined or an aircraft as defined in section
15 three hundred twenty-eight point one (328.1) of the Code.

16 Sec. 18. Section three hundred twenty-four point fifty-
17 seven (324.57), Code 1977, is amended by adding the follow-
18 ing new subsections:

19 NEW SUBSECTION. "Licensee" shall mean any person holding
20 an uncanceled license issued under division one (I), two (II)
21 or five (V) of this chapter.

22 NEW SUBSECTION. "Distributor" shall mean any person who
23 is a distributor as defined in division one (I) or five (V)
24 of this chapter.

25 Sec. 19. Section three hundred twenty-four point sixty
26 (324.60), unnumbered paragraph one (1), Code 1977, is amended
27 to read as follows:

28 The department of revenue shall prescribe and furnish all
29 forms upon which reports and applications shall be made and
30 claims for refund presented under this chapter and may
31 prescribe forms of record to be kept by motor fuel
32 distributors, motor fuel dealers, motor fuel carriers, special
33 fuel dealers, special fuel users, aviation fuel distributors,
34 dealers and users and interstate commercial motor vehicle
35 operators.

1 Sec. 20. Section three hundred twenty-four point sixty-
2 two (324.62), unnumbered paragraph one (1), Code 1977, is
3 amended to read as follows:

4 The department of revenue is hereby given the authority
5 within the time prescribed for keeping records (1) to examine,
6 during the usual business hours of the day, the records,
7 books, papers, receipts, invoices, storage tanks, and any
8 other equipment of (a) any distributor, dealer, purchaser,
9 or common, contract or other carrier, pertaining to motor
10 fuel or aviation fuel received, used, sold, delivered, or
11 otherwise disposed of, or (b) of any special fuel dealer,
12 special fuel user or person supplying special fuel to any
13 dealer therein or user thereof and (c) of any interstate
14 operator of motor vehicles to verify the truth and accuracy
15 of any statement, report or return, or to ascertain whether
16 or not the taxes imposed by this chapter have been paid; (d)
17 any person selling fuel oil that can be used for highway use;
18 (e) any aviation fuel dealer, user or person supplying aviation
19 fuel to any dealer or user; and (2) to examine the records,
20 books, papers, receipts, and invoices of any distributor,
21 special fuel dealer or special fuel user or aviation fuel
22 dealer or user to determine financial responsibility for the
23 payment of the taxes imposed by this chapter.

24 Sec. 21. Section three hundred twenty-four point sixty-
25 three (324.63), unnumbered paragraph (1), Code 1977 Supplement,
26 is amended to read as follows:

27 All information obtained by the department of revenue from
28 the examining of reports or records required to be filed or
29 kept under the provisions of this chapter shall be treated
30 as confidential and shall not be divulged except to other
31 state officers, a member or members of the general assembly
32 or any duly appointed committee of either or both houses
33 thereof or to a representative of the state having some
34 responsibility in connection with the collection of the taxes
35 imposed or in proceedings brought under the provisions of

1 this chapter; provided, however, that the department of revenue
2 shall make available for public information on or before the
3 last day of the month following the month in which the tax
4 is required to be paid the names of the distributors and as
5 to each of them the total gallons received in the state and
6 separately, the received gallons (1) exported or sold for
7 export, (2) sold tax-free in the state to entities that are
8 exempt from the tax and (3) sold tax-free in the state to
9 entities required to report and account for the tax thereon.
10 The department of revenue shall also make available to the
11 public information with respect to special fuel dealers and
12 users and as to each of them the gallonage used and taxes
13 paid. The department of revenue, upon request of officials
14 entrusted with enforcement of the motor vehicle fuel tax laws
15 of the federal government or any other state, may forward
16 to such officials any pertinent information which the
17 department may have relative to motor fuel, aviation fuel,
18 and special fuel provided the officials of the other state
19 furnish to the department of revenue like information.

20 Sec. 22. Section three hundred twenty-four point sixty-
21 five (324.65), Code 1977, is amended to read as follows:

22 324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL
23 TAXES. If a licensee or other person fails to file a required
24 report with the department of revenue on or before the due
25 date, unless it is shown that such failure was due to
26 reasonable cause there shall be added to the amount required
27 to be shown as tax due on the return five percent of the
28 amount of the tax if the failure is for not more than one
29 month, with an additional five percent for each additional
30 month or fraction of a month during which such failure
31 continues, not exceeding twenty-five percent in the aggregate.
32 If a licensee or other person fails to remit the tax due with
33 the filing of the return on or before the due date or fails
34 to pay any amount of the tax required to be shown on the
35 return, there shall be added to the tax a penalty of five

