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for by HF 2530  
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(P. 1217)*

SENATE FILE 2360  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2082)

**WITHDRAWN**

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

**A BILL FOR**

1 An Act relating to the administration of the tax and related laws  
2 by the department of revenue and finance, including  
3 administration of state individual income, corporate income,  
4 franchise, sales, services, and use, motor fuel, cigarette and  
5 tobacco, local option, inheritance and estate, and property  
6 taxes; providing penalties; and including effective and  
7 retroactive applicability date provisions.

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

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S.F. 2360

1 Section 1. Section 421.1, unnumbered paragraph 8, Code  
2 1997, is amended to read as follows:

3 The state board shall ~~hold-at-least-six-regular-meetings~~  
4 ~~each-year, the first of which shall be on the second secular~~  
5 ~~day of July~~ meet as deemed necessary by the chairperson.  
6 Special meetings of ~~the~~ state board may be called by the  
7 chairperson on five days' notice given to each member. All  
8 meetings shall be held at the office of the tax department  
9 unless a different place within the state is designated by the  
10 state board or in the notice of the meeting.

11 Sec. 2. Section 421.16, Code Supplement 1997, is amended  
12 to read as follows:

13 421.16 EXPENSES.

14 The director, ~~deputy-directors,~~ and department employees  
15 are entitled to receive from the state their actual necessary  
16 expenses while traveling on the business of the department.  
17 The expenditures shall be sworn to by the party who incurred  
18 the expense, and approved and allowed by the director.  
19 However, such expenses shall not be allowed residents of Polk  
20 county while in the city of Des Moines or traveling between  
21 their homes and the city of Des Moines.

22 Sec. 3. Section 421.17, subsection 29, paragraph g, Code  
23 Supplement 1997, is amended by adding the following new  
24 unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. The department of revenue and  
26 finance shall send the written notification required by this  
27 paragraph when the person's liability is payable to the clerk  
28 of district court. The judicial department shall prescribe  
29 procedures for contesting the amount of the person's liability  
30 to the clerk. Other applicable procedures shall be prescribed  
31 by the department of revenue and finance. The written  
32 notification shall state the clerk's assertion of rights to  
33 all or a portion of the payment, the clerk's entitlement to  
34 recover the liability through the setoff procedure, the basis  
35 of the assertions, the person's opportunity to request within

1 fifteen days of mailing of the notice that the department  
2 divide a jointly or commonly owned right to payment between  
3 owners, the person's opportunity to contest the liability to  
4 the clerk by written application to the clerk, and the  
5 person's opportunity to contest the department's setoff  
6 procedure. If a person files written notice of intent to  
7 contest an allegation with the clerk within fifteen days of  
8 the mailing of the notice, the clerk shall hold the payment  
9 until disposition of the allegation. Upon completion of the  
10 setoff, the department shall file, at least monthly, with the  
11 clerk of the district court a notice of satisfaction of each  
12 obligation to the full extent of all moneys collected in  
13 satisfaction of the obligation. The clerk shall record the  
14 notice and enter a satisfaction for the amounts collected, and  
15 no separate written notice is required.

16 Sec. 4. Section 421.18, Code 1997, is amended to read as  
17 follows:

18 421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

19 It shall be the duty of all public officers and employees  
20 of the state and ~~of all municipalities~~ local governments to  
21 give to the director of revenue and finance information in  
22 their possession relating to taxation when required by the  
23 director, and to co-operate with and aid the director's  
24 efforts to secure a fair, equitable, and just enforcement of  
25 the taxation and revenue laws.

26 Sec. 5. Section 421.40, unnumbered paragraph 3, Code 1997,  
27 is amended to read as follows:

28 The departments, the general assembly, and the courts shall  
29 pay their claims in a timely manner. If a claim for services,  
30 supplies, materials, or a contract which is payable from the  
31 state treasury remains unpaid after sixty days following the  
32 receipt of the claim or the satisfactory delivery, furnishing,  
33 or performance of the services, supplies, materials, or  
34 contract, whichever date is later, the state shall pay  
35 interest at the rate of one percent per month on the unpaid

1 amount of the claim. This paragraph does not apply to claims  
2 against the state under chapters 25 and 669 or to claims paid  
3 by federal funds. The interest shall be charged to the  
4 appropriation or fund to which the claim is certified.  
5 Departments may enter into contracts for goods or services on  
6 payment terms of less than sixty days, and pay interest on the  
7 unpaid amount of any claim, if the state may obtain a  
8 financial benefit or incentive which would not otherwise be  
9 available from the vendor. The department, in consultation  
10 with the department of general services and other affected  
11 agencies, shall develop policies to promote consistency and  
12 fiscal responsibility with respect to payment terms authorized  
13 under this paragraph. The director of ~~the department of~~  
14 revenue and finance shall adopt rules under chapter 17A  
15 relating to the administration of this paragraph.

16 Sec. 6. Section 422.5, subsections 3 and 11, Code  
17 Supplement 1997, are amended by striking the subsections.

18 Sec. 7. Section 422.13, subsection 5, Code 1997, is  
19 amended to read as follows:

20 5. Notwithstanding subsections 1 through 4 and sections  
21 422.15 and 422.36, a partnership, a limited liability company  
22 whose members are taxed on the company's income under  
23 provisions of the Internal Revenue Code, trust, or corporation  
24 whose stockholders are taxed on the corporation's income under  
25 the provisions of the Internal Revenue Code ~~is entitled to~~  
26 ~~request permission from the director~~ may, not later than the  
27 due date for filing its return for the taxable year, including  
28 any extension thereof, elect to file a composite return for  
29 the nonresident partners, members, beneficiaries, or  
30 shareholders. The director may ~~grant permission to file or~~  
31 require that a composite return be filed under the conditions  
32 deemed appropriate by the director. A partnership, limited  
33 liability company, trust, or corporation filing a composite  
34 return is liable for tax required to be shown due on the  
35 return. All powers of the director and requirements of the

1 director apply to returns filed under this subsection  
2 including, but not limited to, the provisions of this division  
3 and division VI of this chapter.

4 Sec. 8. Section 422.16, subsection 2, unnumbered paragraph  
5 2, Code 1997, is amended to read as follows:

6 Every withholding agent on or before the end of the second  
7 month following the close of the calendar year in which the  
8 withholding occurs shall make an annual reporting of taxes  
9 withheld and other information prescribed by the director and  
10 send to the department copies of wage and tax statements with  
11 the return. At the discretion of the director, the  
12 withholding agent shall not be required to send wage  
13 statements and tax statements with the annual reporting return  
14 form if the information is available from the Internal Revenue  
15 Service or other state or federal agencies.

16 Sec. 9. Section 422.23, unnumbered paragraph 2, Code 1997,  
17 is amended by striking the unnumbered paragraph.

18 Sec. 10. Section 422.25, subsection 1, paragraph b, Code  
19 1997, is amended to read as follows:

20 b. The period for examination and determination of the  
21 correct amount of tax is unlimited in the case of a false or  
22 fraudulent return made with the intent to evade tax or in the  
23 case of a failure to file a return. In lieu of the period of  
24 limitation for any prior year for which an overpayment of tax  
25 or an elimination or reduction of an underpayment of tax due  
26 for that prior year results from the carryback to that prior  
27 year of a net operating loss or net capital loss, the period  
28 is the period of limitation for the taxable year of the net  
29 operating loss or net capital loss which results in the  
30 carryback. If the tax found due is greater than the amount  
31 paid, the department shall compute the amount due, together  
32 with interest and penalties as provided in subsection 2, and  
33 shall mail a notice of assessment to the taxpayer and, if  
34 applicable, to the taxpayer's authorized representative of the  
35 total, which shall be computed as a sum certain if paid on or

1 before the last day of the month in which the notice is  
2 postmarked dated, or on or before the last day of the  
3 following month if the notice is postmarked dated after the  
4 twentieth day of any month. The notice shall also inform the  
5 taxpayer of the additional interest and penalty which will be  
6 added to the total due if not paid on or before the last day  
7 of the applicable month.

8 Sec. 11. Section 422.25, subsection 3, Code 1997, is  
9 amended to read as follows:

10 3. If the amount of the tax as determined by the  
11 department is less than the amount paid, the excess shall be  
12 refunded with interest, the interest to begin to accrue on the  
13 first day of the second calendar month following the date of  
14 payment or the date the return was due to be filed, or the  
15 extended due date by which the return was due to be filed if  
16 ninety percent of the tax was paid by the original due date,  
17 or was filed, whichever is the latest, at the rate in effect  
18 under section 421.7 counting each fraction of a month as an  
19 entire month under the rules prescribed by the director. If  
20 an overpayment of tax results from a net operating loss or net  
21 capital loss which is carried back to a prior year, the  
22 overpayment, for purposes of computing interest on refunds,  
23 shall be considered as having been made on the date a claim  
24 for refund or amended return carrying back the net operating  
25 loss or net capital loss is filed with the department or on  
26 the first day of the second calendar month following the date  
27 of the actual payment of the tax, whichever is later.  
28 However, when the net operating loss or net capital loss  
29 carryback to a prior year eliminates or reduces an  
30 underpayment of tax due for an earlier year, the full amount  
31 of the underpayment of tax shall bear interest at the rate in  
32 effect under section 421.7 for each month counting each  
33 fraction of a month as an entire month from the due date of  
34 the tax for the earlier year to the last day of the taxable  
35 year in which the net operating loss or net capital loss

1 occurred.