1 percent of the amount of the tax due, unless it is shown that
2 such failure was due to reasonable cause. The taxpayer shall
3 also pay interest on the tax or additional tax at the rate
4 of three-fourths of one percent per month counting each
5 fraction of a month as an entire month, computed from the
6 date the return was required to be filed. The department
7 of revenue shall not remit any part of a penalty for delinquent
8 payment where the delinquency results from the fact that a
9 check given in payment is not honored because of insufficient
10 funds in the account upon which the check was drawn. Provided,
11 further, that if it appears as a result of investigation by
12 the department of revenue or from a preponderance of the
13 evidence adduced at a hearing before the department of revenue
14 that there has been a deliberate attempt on the part of a
15 licensee or other person to evade payment of fuel taxes there
16 shall be added to the assessment against the offending person
17 and collected a penalty of fifty percent of the tax due.
18 When penalties are applicable for failure to file a return
19 and failure to pay the tax due or required on the return,
20 the penalty provision for failure to file shall be in lieu
21 of the penalty for failure to pay the tax due or required
22 on the return, except in the case of a deliberate attempt
23 on the part of the licensee or other person to evade payment
24 of fuel taxes. Any report required of licensees or persons
25 operating under divisions I, II, and III and five (V), upon
26 which no tax may be due, shall be subject to a penalty of
27 ten dollars if such report is not timely filed.

28 Sec. 23. Section three hundred twenty-four point sixty-
29 seven (324.67), subsection one (1), Code 1977, is amended
30 to read as follows:

31 1. It shall be unlawful for any distributor to sell or
32 offer for sale motor fuel or aviation fuel or for any special
33 fuel dealer or user to dispense or offer to dispense special
34 fuel into a fuel supply tank of a motor vehicle, while in
35 default of or delinquent in the payment or the whole or any

1 part of fuel taxes imposed under this chapter, and in the
2 event of the failure or refusal to pay the whole of any of
3 these taxes after assessment and notice thereof by the
4 department of revenue, the delinquent fuel taxes, together
5 with penalties and interest provided for shall be recovered
6 by and in the name of the state of Iowa and the attorney
7 general of the state of Iowa or the county attorney of any
8 county in which the distributor, dealer or user resides or
9 is engaged in business is hereby authorized and directed to
10 institute suit therefor in any court of competent jurisdiction
11 against the distributor, ~~or special-fuel~~ dealer or user or
12 his or her surety or sureties, if any, or both.

13 Sec. 24. Section three hundred twenty-four point seventy-
14 one (324.71), Code 1977, is amended to read as follows:

15 324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any
16 person other than a distributor who has paid or has had charged
17 to his or her account with a distributor, dealer or special
18 fuel dealer fuel taxes imposed under this chapter with respect
19 to motor fuel, aviation fuel or special fuel in excess of
20 one hundred gallons, which is subsequently lost or destroyed,
21 while he or she shall be the owner thereof, through leakage,
22 fire, explosion, lightning, flood, storm, or other casualty,
23 except evaporation, shrinkage, or unknown causes, shall be
24 entitled to a refund of the tax so paid or charged. To qualify
25 for the refund, he the owner shall notify the department of
26 revenue in writing of the loss or destruction and the gallonage
27 lost or destroyed within ten days from the date of discovery
28 of the loss or destruction. Within sixty days after filing
29 the notice, he the owner shall file with the department of
30 revenue an affidavit sworn to by the person having immediate
31 custody of the motor fuel, aviation fuel or special fuel at
32 the time of the loss or destruction setting forth in full
33 the circumstances and amount of the loss or destruction and
34 such other information with respect thereto as the department
35 of revenue may require.

1 Sec. 25. Section three hundred twenty-four point seventy-
2 three (324.73), Code 1977 Supplement, is amended to read as
3 follows:

4 324.73 EMBEZZLEMENT OF FUEL TAX MONEY--PENALTY. Every
5 sale of motor fuel or aviation fuel in this state and every
6 sale of special fuel or aviation fuel dispensed by the seller
7 into a fuel supply tank of a motor vehicle or aircraft shall,
8 unless otherwise provided, be presumed to include as a part
9 of the purchase price the fuel tax due the state of Iowa under
10 the provisions of this chapter. Every person collecting fuel
11 tax money as part of the selling price of motor fuel, aviation
12 fuel or special fuel, shall hold the tax money in trust for
13 the state of Iowa unless the fuel tax on the fuel has been
14 previously paid to the state of Iowa. Any person receiving
15 fuel tax money in trust and failing to remit it to the de-
16 partment of revenue on or before time required shall be guilty
17 of theft.