2 Sec. 12. Section 422.33, subsection 1, unnumbered  
3 paragraph 1, Code Supplement 1997, is amended to read as  
4 follows:

5 A tax is imposed annually upon each corporation organized  
6 ~~under the laws of this state, and upon each foreign~~  
7 corporation doing business in this state, or deriving income  
8 from sources within this state, in an amount computed by  
9 applying the following rates of taxation to the net income  
10 received by the corporation during the income year:

11 Sec. 13. Section 422.33, subsection 2, unnumbered  
12 paragraph 1, Code Supplement 1997, is amended to read as  
13 follows:

14 If the trade or business of the corporation is carried on  
15 entirely within the state, the tax shall be imposed on the  
16 entire net income, but if the trade or business is carried on  
17 partly within and partly without the state or if income is  
18 derived from sources partly within and partly without the  
19 state, or if income is derived from trade or business and  
20 sources, all of which are not entirely in the state, the tax  
21 shall be imposed only on the portion of the net income  
22 reasonably attributable to the trade or business or sources  
23 within the state, with the net income attributable to the  
24 state to be determined as follows:

25 Sec. 14. Section 422.42, subsection 6, Code Supplement  
26 1997, is amended to read as follows:

27 6. "Gross taxable services" means the total amount  
28 received in money, credits, property, or other consideration,  
29 valued in money, from services rendered, furnished, or  
30 performed in this state except where such service ~~is performed~~  
31 ~~on tangible personal property delivered into interstate~~  
32 ~~commerce or is used in processing of tangible personal~~  
33 property for use in taxable retail sales or services and  
34 embraced within the provisions of this division. However, the  
35 taxpayer may take credit in the taxpayer's report of gross

1 taxable services for an amount equal to the value of services  
2 rendered, furnished, or performed when the full value of ~~such~~  
3 the services thereof is refunded either in cash or by credit.  
4 Taxes paid on gross taxable services represented by accounts  
5 found to be worthless and actually charged off for income tax  
6 purposes may be credited upon a subsequent payment of the tax  
7 due hereunder, but if any ~~such~~ accounts are thereafter  
8 collected by the taxpayer, a tax shall be paid upon the  
9 amounts so collected.

10 Sec. 15. Section 422.42, subsection 18, unnumbered  
11 paragraph 1, Code Supplement 1997, is amended to read as  
12 follows:

13 "Services" means all acts or services rendered, furnished,  
14 or performed, other than services ~~performed-on-tangible~~  
15 ~~personal-property-delivered-into-interstate-commerce,~~ or  
16 ~~services~~ used in processing of tangible personal property for  
17 use in taxable retail sales or services, for an "employer" as  
18 defined in section 422.4, subsection 3, for a valuable  
19 consideration by any person engaged in any business or  
20 occupation specifically enumerated in this division. The tax  
21 shall be due and collectible when the service is rendered,  
22 furnished, or performed for the ultimate user ~~thereof~~ of the  
23 service.

24 Sec. 16. Section 422.44, unnumbered paragraph 2, Code  
25 1997, is amended by striking the unnumbered paragraph.

26 Sec. 17. Section 422.45, subsection 7, paragraph b,  
27 unnumbered paragraph 1, Code Supplement 1997, is amended to  
28 read as follows:

29 Such governmental unit, educational institution, or  
30 nonprofit private museum shall, not more than ~~six-months~~ one  
31 year after the final settlement has been made, make  
32 application to the department for any refund of the amount of  
33 ~~such the~~ sales or use tax which shall have been paid upon any  
34 goods, wares or merchandise, or services rendered, furnished,  
35 or performed, ~~such the~~ application to be made in the manner

1 and upon forms to be provided by the department, and the  
2 department shall forthwith audit such the claim and, if  
3 approved, issue a warrant to such the governmental unit,  
4 educational institution, or nonprofit private museum in the  
5 amount of such the sales or use tax which has been paid to the  
6 state of Iowa under such the contract.

7 Sec. 18. Section 422.45, subsection 46, Code Supplement  
8 1997, is amended to read as follows:

9 46. The gross receipts from the sale of property or of  
10 services performed on property which the seller retailer  
11 transfers to a carrier for shipment to a point outside of  
12 Iowa, places in the United States mail or parcel post directed  
13 to a point outside of Iowa, or transports to a point outside  
14 of Iowa by means of the seller's retailer's own vehicles, and  
15 which is not thereafter returned to a point within Iowa,  
16 except solely in the course of interstate commerce or  
17 transportation. This exemption shall not apply if the  
18 purchaser, consumer, or their agent, other than a carrier,  
19 takes physical possession of the property in Iowa.

20 Sec. 19. Section 422.47, subsection 3, paragraphs a and b,  
21 Code Supplement 1997, are amended to read as follows:

22 a. The department shall issue or the seller may separately  
23 provide exemption certificates in the form prescribed by the  
24 director to assist retailers in properly accounting for  
25 nontaxable sales of tangible personal property or services to  
26 purchasers for ~~purposes of resale or for processing, except~~  
27 ~~fuel consumed in processing~~ a nontaxable purpose. The  
28 department shall also allow the use of exemption certificates  
29 for those circumstances in which a sale is taxable but the  
30 seller is not obligated to collect tax from the buyer.

31 b. The sales tax liability for all sales of tangible  
32 personal property and all sales of services is upon the seller  
33 and the purchaser unless the seller takes in good faith from  
34 the purchaser a valid exemption certificate stating under  
35 penalties for perjury that the purchase is for ~~resale or for~~

1 processing a nontaxable purpose and is not a retail sale as  
2 defined in section 422.42, subsection 14, or the seller is not  
3 obligated to collect tax due, or unless the seller takes a  
4 fuel exemption certificate pursuant to subsection 4. If the  
5 tangible personal property or services are purchased tax free  
6 pursuant to a valid exemption certificate which is taken in  
7 good faith by the seller, and the tangible personal property  
8 or services are used or disposed of by the purchaser in a  
9 nonexempt manner, the purchaser is solely liable for the taxes  
10 and shall remit the taxes directly to the department and  
11 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
12 422.57, 422.58, and 422.59 shall apply to the purchaser.

13 Sec. 20. Section 422.47, subsection 3, paragraph e, Code  
14 Supplement 1997, is amended to read as follows:

15 e. If the circumstances change and as a result the  
16 tangible personal property or services are used or disposed of  
17 by the purchaser in a nonexempt manner or the purchaser  
18 becomes obligated to pay the tax, the purchaser is liable  
19 solely for the taxes and shall remit the taxes directly to the  
20 department in accordance with this subsection.

21 Sec. 21. Section 422.47, subsection 4, paragraph c, Code  
22 Supplement 1997, is amended to read as follows:

23 c. The purchaser may apply to the department for its  
24 review of the fuel exemption certificate. In this event, the  
25 department shall review the fuel exemption certificate within  
26 twelve months from the date of application and determine the  
27 correct amount of the exemption. If the amount determined by  
28 the department is different than the amount that the purchaser  
29 claims is exempt, the department shall promptly notify the  
30 purchaser of the determination. Failure of the department to  
31 make a determination within twelve months from the date of  
32 application shall constitute a determination that the fuel  
33 exemption certificate is correct as submitted. A  
34 determination of exemption by the department is final unless  
35 the purchaser appeals to the director for a revision of the

1 determination within thirty sixty days after the postmark date  
2 of the notice of determination. The director shall grant a  
3 hearing, and upon the hearing the director shall determine the  
4 correct exemption and notify the purchaser of the decision by  
5 mail. The decision of the director is final unless the  
6 purchaser seeks judicial review of the director's decision  
7 under section 422.55 within thirty sixty days after the  
8 postmark date of the notice of the director's decision.  
9 Unless there is a substantial change, the department shall not  
10 impose penalties pursuant to section 422.58, both  
11 retroactively to purchases made after the date of application  
12 and prospectively until the department gives notice to the  
13 purchaser that a tax or additional tax is due, for failure to  
14 remit any tax due which is in excess of a determination made  
15 under this section. A determination made by the department  
16 pursuant to this subsection does not constitute an audit for  
17 purposes of section 422.54.

18 Sec. 22. Section 422.50, Code 1997, is amended to read as  
19 follows:

20 422.50 RECORDS REQUIRED.

21 It shall be the duty of every retailer required to make a  
22 report return and pay any tax under this division, to preserve  
23 those records of the gross proceeds-of receipts from sales or  
24 services as the director may require and it shall be the duty  
25 of every retailer to preserve for a period of five years all  
26 invoices and other records of goods, wares, merchandise, or  
27 services purchased-for-resale; and all these books, invoices,  
28 and other records shall be open to examination at any time by  
29 the department, and shall be made available within this state  
30 for examination upon reasonable notice when the director  
31 orders.

32 Sec. 23. Section 422.52, subsection 3, unnumbered  
33 paragraph 2, Code 1997, is amended by striking the unnumbered  
34 paragraph.

35 Sec. 24. Section 422.60, subsection 1, Code 1997, is

1 amended to read as follows:

2 1. A franchise tax according to and measured by net income  
3 is imposed on financial institutions for the privilege of  
4 doing business in this state as ~~financial-institutions~~  
5 corporations.

6 Sec. 25. Section 422.68, subsection 4, Code 1997, is  
7 amended to read as follows:

8 4. The department may make photostat, microfilm, or other  
9 photographic copies of records, reports, and other papers  
10 either filed by the taxpayer or prepared by the department.  
11 In addition, the department may create and use any system of  
12 recordkeeping reasonably calculated to preserve its records  
13 for any time period required by law. When such photostat, or  
14 microfilm, or other copies have been made, the department may  
15 destroy such the original records which are the basis for the  
16 copies in such any manner as prescribed by the director. Such  
17 photostat-or Photostat, microfilm, or other types of copies,  
18 when no longer of use, may be destroyed as provided in  
19 subsection 3. Such-photostat Photostat, microfilm, or other  
20 photographic records shall be admissible in evidence when duly  
21 certified and authenticated by the officer having custody and  
22 control thereof of them.

23 Sec. 26. Section 422.72, subsection 1, unnumbered  
24 paragraph 1, Code Supplement 1997, is amended to read as  
25 follows:

26 It is unlawful for the director, or any person having an  
27 administrative duty under this chapter, or any present or  
28 former officer or other employee of the state authorized by  
29 the director to examine returns, to divulge in any manner  
30 whatever, the business affairs, operations, or information  
31 obtained by an investigation under this chapter of records and  
32 equipment of any person visited or examined in the discharge  
33 of official duty, or the amount or source of income, profits,  
34 losses, expenditures or any particular thereof, set forth or  
35 disclosed in any return, or to permit any return or copy of a

1 return or any book containing any abstract or particulars  
2 thereof to be seen or examined by any person except as  
3 provided by law. It is unlawful for any person to willfully  
4 inspect, except as authorized by the director, any return or  
5 return information. However, the director may authorize  
6 examination of such state returns and other state information  
7 which is confidential under this section, if a reciprocal  
8 arrangement exists, by tax officers of another state or the  
9 federal government. The director may, by rules adopted  
10 pursuant to chapter 17A, authorize examination of state  
11 information and returns by other officers or employees of this  
12 state to the extent required by their official duties and  
13 responsibilities. Disclosure of state information to tax  
14 officers of another state is limited to disclosures which have  
15 a tax administrative purpose and only to officers of those  
16 states which by agreement with this state limit the disclosure  
17 of the information as strictly as the laws of this state  
18 protecting the confidentiality of returns and information.  
19 The director shall place upon the state tax form a notice to  
20 the taxpayer that state tax information may be disclosed to  
21 tax officials of another state or of the United States for tax  
22 administrative purposes.

23 Sec. 27. Section 422.110, Code 1997, is amended to read as  
24 follows:

25 422.110 INCOME TAX CREDIT IN LIEU OF REFUND.

26 In lieu of the fuel tax refund provided in sections section  
27 452A.17 to-452A.19, a person or corporation subject to  
28 taxation under divisions II or III of this chapter, ~~except~~  
29 ~~persons-or-corporations-licensed-under-section-452A.4~~, may  
30 elect to receive an income tax credit ~~for-tax-years-beginning~~  
31 ~~on-or-after-January-17-1975~~. The person or corporation which  
32 elects to receive an income tax credit shall cancel its refund  
33 permit obtained under section 452A.18 within thirty days after  
34 the first day of its tax year or the permit becomes invalid at  
35 that time. For the purposes of this section, "person"

1 includes a person claiming a tax credit based upon the  
2 person's pro rata share of the earnings from a partnership,  
3 limited liability company, or corporation which is not subject  
4 to a tax under division II or III of this chapter as a  
5 partnership, limited liability company, or corporation. If  
6 the election to receive an income tax credit has been made, it  
7 remains effective for at least one tax year, and for  
8 subsequent tax years unless a change is requested and a new  
9 refund permit applied for within thirty days after the first  
10 day of the person's or corporation's tax year. The income tax  
11 credit shall be the amount of the Iowa fuel tax paid on fuel  
12 purchased by the person or corporation and used-as-follows: is  
13 subject to the conditions provided in section 452A.17 with the  
14 exception that the income tax credit is not available for  
15 refunds relating to casualty losses, transport diversions,  
16 pumping credits, blending errors, idle time, power takeoffs,  
17 reefer units, and exports by eligible purchasers.

18 1.--Motor-fuel-as-defined-in-section-452A.2,-subsection-37,  
19 used-for-the-purpose-of-operating-or-propelling-farm-tractors,  
20 corn-shellers,-roller-mills,-truck-mounted-feed-grinders,  
21 stationary-engines,-for-producing-denatured-alcohol-within-the  
22 state,-for-cleaning-or-dyeing,-or-for-any-purpose-other-than  
23 in-watercraft-or-aircraft-or-in-motor-vehicles-operated-or  
24 intended-to-be-operated-upon-the-public-highways:-

25 2.--Special-fuel,-as-defined-in-section-452A.2,-used-for  
26 the-purpose-of-operation-of-corn-shellers,-roller-mills,-and  
27 feed-grinders-mounted-on-trucks:-

28 3.--Motor-fuel-placed-in-motor-vehicles-and-used,-other  
29 than-on-public-highways,-in-the-extraction-and-processing-of  
30 natural-deposits:-

31 4.--Motor-fuel-or-special-fuel-used-by-a-bona-fide  
32 commercial-fisher,-licensed-and-operating-under-an-owner's  
33 certificate-for-commercial-fishing-gear-issued-pursuant-to  
34 section-482.4:-

35 However,-no-credit-shall-be-given-with-respect-to-motor

1 fuel-taken-out-of-the-state-in-fuel-supply-tanks-of-motor  
2 vehicles; motor-fuel-used-in-aircraft-or-watercraft; or motor  
3 fuel-used-in-the-performance-of-a-contract-which-is-paid-out  
4 of-state-funds-unless-the-contract-for-the-work-contains-a  
5 certificate-made-under-penalty-for-false-certificate-that-the  
6 estimate; bid-or-price-to-be-paid-for-the-work-includes-no  
7 amount-representing-motor-fuel-tax-subject-to-a-credit. The  
8 right to a credit under this section is not assignable and the  
9 credit may be claimed only by the person or corporation that  
10 purchased the fuel.

11 Sec. 28. Section 422.111, unnumbered paragraph 1, Code  
12 1997, is 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 department shall provide forms for claiming the fuel tax  
17 credit. If the fuel tax credit would result in an overpayment  
18 of income tax, the person or corporation may apply for a  
19 refund of the amount of overpayment or may have the  
20 overpayment credited to income tax due in subsequent years.  
21 Each person or corporation that claims a fuel tax credit shall  
22 maintain the original invoices showing the purchase of the  
23 fuel on which a credit is claimed. No An invoice is not  
24 acceptable in support of a claim for credit unless it the  
25 invoice is a separate serially numbered invoice covering no  
26 more than one purchase of motor fuel or undyed special fuel,  
27 prepared by the seller on a form approved by the department,  
28 ~~not-unless-it~~ or unless the invoice is legibly written with no  
29 corrections or erasures and shows the date of sale, the name  
30 and address of the seller and of the purchaser, the kind of  
31 fuel, the gallonage in figures, the per gallon price of the  
32 fuel, the total purchase price including the Iowa fuel tax,  
33 and that the total purchase price has been paid. However, as  
34 to refund invoices made on a billing machine the department  
35 may waive these requirements. If an original invoice is lost

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

7 Sec. 29. Section 422.111, unnumbered paragraph 3, Code  
8 1997, is amended by striking the unnumbered paragraph.

9 Sec. 30. Section 422B.10, subsection 2, paragraph c, Code  
10 Supplement 1997, is amended to read as follows:

11 c. The director of revenue and finance shall remit a final  
12 payment of the remainder of tax moneys due the city or county  
13 for the fiscal year before November 10 of the next fiscal  
14 year. If an overpayment has resulted during the previous  
15 fiscal year, the first November ~~payment of the new fiscal year~~  
16 shall be adjusted to reflect any overpayment.

17 Sec. 31. Section 422D.3, unnumbered paragraph 4, Code  
18 1997, is amended to read as follows:

19 The director, in consultation with local officials, shall  
20 collect and account for a local income surtax and any interest  
21 and penalties. The director shall credit local income surtax  
22 receipts and any interest and penalties collected from returns  
23 filed on or before November 1 of the calendar year following  
24 the tax year for which the local income surtax is imposed to a  
25 "local income surtax fund" established in the ~~office of the~~  
26 treasurer of state ~~department of revenue and finance~~. All  
27 local income surtax receipts and any interest and penalties  
28 received or refunded from returns filed after November 1 of  
29 the calendar year following the tax year for which the local  
30 income surtax is imposed shall be deposited in or withdrawn  
31 from the state general fund and shall be considered part of  
32 the cost of administering the local income surtax.

33 Sec. 32. Section 424.10, subsections 2 and 3, Code 1997,  
34 are amended to read as follows:

35 2. If a return required by this chapter is not filed, or

1 if a return when filed is incorrect or insufficient and the  
2 maker fails to file a corrected or sufficient return within  
3 twenty days after the return is required by notice from the  
4 department, the department shall determine the amount of  
5 charge due from information as the department may be able to  
6 obtain and, if necessary, may estimate the charge on the basis  
7 of external indices or factors. The department shall give  
8 notice of the determination to the person liable for the  
9 charge. The determination shall fix the charge unless the  
10 person against whom it is assessed shall, within sixty days  
11 after the ~~giving-of~~ date of the notice of the determination,  
12 apply to the director for a hearing or unless the taxpayer  
13 contests the determination by paying the tax, interest, and  
14 penalty and timely filing a claim for refund. At the hearing  
15 evidence may be offered to support the determination or to  
16 prove that it is incorrect. After the hearing the director  
17 shall give notice of the decision to the person liable for the  
18 charge.