18 Sec. 26. Section three hundred twenty-four point seventy-
19 four (324.74), subsections two (2), three (3), five (5) and
20 six (6) and unnumbered paragraph two (2), Code 1977, are
21 amended to read as follows:

22 2. For any person to knowingly make any false, incorrect
23 or materially incomplete record required to be kept or made
24 under the provisions of this chapter, to refuse to offer his
25 or her books and records to the department of revenue for
26 inspection on demand or to refuse to permit the department
27 of revenue to examine his or her motor fuel, aviation fuel
28 or special fuel storage tanks and handling or dispensing
29 equipment.

30 3. For any seller to issue or any purchaser to receive
31 and retain any incorrect or false invoice or sales ticket
32 in connection with the sale or purchase of motor fuel, aviation
33 fuel or special fuel.

34 5. For any person to act as a ~~motor-fuel~~ distributor,
35 special fuel dealer or special fuel user without the required

1 license.

2 6. For any person to use motor fuel, aviation fuel or
3 special fuel with respect to which he or she knowingly has
4 not paid or had charged to his or her account with a
5 distributor or dealer, or with respect to which does not
6 within the time required in this chapter report and pay the
7 applicable fuel tax.

8 Any person found guilty of any of the foregoing illegal
9 acts shall for the first offense be fined three hundred
10 dollars, and for the second and subsequent offenses shall
11 be fined five hundred dollars and all of ~~his~~ the licenses
12 held under the "Iowa Motor Fuel Tax Law" or the "Aviation
13 Fuel Tax Law" may, at the discretion of the court, be suspended
14 for a period of up to six months.

15 Sec. 27. Section three hundred twenty-four point seventy-
16 four (324.74), Code 1977, is amended by adding after subsection
17 eight (8) the following new subsections:

18 NEW SUBSECTION. Any person violating section eight (8)
19 of this Act.

20 Sec. 28. Section three hundred twenty-four point seventy-
21 seven (324.77), Code 1977, is amended by adding the following
22 new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. However, the provisions of this
24 section shall not apply to any fees, taxes, interest,
25 penalties, transfers, refunds or administrative expenses im-
26 posed, required or incurred under division five (V) of this
27 chapter.

28 Sec. 29. Section three hundred twenty-four point seventy-
29 eight (324.78), Code 1977, is amended to read as follows:

30 324.78 OTHER REMEDIES AVAILABLE. The special remedies
31 provided under the provisions of this chapter to enable the
32 state to collect ~~motor-vehicle~~ fuel ~~excise-tax~~ taxes shall
33 not be construed as depriving the state of any other remedy
34 it might have either at law or in equity independent of this
35 chapter. The state shall have the right to maintain an action

1 at law for the collection of said taxes required to be paid
2 herein and in connection therewith shall be entitled to a
3 writ of attachment without bond.

4 Sec. 30. Section three hundred twenty-four point seventy-
5 nine (324.79), unnumbered paragraph one (1), Code 1977, is
6 amended to read as follows:

7 The net proceeds of seven and one-half cents per gallon
8 excise tax on the diesel special fuel and six and one-half
9 cents per gallon excise tax on motor fuel and other special
10 fuel, and penalties collected under the provision of this
11 chapter, except penalties collected as a result of the tax
12 imposed under division five (V) of this chapter, shall be
13 credited to the road use tax fund.

14 Sec. 31. Section three hundred twenty-four point eighty
15 (324.80), Code 1977, is amended to read as follows:

16 324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS
17 DESTROYED. The department of revenue shall have the power
18 and authority to record, copy or reproduce by any photographic,
19 photostatic, microfilm, microcard, miniature photographic
20 or other process which accurately reproduces or forms a durable
21 medium for so reproducing the original of any forms or records
22 pertaining to ~~motor-fuel-tax-or-special-fuel-tax~~ fuel taxes,
23 or any paper or document with respect to refund of such tax
24 taxes, and when such forms and records shall have been so
25 reproduced, the department of revenue shall have the power
26 to destroy the originals and such reproductions shall be
27 competent evidence in any court in accordance with the
28 provision of section 622.30.

29 Sec. 32. Section three hundred twenty-four point eighty-
30 two (324.82), Code 1977, is amended to read as follows:

31 324.82 AVIATION GAS TAX FUND. The portion of the moneys
32 collected under the provisions of this chapter received on
33 account of aviation ~~gasoline~~ fuel shall be deposited in a
34 separate fund to be maintained by the treasurer. All moneys
35 reimbursed and repaid pursuant to section 324.17 or transferred

1 pursuant to section 422.88 ~~on-account-of-motor-fuel-used-for~~
2 ~~the-purpose-of-operating-aircraft~~ shall be paid from said
3 separate fund and all moneys remaining in said separate fund
4 after all claims for refund and the cost of administering
5 said fund have been paid shall be credited to the state
6 aviation fund.