19 If a depositor's, receiver's, or other person's challenge  
20 relates to the diminution rate, the burden of proof upon the  
21 challenger shall only be satisfied by clear and convincing  
22 evidence.

23 3. If the amount paid is greater than the correct charge,  
24 penalty, and interest due, the department shall refund the  
25 excess, with interest after sixty days from the date of  
26 payment at the rate in effect under section 421.7, pursuant to  
27 rules prescribed by the director. However, the director shall  
28 not allow a claim for refund that has not been filed with the  
29 department within five years after the charge payment upon  
30 which a refund is claimed became due, or one year after the  
31 charge payment was made, whichever time is later. A  
32 determination by the department of the amount of charge,  
33 penalty, and interest due, or the amount of refund for any  
34 excess amount paid, is final unless the person aggrieved by  
35 the determination appeals to the director for a revision of

1 the determination within ~~thirty~~ sixty days from the postmark  
2 date of the notice of determination of charge, penalty, and  
3 interest due or refund owing. The director shall grant a  
4 hearing, and upon hearing the director shall determine the  
5 correct charge, penalty, and interest due or refund owing, and  
6 notify the appellant of the decision by mail. The decision of  
7 the director is final unless the appellant seeks judicial  
8 review of the director's decision under section 424.13.

9 Sec. 33. Section 427.1, subsection 14, unnumbered  
10 paragraph 1, Code Supplement 1997, is amended to read as  
11 follows:

12 A society or organization claiming an exemption under  
13 subsection 5 or subsection 8 ~~of this section~~ shall file with  
14 the assessor not later than ~~July~~ April 15 a statement upon  
15 forms to be prescribed by the director of revenue and finance,  
16 describing the nature of the property upon which the exemption  
17 is claimed and setting out in detail any uses and income from  
18 the property derived from the rentals, leases, or other uses  
19 of the property not solely for the appropriate objects of the  
20 society or organization. Upon the filing and allowance of the  
21 claim, the claim shall be allowed on the property for  
22 successive years without further filing as long as the  
23 property is used for the purposes specified in the original  
24 claim for exemption. When the property is sold or  
25 transferred, the county recorder shall provide notice of the  
26 transfer to the assessor. The notice shall describe the  
27 property transferred and the name of the person to whom title  
28 to the property is transferred.

29 Sec. 34. Section 427.1, subsection 24, Code Supplement  
30 1997, is amended to read as follows:

31 24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of  
32 agricultural land may designate not more than two acres of the  
33 land for use as a wildlife habitat. After inspection, if the  
34 land meets the standards established by the natural resource  
35 commission for a wildlife habitat under section 483A.3, the

1 department of natural resources shall certify the designated  
2 land as a wildlife habitat and shall send a copy of the  
3 certification to the appropriate assessor not later than  
4 February 1 of the assessment year for which the exemption is  
5 requested. The department of natural resources may  
6 subsequently withdraw certification of the designated land if  
7 it fails to meet the established standards for a wildlife  
8 habitat and the assessor shall be given written notice of the  
9 decertification.

10 Sec. 35. Section 428.1, unnumbered paragraph 1, Code 1997,  
11 is amended to read as follows:

12 Every person shall list for the assessor all property  
13 subject to taxation in the state, of which the person is the  
14 owner, or has the control or management, ~~in the following~~  
15 manner including but not limited to the following:

16 Sec. 36. Section 429.2, subsection 1, Code 1997, is  
17 amended to read as follows:

18 1. Notwithstanding the provisions of chapter 17A, the  
19 taxpayer shall have thirty days from the date of ~~postmark~~ of  
20 the notice of assessment to appeal the assessment to the state  
21 board of tax review. Thereafter, the proceedings before the  
22 state board of tax review shall conform to the provisions of  
23 subsection 2, section 421.1, subsection 4, and chapter 17A.

24 Sec. 37. Section 450.4, subsection 5, Code 1997, is  
25 amended to read as follows:

26 5. On the value of that portion of installment payments  
27 which will be includable as net income as defined in section  
28 422.7 as received by a beneficiary under an annuity which was  
29 purchased under an employees pension or retirement plan. This  
30 exemption does not apply to those payments that are exempt  
31 from Iowa income tax pursuant to section 422.8, subsection 2.

32 Sec. 38. Section 450.20, unnumbered paragraph 1, Code  
33 1997, is amended to read as follows:

34 ~~It~~ The department of revenue and finance shall also keep a  
35 separate record of any deferred estate upon which the tax due

1 is not paid within fifteen months from the death of the  
2 decedent, showing substantially the same facts as are required  
3 in other cases, and also showing:

4 Sec. 39. Section 450.22, Code 1997, is amended to read as  
5 follows:

6 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES  
7 REQUIRED.

8 When the heirs or persons entitled to inherit the property  
9 of an estate subject to tax under this chapter desire to avoid  
10 the appointment of a personal representative as provided in  
11 section 450.21, and in all instances where real estate is  
12 involved and there are no regular probate proceedings, they or  
13 one of them shall file under oath the inventories required by  
14 section 633.361 and the required reports, perform all the  
15 duties required by this chapter of the personal  
16 representative, and file the inheritance tax return. However,  
17 this section does not apply and a return is not required even  
18 though real estate is part of the assets subject to tax under  
19 this chapter, if all of the assets are held in joint tenancy  
20 with right of survivorship between husband and wife alone, or  
21 if the estate exclusively consists of property held in joint  
22 tenancy with the right of survivorship solely by the decedent  
23 and any individuals listed in section 450.9 as individuals  
24 that are entirely exempt from Iowa inheritance tax and the  
25 estate does not have a federal estate tax obligation. When  
26 this section applies, proceedings for the collection of the  
27 tax when a personal representative is not appointed, shall  
28 conform as nearly as possible to proceedings under this  
29 chapter in other cases.

30 Sec. 40. Section 450.37, Code 1997, is amended by adding  
31 the following new subsection:

32 NEW SUBSECTION. 3. In addition to the applicable period  
33 of limitation for examination and determination, the  
34 department shall make an examination to adjust the value of  
35 real property for Iowa inheritance tax purposes to the value

1 accepted by the internal revenue service for federal estate  
2 tax purposes. The department shall make an examination and  
3 adjustment for the value of the real property at any time  
4 within six months from the date of receipt by the department  
5 of written notice from the personal representative for the  
6 estate that all federal estate tax matters between the estate  
7 and the internal revenue service have been concluded. To  
8 begin the running of the six-month period, the notice shall be  
9 in writing in a form sufficient to inform the department of  
10 the final disposition of the federal estate tax obligation  
11 with the internal revenue service and a copy of the federal  
12 document showing the final disposition and final federal  
13 adjustments of all real property values must be attached. The  
14 department shall make an adjustment to the value of real  
15 property for inheritance tax purposes to the value accepted  
16 for federal estate tax purposes regardless of whether an  
17 inheritance clearance has been issued, an appraisal has been  
18 obtained on the real property indicating a contrary value,  
19 whether there has been an acceptance of another value for real  
20 property by the department, or whether an agreement has been  
21 entered into by the department and the personal representative  
22 for the estate and persons having an interest in the real  
23 property regarding the value of the real property.  
24 Notwithstanding the period of limitation specified in section  
25 450.94, subsection 3, the personal representative for the  
26 estate shall have six months from the day of final disposition  
27 of any real property valuation matter between the personal  
28 representative for the estate and the internal revenue service  
29 to claim a refund of an overpayment of tax due to the change  
30 in the valuation of real property by the internal revenue  
31 service.

32 Sec. 41. Section 450.94, subsections 2 and 3, Code 1997,  
33 are amended to read as follows:

34 2. The taxpayer shall file an inheritance tax return on  
35 forms to be prescribed by the director of revenue and finance

1 on or before the last day of the ninth month after the death  
2 of the decedent. When an inheritance tax return is filed, the  
3 department shall examine it and determine the correct amount  
4 of tax. If the amount paid is less than the correct amount  
5 due, the department shall notify the taxpayer of the total  
6 amount due together with any penalty and interest which shall  
7 be a sum certain if paid on or before the last day of the  
8 month in which the notice is postmarked dated, or on or before  
9 the last day of the following month if the notice is  
10 postmarked dated after the twentieth day of a month and before  
11 the first day of the following month.

12 3. If the amount paid is greater than the correct tax,  
13 penalty, and interest due, the department shall refund the  
14 excess with interest. Interest shall be computed at the rate  
15 in effect under section 421.7, under the rules prescribed by  
16 the director counting each fraction of a month as an entire  
17 month and the interest shall begin to accrue on the first day  
18 of the second calendar month following the date of payment or  
19 on the date the return was due to be filed or was filed,  
20 whichever is the latest. However, the director shall not  
21 allow a claim for refund or credit that has not been filed  
22 with the department within three years after the tax payment  
23 upon which a refund or credit is claimed became due, or one  
24 year after the tax payment was made, whichever time is later.  
25 A determination by the department of the amount of tax,  
26 penalty, and interest due, or the amount of refund for excess  
27 tax paid, is final unless the person aggrieved by the  
28 determination appeals to the director for a revision of the  
29 determination within sixty days from the postmark date of the  
30 notice of determination of tax, penalty, and interest due or  
31 refund owing or unless the taxpayer contests the determination  
32 by paying the tax, interest, and penalty and timely filing a  
33 claim for refund. The director shall grant a hearing, and  
34 upon the hearing the director shall determine the correct tax,  
35 penalty, and interest or refund due, and notify the appellant

1 of the decision by mail. The decision of the director is  
2 final unless the appellant seeks judicial review of the  
3 director's decision under section 450.59 within sixty days  
4 after the postmark date of the notice of the director's  
5 decision.

6 Sec. 42. Section 451.12, Code 1997, is amended to read as  
7 follows:

8 451.12 APPLICABLE STATUTES -- PENALTIES.

9 All the provisions of chapter 450 with respect to the lien  
10 provisions of section 450.7, and the determination,  
11 imposition, payment, and collection of the tax imposed under  
12 that chapter, including penalty and interest upon delinquent  
13 taxes and the confidentiality of the tax return, are  
14 applicable to this chapter, except as they are in conflict  
15 with this chapter. The exceptions to the lien provisions  
16 found in section 450.7 do not apply to this chapter. The  
17 penalty provisions set out in section 450.53 shall apply to a  
18 person in possession of assets to be reported for purposes of  
19 taxation who willfully makes a false or fraudulent return or  
20 willfully fails to pay the tax, supply the information, make,  
21 sign, or file the required return within the time required by  
22 law or a person who willfully attempts in any manner to evade  
23 taxes imposed by this chapter or avoid payment of the tax.  
24 The director of revenue and finance shall adopt rules  
25 necessary for the enforcement of this chapter.

26 Sec. 43. Section 452A.2, subsection 11, Code 1997, is  
27 amended to read as follows:

28 11. "Exporter" means a person or other entity who acquires  
29 fuel in this state exclusively for export to another state.

30 Sec. 44. Section 452A.2, subsection 17, paragraph a, Code  
31 1997, is amended to read as follows:

32 a. All products commonly or commercially known or sold as  
33 gasoline, (including casinghead and absorption or natural  
34 gasoline), regardless of their classifications or uses, and  
35 including transmix which serves as a buffer between fuel

1 products in the pipeline distribution process.

2 Sec. 45. Section 452A.8, subsection 1, unnumbered  
3 paragraph 1, Code 1997, is amended to read as follows:

4 For the purpose of determining the amount of the  
5 supplier's, restrictive supplier's, or importer's tax  
6 liability, a supplier or restrictive supplier shall file a  
7 return, not later than the last day of the month following the  
8 month in which this division becomes effective and not later  
9 than the last day of each calendar month thereafter, and an  
10 importer shall file a report return semi-monthly with the  
11 department, signed under penalty for false certification. For  
12 an importer for the reporting period from the first day of the  
13 month through the fifteenth of the month, the report return is  
14 due on the last day of the month. For an importer for the  
15 reporting period from the sixteenth of the month through the  
16 last day of the month, the report return is due on the  
17 fifteenth day of the following month. The reports returns  
18 shall include the following:

19 Sec. 46. Section 452A.8, subsection 2, unnumbered  
20 paragraph 1, Code 1997, is amended to read as follows:

21 At the time of filing a report return, a supplier or  
22 restrictive supplier shall pay to the department the full  
23 amount of the fuel tax due for the preceding calendar month.  
24 An importer shall pay to the department the full amount of  
25 fuel tax due for the preceding semimonthly period. The tax  
26 shall be computed as follows:

27 Sec. 47. Section 452A.8, subsection 2, paragraph d, Code  
28 1997, is amended to read as follows:

29 d. The director may require by rule that reports returns  
30 be filed by electronic transmission.

31 Sec. 48. Section 452A.8, subsection 3, Code 1997, is  
32 amended to read as follows:

33 3. For the purpose of determining the amount of the tax  
34 liability on alcohol blended to produce ethanol blended  
35 gasoline, each licensed blender shall, not later than the last

1 day of each month following the month in which the blending is  
2 done, file with the department a monthly report return, signed  
3 under penalty for false certificate, containing information  
4 required by rules adopted by the director.

5 Sec. 49. Section 452A.9, Code 1997, is amended to read as  
6 follows:

7 452A.9 REPORT RETURN FROM PERSONS NOT LICENSED AS  
8 SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

9 Every person other than a licensed supplier, restrictive  
10 supplier, or importer, who purchases, brings into this state,  
11 or otherwise acquires within this state motor fuel or undyed  
12 special fuel, not otherwise exempted, which the person has  
13 knowingly not paid or incurred liability to pay either to a  
14 licensee or to a dealer the motor fuel or special fuel tax,  
15 shall be subject to the provisions of this division that apply  
16 to suppliers, restrictive suppliers, and importers of motor  
17 fuel or undyed special fuel and shall make file the same  
18 reports returns and make the same tax payments and be subject  
19 to the same penalties for delinquent reporting-or-nonreporting  
20 filing or nonfiling or delinquent payment or nonpayment as  
21 apply to suppliers, restrictive suppliers, and importers.

22 Sec. 50. Section 452A.15, subsection 3, Code 1997, is  
23 amended to read as follows:

24 3. The reports required in this section shall be for  
25 information purposes only and the department may in its  
26 discretion waive the filing of any of these reports not  
27 necessary for proper administration of this division. The  
28 reports required in this section shall be certified under  
29 penalty for false certificate and filed with the department  
30 within the time allowed for filing of suppliers' and  
31 restrictive suppliers' reports returns of motor fuel or  
32 special fuel withdrawn from a terminal within this state or  
33 imported into this state.

34 Sec. 51. Section 452A.17, subsection 1, paragraph a,  
35 subparagraph (4), Code Supplement 1997, is amended to read as

1 follows:

2 (4) Fuel used in unlicensed vehicles, stationary engines,  
3 ~~and~~ implements used in agricultural production, and machinery  
4 and equipment used for nonhighway purposes.

5 Sec. 52. Section 452A.17, subsection 1, paragraph b,  
6 subparagraphs (4) and (5), Code Supplement 1997, are amended  
7 to read as follows:

8 (4) The claim shall state the gallonage of motor fuel ~~or~~  
9 ~~undyed-special-fuel~~ that was used or will be used by the  
10 claimant other than in aircraft, watercraft, or to propel  
11 motor vehicles and the gallonage of undyed special fuel that  
12 was or will be used by the claimant other than in aircraft or  
13 to propel motor vehicles, the manner in which the motor fuel  
14 or undyed special fuel was used or will be used, and the  
15 equipment in which it was used or will be used.

16 (5) The claim shall state whether the claimant used fuel  
17 for aircraft, watercraft, or to propel motor vehicles from the  
18 same tanks or receptacles in which the claimant kept the motor  
19 fuel ~~or-undyed-special-fuel~~ on which the refund is claimed or  
20 whether the claimant used fuel for aircraft or to propel motor  
21 vehicles from the same tanks or receptacles in which the  
22 claimant kept the undyed special fuel on which the refund is  
23 claimed.

24 Sec. 53. Section 452A.17, subsection 2, Code Supplement  
25 1997, is amended to read as follows:

26 2. In lieu of the refund provided in this section, a  
27 person may receive an income tax credit as provided in chapter  
28 422, division IX, but only as to motor fuel ~~or-undyed-special~~  
29 ~~fuel~~ not used in motor vehicles, aircraft, or watercraft or as  
30 to undyed special fuel not used in motor vehicles or aircraft.

31 Sec. 54. Section 452A.17, subsection 3, paragraph b, Code  
32 Supplement 1997, is amended to read as follows:

33 b. A refund shall not be paid with respect to any motor  
34 fuel ~~or-undyed-special-fuel~~ taken out of this state in supply  
35 tanks of watercraft, aircraft, or motor vehicles or with

1 respect to any undyed special fuel taken out of this state in  
2 supply tanks of aircraft or motor vehicles.

3 Sec. 55. Section 452A.17, subsection 3, paragraph c, Code  
4 Supplement 1997, is amended by striking the paragraph.

5 Sec. 56. Section 452A.21, unnumbered paragraph 1, Code  
6 1997, is amended to read as follows:

7 Persons not licensed under this division who blend motor  
8 fuel and alcohol to produce ethanol blended gasoline may file  
9 for a refund for the difference between taxes paid on the  
10 motor fuel purchased to produce ethanol blended gasoline and  
11 the tax due on the ethanol blended gasoline blended. If,  
12 during any month, a person licensed under this division uses  
13 tax paid motor fuel to blend ethanol blended gasoline and the  
14 refund otherwise due under this section is greater than the  
15 licensee's total tax liability for that month, the licensee is  
16 entitled to a credit. The claim for credit shall be filed as  
17 part of the report return required by section 452A.8.

18 Sec. 57. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT  
19 FUEL.

20 If an amount of tax represented by a licensee to a  
21 purchaser as constituting tax due is computed upon gallonage  
22 that is not taxable or the amount represented is in excess of  
23 the actual amount of tax due and the amount represented is  
24 actually paid by the purchaser to the licensee, the excess  
25 amount of tax paid shall be returned to the purchaser by the  
26 licensee. If the licensee fails to return the excess tax paid  
27 to the purchaser, the amount which the purchaser has paid to  
28 the licensee shall be remitted by the licensee to the  
29 department.