7 Sec. 33. Section three hundred twenty-eight point thirty-
8 six (328.36), Code 1977, is amended to read as follows:

9 328.36 STATE AVIATION FUND. There is hereby created a
10 fund to be known as the state aviation fund, which shall
11 consist of all moneys received by the department, together
12 with all moneys appropriated to said fund by the state.

13 Unless otherwise provided, the aeronautics state aviation
14 fund is hereby appropriated for airport construction and the
15 department shall give priority in the distribution of funds
16 to those airports which need construction or modernization
17 of facilities to meet state and federal safety standards.

18 Sec. 34. Section four hundred twenty-two point forty-
19 five (422.45), subsection eleven (11), Code 1977 Supplement,
20 is amended to read as follows:

21 11. The gross receipts from the sale of motor fuel and
22 special fuel consumed for highway use or in watercraft or
23 the gross receipts from the sale of aviation gasoline, as
24 defined in section three (3) of this Act, where the fuel tax
25 has been imposed and paid and no refund has been or will be
26 allowed.

27 Sec. 35. Section four hundred twenty-two point eighty-
28 six (422.86), subsection one (1), Code 1977, is amended to
29 read as follows:

30 1. Motor fuel as defined in section 324.2, subsection
31 1, used for the purpose of operating or propelling farm
32 tractors, corn shellers, roller mills, truck-mounted feed
33 grinders, stationary engines, ~~aircraft~~, for cleaning or dyeing,
34 for use in agricultural aircraft operations or for any purpose
35 other than in watercraft, aircraft or in motor vehicles

1 operated or intended to be operated upon the public highways.

2 Sec. 36. Section four hundred twenty-two point eighty-
3 six (422.86), Code 1977, is amended by adding the following
4 new subsection:

5 NEW SUBSECTION. Aviation fuel as defined in section three
6 (3) of this Act used for the purpose for which an income tax
7 credit is allowed under this section for the tax paid on motor
8 fuel.

9 Sec. 37. Section four hundred twenty-two point eighty-
10 seven (422.87), unnumbered paragraph one (1), Code 1977, is
11 amended to read as follows:

12 The fuel tax credit may be applied against the income tax
13 liability of the person or corporation as determined on the
14 tax return filed for the year in which the fuel tax was paid.
15 The fuel tax credit for tax paid on motor aviation fuel used
16 for the purpose of operating aircraft in agricultural aircraft
17 operations must be itemized separately. The department shall
18 provide forms for claiming the fuel tax credit. If the fuel
19 tax credit would result in an overpayment of income tax, the
20 person or corporation may apply for a refund of the amount
21 of overpayment or may have the overpayment credited to income
22 tax due in subsequent years. Each person or corporation that
23 claims a fuel tax credit shall maintain the original invoices
24 showing the purchase of the fuel on which a credit is claimed.
25 No invoice is acceptable in support of a claim for credit
26 unless it is a separate serially numbered invoice covering
27 no more than one purchase of motor fuel, aviation fuel or
28 special fuel, prepared by the seller on a form approved by
29 the department, nor unless it is legibly written with no
30 corrections or erasures and shows the date of sale, the name
31 and address of the seller and of the purchaser, the kind of
32 fuel, the gallonage in figures, the per gallon price of the
33 fuel, the total purchase price including the Iowa fuel tax,
34 and that the total purchase price has been paid. However,
35 as to refund invoices made on a billing machine the department

1 may waive these requirements. If an original invoice is lost
2 or destroyed, the department may approve a credit supported
3 by a copy identified and certified by the seller as being
4 a true copy of the original. Each person or corporation that
5 claims a fuel tax credit shall maintain complete records of
6 purchases of motor fuel, aviation fuel or special fuel on
7 which Iowa fuel tax was paid, and for which a fuel tax credit
8 is claimed.

9 Sec. 38. Section four hundred twenty-two point eighty-
10 eight (422.88), Code 1977, is amended to read as follows:

11 422.88 AIRCRAFT FUEL TAX TRANSFER. The department shall
12 certify quarterly to the treasurer of state the amount of
13 credit that has been taken against income tax liability since
14 the time of the last certification, for the Iowa fuel tax
15 paid on motor fuel, special fuel and ~~motor-fuel-used-for-the~~
16 ~~purpose-of-operating-aireraft~~ aviation fuel, and the treasurer
17 of state shall transfer the amount of the total credit from
18 the motor fuel tax fund, or in the case of ~~aireraft-motor~~
19 aviation fuel, from the separate fund established by section
20 324.82, to the general fund of the state.

21 Sec. 39. This Act is effective on January 1, 1979 for
22 motor fuel and aviation fuel taxes paid on or after January
23 1, 1979.

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