30 Sec. 58. Section 452A.60, unnumbered paragraph 1, Code  
31 1997, is amended to read as follows:

32 The department of revenue and finance or the state  
33 department of transportation shall prescribe and furnish all  
34 forms, as applicable, upon which reports, returns, and  
35 applications shall be made and claims for refund presented

1 under this chapter and may prescribe forms of record to be  
2 kept by suppliers, restrictive suppliers, importers,  
3 exporters, blenders, common carriers, contract carriers,  
4 licensed compressed natural gas and liquefied petroleum gas  
5 dealers and users, terminal operators, and interstate  
6 commercial motor vehicle operators.

7 Sec. 59. Section 452A.61, Code 1997, is amended to read as  
8 follows:

9 452A.61 TIMELY FILING OF REPORTS AND RETURNS -- EXTENSION.

10 The reports, returns, and remittances required under this  
11 chapter shall be deemed filed within the required time if  
12 postpaid, properly addressed and postmarked on or before  
13 midnight of the day on which due and payable. If the final  
14 filing date falls on a Saturday, Sunday or legal holiday the  
15 next secular or business day shall be the final filing date.

16 The department of revenue and finance or the state  
17 department of transportation upon application may grant a  
18 reasonable extension of time for the filing of any required  
19 report, return, or tax payment, ~~or both~~.

20 Sec. 60. Section 452A.63, Code 1997, is amended to read as  
21 follows:

22 452A.63 INFORMATION CONFIDENTIAL.

23 All information obtained by the department of revenue and  
24 finance or the state department of transportation from the  
25 examining of reports, returns, or records required to be filed  
26 or kept under this chapter shall be treated as confidential  
27 and shall not be divulged except to other state officers, a  
28 member or members of the general assembly, or any duly  
29 appointed committee of either or both houses of the general  
30 assembly, or to a representative of the state having some  
31 responsibility in connection with the collection of the taxes  
32 imposed or in proceedings brought under ~~the provisions of this~~  
33 chapter. The appropriate state agency may make available to  
34 the public on or before forty-five days following the last day  
35 of the month in which the tax is required to be paid, the

1 names of suppliers, restrictive suppliers, and importers and  
2 as to each of them the total gallons of motor fuel, undyed  
3 special fuel, and ethanol-blended gasoline withdrawn from  
4 terminals or imported into the state during that month. The  
5 department of revenue and finance or the state department of  
6 transportation, upon request of officials entrusted with  
7 enforcement of the motor vehicle fuel tax laws of the federal  
8 government or any other state, may forward to such these  
9 officials any pertinent information which the appropriate  
10 state agency may have relative to motor fuel and special fuel  
11 provided the officials of the other state furnish like  
12 information.

13 Any person violating ~~the-provisions-of~~ this section, and  
14 disclosing the contents of any records, returns, or reports  
15 required to be kept or made under ~~the-provisions-of~~ this  
16 chapter, except as otherwise provided, shall be guilty of a  
17 simple misdemeanor.

18 Sec. 61. Section 452A.67, Code 1997, is amended to read as  
19 follows:

20 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

21 The department shall examine the return and enforce  
22 collection of any amount of tax, penalty, fine, or interest  
23 over and above the amount shown to be due by ~~reports~~ the  
24 return filed by a licensee as soon as practicable but no later  
25 than three years after the return is filed. An assessment  
26 shall not be made covering a period beyond three years after  
27 the return is filed except that the period for the examination  
28 and determination of the correct amount of tax is unlimited in  
29 the case of a false or fraudulent return made with the intent  
30 to evade tax or in the case of a failure to file a return.

31 Sec. 62. Section 452A.68, unnumbered paragraph 1, Code  
32 1997, is amended to read as follows:

33 If a licensee files a false ~~report~~ return of the data or  
34 information required by this chapter, or fails, refuses, or  
35 neglects to file a ~~report~~ return required by this chapter, or

1 to pay the full amount of fuel tax as required by this  
2 chapter, or is substantially delinquent in paying a tax due,  
3 owing, and administered by the department of revenue and  
4 finance, and interest and penalty if appropriate, or if the  
5 person is a corporation and if any officer having a  
6 substantial legal or equitable interest in the ownership of  
7 the corporation owes any delinquent tax of the licensee  
8 corporation, or interest or penalty on the tax, administered  
9 by the department, then after ten days' written notice by mail  
10 directed to the last known address of the licensee setting a  
11 time and place at which the licensee may appear and show cause  
12 why the license should not be canceled, and if the licensee  
13 fails to appear or if upon the hearing it is shown that the  
14 licensee failed to correctly report or pay the tax, the  
15 appropriate state agency may cancel the license and shall  
16 notify the licensee of the cancellation by mail to the  
17 licensee's last known address.

18 Sec. 63. Section 452A.74A, subsection 7, Code 1997, is  
19 amended to read as follows:

20 7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person,  
21 including an officer of a corporation or a manager of a  
22 limited liability company, who is required to make, render,  
23 sign, or verify any report or return required by this chapter  
24 and who makes a false or fraudulent report or return, or who  
25 fails to file a report or return with the intent to evade the  
26 tax, shall be guilty of a fraudulent practice. Any person who  
27 aids, abets, or assists another person in making any false or  
28 fraudulent report or return or false statement in any report  
29 or return with the intent to evade payment of tax shall be  
30 guilty of a fraudulent practice.

31 Sec. 64. Section 452A.86, Code 1997, is amended to read as  
32 follows:

33 452A.86 METHOD OF DETERMINING GALLONAGE.

34 The exclusive method of determining gallonage of any  
35 purchases or sales of motor fuel, undyed special fuel,

1 compressed natural gas, or liquefied petroleum gas as defined  
2 in this chapter and distillate fuels shall be on a gross  
3 volume basis. A temperature-adjusted or other method shall  
4 not be used, except as it applies to liquefied petroleum gas  
5 and the sale or exchange of petroleum products between  
6 petroleum refiners. All invoices, bills of lading, or other  
7 records of sale or purchase and all ~~reports~~ returns or records  
8 required to be made, kept, and maintained by a supplier,  
9 restrictive supplier, importer, exporter, blender, or  
10 compressed natural gas or liquefied petroleum gas dealer or  
11 user shall be made, kept, and maintained on the gross volume  
12 basis. For purposes of this section, "distillate fuels" means  
13 any fuel oil, gas oil, topped crude oil, or other petroleum  
14 oils derived by refining or processing crude oil or unfinished  
15 oils which have a boiling range at atmospheric pressure which  
16 falls completely or in part between five hundred fifty and  
17 twelve hundred degrees Fahrenheit.

18 Sec. 65. Section 453A.6, subsection 3, Code 1997, is  
19 amended to read as follows:

20 3. Payment of ~~such~~ the tax shall be evidenced by stamps  
21 purchased from the department by a distributor or manufacturer  
22 and securely affixed to each individual package of cigarettes  
23 in amounts equal to the tax ~~thereon~~ as imposed by this  
24 chapter, or by the impressing of an indicium upon individual  
25 packages of cigarettes, under regulations prescribed by the  
26 director.

27 Sec. 66. Section 453A.6, Code 1997, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 4. Any other person who purchases or is  
30 in possession of unstamped cigarettes shall pay the tax  
31 directly to the department.

32 NEW SUBSECTION. 5. The per cigarette amount of the tax  
33 shall be added to the selling price of every package of  
34 cigarettes sold in this state and shall be collected from the  
35 purchaser so that the ultimate consumer bears the burden of

1 the tax.

2 Sec. 67. Section 453A.8, subsection 1, Code 1997, is  
3 amended to read as follows:

4 1. Stamps shall be sold by and purchased from the  
5 department. The department shall sell stamps to the holder of  
6 a state distributor's or manufacturer's permit which has not  
7 been revoked and to no other person. Stamps shall be sold to  
8 the permit holders at a discount of two percent of the face  
9 value. Stamps shall be sold in ~~unbroken-books-of-one-thousand~~  
10 ~~stamps~~, unbroken rolls of thirty thousand stamps, or unbroken  
11 lots of any other ~~form~~ form authorized by the director.

12 Sec. 68. Section 453A.15, subsections 1, 3, 4, and 6, Code  
13 1997, are amended to read as follows:

14 1. The director may prescribe the forms necessary for the  
15 efficient administration of this division and may require  
16 uniform books and records to be used and kept by each permit  
17 holder or other person as deemed necessary. The director may  
18 also require each permit holder or other person to keep and  
19 retain in the director's possession evidence on prescribed  
20 forms of all transactions involving the purchase and sale of  
21 cigarettes or the purchase and use of stamps. The evidence  
22 shall be kept for a period of two years from the date of each  
23 transaction, for the inspection at all times by the  
24 department.

25 3. The director may by regulation require every holder of  
26 a manufacturer's or state permit or other person to make and  
27 deliver to the department on or before the tenth day of each  
28 month a report or reports for the preceding calendar month,  
29 upon a form or forms prescribed by the director, and may  
30 require that ~~such~~ the reports shall be properly sworn to and  
31 executed by the permit holder or the holder's duly authorized  
32 representative or other person.

33 4. Every permit holder or other person shall, when  
34 requested by the department, make ~~such~~ additional reports as  
35 the department deems necessary and proper and shall at the

1 request of the department furnish full and complete  
2 information pertaining to any transaction of the permit holder  
3 or other person involving the purchase or sale or use of  
4 cigarettes or purchase of cigarette stamps.

5 6. If any distributor, manufacturer, or other person fails  
6 or refuses to pay any tax, penalties, or cost of audit  
7 hereinafter provided, and it becomes necessary to bring suit  
8 or to intervene in any manner for the establishment or  
9 collection of said claims, in any judicial proceedings, any  
10 report filed in the office of the director by such the  
11 distributor, manufacturer, or other person, or the  
12 distributor's, manufacturer's, or other person's  
13 representative, or a copy thereof, certified to by the  
14 director, showing the number of cigarettes sold by such the  
15 distributor, or the distributor's representative, the  
16 manufacturer, or the other person, upon which such a tax,  
17 penalty, or cost of audit has not been paid, or any audit made  
18 by the department from the books or records of said the  
19 distributor, manufacturer, or other person when signed and  
20 sworn to by the agent of the department making the audit as  
21 being made from the records of said the distributor,  
22 manufacturer, or other person from or to whom such the  
23 distributor, manufacturer, or other person has bought,  
24 received, or delivered cigarettes, whether from a  
25 transportation company or otherwise, such report or audit  
26 shall be admissible in evidence in such proceedings and shall  
27 be prima facie evidence of the contents thereof; ~~provided,~~  
28 ~~however, that.~~ However, the incorrectness of said the report  
29 or audit may be shown.

30 Sec. 69. Section 453A.16, Code 1997, is amended to read as  
31 follows:

32 453A.16 MANUFACTURER'S PERMIT.

33 The department may, upon application of any manufacturer,  
34 issue without charge to such the manufacturer a manufacturer's  
35 permit. Such The application shall contain such information

1 as the director shall prescribe. The holder of such a  
2 manufacturer's permit ~~shall be~~ is authorized to purchase  
3 stamps from the department, and ~~to~~ must affix such stamps to  
4 individual packages of cigarettes outside of this state, prior  
5 to their shipment into the state unless the cigarettes are  
6 shipped to an Iowa permitted distributor or an Iowa permitted  
7 distributor's agent.

8 Sec. 70. Section 453A.28, Code 1997, is amended to read as  
9 follows:

10 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --  
11 PENALTY.

12 If after any audit, examination of records, or other  
13 investigation the department finds that any person has sold  
14 cigarettes without stamps affixed thereto or that any person  
15 responsible for paying the tax has not done so as required by  
16 this division, the department shall fix and determine the  
17 amount of tax due, and shall assess the tax against the  
18 person, together with a penalty as provided in section 421.27.  
19 The taxpayer shall pay interest on the tax or additional tax  
20 at the rate determined under section 421.7 counting each  
21 fraction of a month as an entire month, computed from the date  
22 the tax was due. If any person fails to furnish evidence  
23 satisfactory to the director showing purchases of sufficient  
24 stamps to stamp unstamped cigarettes purchased by the person,  
25 the presumption shall be that the cigarettes were sold without  
26 the proper stamps affixed thereto. Within two years after the  
27 return report is filed or within two years after the return  
28 report became due, whichever is later, the department shall  
29 examine the return report and determine the correct amount of  
30 tax. The period for examination and determination of the  
31 correct amount of tax is unlimited in the case of a false or  
32 fraudulent report made with the intent to evade tax, or in the  
33 case of a failure to file a report, or if a person purchases  
34 or is in possession of unstamped cigarettes.

35 Sec. 71. Section 453A.29, Code 1997, is amended to read as

1 follows:

2 453A.29 NOTICE AND APPEAL.

3 The department shall notify any person assessed pursuant to  
4 section 453A.28 by sending a written notice of the  
5 determination by mail to the principal place of business of  
6 the person as shown on the person's application for permit,  
7 and if an application was not filed by the person, to the  
8 person's last known address. A determination by the  
9 department of the amount of tax, penalty, and interest due, or  
10 the amount of refund for excess tax paid, is final, unless the  
11 person aggrieved by the determination appeals to the director  
12 for a revision of the determination within sixty days from the  
13 postmark date of the notice of determination of tax, penalty,  
14 and interest or refund owing or unless the taxpayer contests  
15 the determination by paying the tax, interest, and penalty and  
16 timely filing a claim for refund. The director shall grant a  
17 hearing and upon the hearing, the director shall determine the  
18 correct tax, penalty, and interest or refund due and notify  
19 the appellant of the decision by mail. Judicial review of  
20 action of the director may be sought in accordance with the  
21 Iowa administrative procedure Act and section 422.29.

22 Sec. 72. Section 453A.31, Code 1997, is amended by  
23 striking the section and inserting in lieu thereof the  
24 following:

25 453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

26 If a permit holder fails to keep any of the records  
27 required to be kept by the provisions of this division, or  
28 sells cigarettes upon which a tax is required to be paid by  
29 this division without at the time having a valid permit, or if  
30 a distributor, wholesaler, manufacturer, or distributing agent  
31 fails to make reports to the department as required, or makes  
32 a false or incomplete report to the department, or if a  
33 distributing agent stores unstamped cigarettes in the state or  
34 distributes or delivers unstamped cigarettes within this state  
35 without at the time of storage or delivery having a valid

1 permit, or if a person purchases or is in possession of  
2 unstamped cigarettes, or if a person affected by this division  
3 fails or refuses to abide by any of its provisions or the  
4 rules adopted under this division, the person is civilly  
5 liable to the state for a penalty as follows:

6 1. For possession of unstamped cigarettes:

7 a. A two hundred dollar penalty for the first violation if  
8 a person is in possession of more than forty but not more than  
9 four hundred unstamped cigarettes.

10 b. A five hundred dollar penalty for the first violation  
11 if a person is in possession of more than four hundred but not  
12 more than two thousand unstamped cigarettes.

13 c. A one thousand dollar penalty for the first violation  
14 if a person is in possession of more than two thousand  
15 unstamped cigarettes.

16 d. For a second violation within two years of the first  
17 violation, the penalty is four hundred dollars if a person is  
18 in possession of more than forty but not more than four  
19 hundred unstamped cigarettes; one thousand dollars if a person  
20 is in possession of more than four hundred but not more than  
21 two thousand unstamped cigarettes; and two thousand dollars if  
22 a person is in possession of more than two thousand unstamped  
23 cigarettes.

24 e. For a third or subsequent violation within two years of  
25 the first violation, the penalty is six hundred dollars if a  
26 person is in possession of more than forty but not more than  
27 four hundred unstamped cigarettes; one thousand five hundred  
28 dollars if a person is in possession of more than four hundred  
29 but not more than two thousand unstamped cigarettes; and three  
30 thousand dollars if a person is in possession of more than two  
31 thousand unstamped cigarettes.

32 2. For all other violations of this section:

33 a. A two hundred dollar penalty for the first violation.

34 b. A five hundred dollar penalty for a second violation  
35 within two years of the first violation.

1 c. A thousand dollar penalty for a third or subsequent  
2 violation within two years of the first violation.

3 The penalty imposed under this section shall be assessed  
4 and collected pursuant to section 453A.28 and is in addition  
5 to the tax, penalty, and interest imposed in that section.

6 Sec. 73. Section 453A.45, subsections 2, 3, and 4, Code  
7 1997, are amended to read as follows:

8 2. Every person who sells tobacco products to persons  
9 other than the ultimate consumer shall render with each sale  
10 itemized invoices showing the seller's name and address, the  
11 purchaser's name and address, the date of sale, and all prices  
12 and discounts. The person shall preserve legible copies of  
13 all such invoices for one-year two years from the date of  
14 sale.

15 3. Every retailer and subjobber shall procure itemized  
16 invoices of all tobacco products purchased. The invoices  
17 shall show the name and address of the seller and the date of  
18 purchase. The retailer and subjobber shall preserve a legible  
19 copy of each such invoice for one-year two years from the date  
20 of purchase. Invoices shall be available for inspection by  
21 the director or the director's authorized agents or employees  
22 at the retailer's or subjobber's place of business.

23 4. Records of all deliveries or shipments of tobacco  
24 products from any public warehouse of first destination in  
25 this state which is subject to the provisions of and licensed  
26 under chapter 554 shall be kept by the warehouse and be  
27 available to the director for inspection. They shall show the  
28 name and address of the consignee, the date, the quantity of  
29 tobacco products delivered, and such other information as the  
30 commissioner may require. These records shall be preserved  
31 for one-year two years from the date of delivery of the  
32 tobacco products.

33 Sec. 74. Section 453A.46, subsection 4, Code 1997, is  
34 amended to read as follows:

35 4. The department shall notify any person assessed

1 pursuant to this section by sending a written notice of the  
2 determination by mail to the principal place of business of  
3 the person as shown on the person's application for permit,  
4 and if an application was not filed by the person, to the  
5 person's last known address. A determination by the  
6 department of the amount of tax, penalty, and interest due, or  
7 the amount of refund for excess tax paid, is final, unless the  
8 person aggrieved by the determination appeals to the director  
9 for a revision of the determination within sixty days from the  
10 postmark date of the notice of determination of tax, penalty,  
11 and interest or refund owing or unless the taxpayer contests  
12 the determination by paying the tax, interest, and penalty and  
13 timely filing a claim for refund. The director shall grant a  
14 hearing and upon the hearing, the director shall determine the  
15 correct tax, penalty, and interest or refund due and notify  
16 the appellant of the decision by mail. Judicial review of  
17 action of the director may be sought in accordance with  
18 chapter 17A and section 422.29.

19 Sec. 75. Section 602.8102, subsection 59, Code Supplement  
20 1997, is amended by striking the subsection.

21 Sec. 76. Section 633.272, Code 1997, is amended to read as  
22 follows:

23 633.272 PARTIAL INTESTACY.

24 If part but not all of the estate of a decedent is validly  
25 disposed of by will, the part not disposed of by will shall be  
26 distributed as provided herein for intestate estates. If the  
27 testator left a surviving spouse, and the spouse does not  
28 elect to take against the will, the spouse shall receive, in  
29 addition to the property given to the spouse by the will, all  
30 ~~of-the-intestate-property-which-shall-be-subject-to-the~~  
31 ~~payment-of-its-proportionate-share-of-debts-and-charges~~  
32 ~~against-the-estate~~ the amount of intestate property set forth  
33 in section 633.211 or 633.212.

34 Sec. 77. Section 422.90, Code 1997, is repealed.

35 Sec. 78. Section 450.92, Code 1997, is repealed.



1 that taxpayers need to get permission to file a composite  
2 return and provides that limited liability companies may join  
3 the filing of a composite return.

4 Code section 422.16 is amended to provide, that at the  
5 discretion of the director, withholding agents need not send  
6 wage and tax statements with the annual report if the  
7 information is available from other sources such as the  
8 internal revenue service or other state or federal agencies.

9 Code sections 422.23 and 602.8102(59), are amended to  
10 strike the requirement that provides that personal  
11 representatives of an estate can apply to the district court  
12 to determine initially whether the estate is subject to Iowa  
13 income tax.

14 Code sections 422.25, 422.47(4), 424.10, 429.2(1),  
15 450.94(2), 450.94(3), 453A.29, and 453A.46(4) are amended to  
16 provide that the 30-or 60-day appeal period, as applicable,  
17 commences on the date of the notice. Presently, the appeal  
18 period commences on the postmark date of the notice.

19 Code section 422.25(3) is amended to provide that when a  
20 taxpayer has paid 90 percent of the final tax liability by the  
21 original due date and files the return sometime in the six-  
22 month extended period after the original due date, interest on  
23 an overpayment of tax on the return starts to accrue two  
24 months after the end of the six-month extended period.

25 Code section 422.33(1) is amended to remove the provision  
26 that imposes the Iowa corporate income tax upon a corporation  
27 whose legal domicile (place where the corporation was created)  
28 is in Iowa and instead provides it on all corporations doing  
29 business in Iowa.

30 Code sections 422.33(2) is amended to provide that an Iowa-  
31 based corporation whose only activity outside Iowa is the  
32 ownership of intangible assets that have acquired a business  
33 situs outside Iowa may apportion its income to determine the  
34 portion of its income which is subject to Iowa income tax.

35 Code sections 422.42(6), 422.42(18), and 422.45(46) are

1 amended to make the exemption from Iowa sales tax for services  
2 performed on tangible property delivered into interstate  
3 commerce the same as the exemption from Iowa sales tax on  
4 tangible personal property delivered to a point outside of  
5 Iowa.

6 Code section 422.45(7) is amended to provide that  
7 governmental units, nonprofit educational institutions, and  
8 nonprofit private museums have one year instead of six months  
9 from final payment to apply for a refund of sales or use tax  
10 paid by a contractor on materials used in the performance of a  
11 construction contract.

12 Code section 422.47, which relates to the use of sales tax  
13 exemption certificates, is amended to provide that an  
14 exemption certificate may be used to substantiate the sale of  
15 nontaxable items as well as sales made to persons holding a  
16 direct pay permit. Current law only provides for exemption  
17 certificates for materials purchased for resale or use in  
18 processing.

19 Code section 422.50 is amended to provide that retailers  
20 are required to keep records on the gross receipts from the  
21 sale of services as well as the sale of tangible personal  
22 property.

23 Code section 422.60(1) is amended to allow the department  
24 to impose the franchise tax on financial institutions doing  
25 business in this state as corporations rather than as  
26 financial institutions.

27 Code section 422.68(4) is amended to allow the department  
28 to use new technologies to preserve records as required by  
29 law.

30 Code section 422.72(1) is amended to make it unlawful to  
31 willfully inspect returns for any reason other than as  
32 authorized by the director of revenue and finance. The  
33 penalty is a serious misdemeanor.

34 Code section 422.90 is repealed. The section stated that  
35 the penalty imposed for underpayment of estimated tax is not

1 subject to waiver for reasonable cause.

2 Code section 422.110 is amended to provide that an income  
3 tax credit in lieu of a full tax refund is not available for  
4 credit relating to casualty loss, transport diversions,  
5 pumping credits, blending errors, idle time, power takeoffs,  
6 reefer units, and exports by eligible purchasers. However, a  
7 refund remains available if a refund permit is obtained from  
8 the department.

9 Code section 422.111 is amended to provide that a refund is  
10 only available for undyed special fuel since no tax is imposed  
11 on dyed special fuel.

12 Code section 422B.10(2) is amended to provide that if an  
13 overpayment has been made to a local jurisdiction for local  
14 option sales tax during the previous fiscal year, the November  
15 payment must reflect the adjustment.

16 Code section 422D.3 is amended to move a local income  
17 surtax fund from the state treasurer's office to the  
18 department of revenue and finance.

19 Code section 427.1(14) is amended to move the sign-up date  
20 from July 1 to April 15 for claiming a property tax exemption  
21 by war veterans organizations and religious, literary, and  
22 charitable societies. This would allow the taxpayer to appeal  
23 the assessment to the board of review prior to its adjournment  
24 if the claim is denied.

25 Code section 427.1(24) is amended to provide a February 1  
26 deadline for certifying eligibility for the wildlife habitat  
27 property tax exemption. Other property tax credit and  
28 exemptions provide specific certification deadlines.

29 Code sections 427.3 through 427.7 are to be transferred to  
30 Code chapter 426A by the Iowa Code editor so that all  
31 provisions pertaining to the military service property tax  
32 exemption appear in the same chapter.

33 Code section 428.1 is amended to provide that the listing  
34 contained in section 428.1, subsections 1 through 5, does not  
35 encompass all situations where a person is required to list

1 property for the assessor.

2 Code section 450.4(5) is amended to provide that the  
3 exemption from Iowa inheritance tax does not apply to  
4 installment payments received by a nonresident beneficiary  
5 under an annuity which was purchased under an employee pension  
6 or retirement plan, that are includable as net income under  
7 Code section 422.7, but exempt from Iowa income tax under Code  
8 section 422.8(2).

9 Code section 450.20 is amended to specify that the  
10 department must keep a separate record on any deferred estate  
11 where the tax is not paid within 15 months from the date of  
12 death.

13 Code section 450.22 is amended to provide that, in addition  
14 to the surviving spouse as already provided in this statute,  
15 when the estate does not have a federal estate tax obligation  
16 and all property of the estate is held in joint tenancy with  
17 the right of survivorship solely by the decedent and a lineal  
18 ascendant, child, stepchild, or lineal descendant, or any  
19 combination of these individuals, an Iowa inheritance tax  
20 return need not be filed.

21 Code section 450.37 is amended to allow the department of  
22 revenue and finance to adjust previously accepted, submitted,  
23 appraised, or agreed upon values of real property if the new  
24 values have been accepted for federal estate tax purposes.  
25 Also, the personal representative for the estate may claim a  
26 refund of tax if the personal representative for the estate  
27 files a claim for refund within six months of the final  
28 disposition of any real property valuation matter.

29 Code section 451.12 is amended to provide that a lien for  
30 Iowa estate tax could be made on those items listed as  
31 exemptions under Code section 450.7 for inheritance tax.

32 Code section 452A.2(11) and (17) are amended to provide  
33 that a person need not export fuel exclusively to be  
34 considered an exporter and that transmix is taxed as motor  
35 vehicle fuel. Transmix is a product that is used as a buffer

1 between fuel types being transported through a pipeline.

2 Code sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60,  
3 452A.61, 452A.63, 452A.67, 452A.68, 452A.74A, and 452A.86 are  
4 amended to provide consistency in the motor vehicle fuel tax  
5 by changing the word "report" to "return". When the motor  
6 vehicle fuel tax chapters were amended to change the point of  
7 taxation during the 1995 Session of the General Assembly,  
8 these sections were not amended.

9 Code section 452A.17(1) is amended to provide that a fuel  
10 tax refund is available for machinery and equipment used for  
11 nonhighway purposes.

12 Code section 452A.17 is also amended to provide that  
13 records need to be kept relating to fuel used in watercraft  
14 and further to provide that no refund will be issued for  
15 undyed special fuel taken out of the state in the fuel supply  
16 tank of a vehicle.

17 Code section 452A.22 is created to require a licensee who  
18 collects tax in error from a consumer to either return the tax  
19 to the consumer or remit it to the department.

20 Code section 453A.6(3) is amended to list distributors and  
21 manufacturers as those who must stamp cigarettes.

22 Code section 453A.6 is also amended by adding two new  
23 subsections. The first new subsection provides that any  
24 person who is in possession of unstamped cigarettes shall pay  
25 the tax directly to the department. The second new subsection  
26 provides that the tax shall be added to the selling price and  
27 collected from the purchasers so that the ultimate consumer  
28 bears the burden of the tax.

29 Code section 453A.8(1) is amended to provide that the  
30 department is no longer required to sell cigarette stamps in  
31 unbroken books of 1,000 stamps.

32 Code section 453A.15 is amended to provide that any person  
33 who is not licensed must keep records, file reports, and pay  
34 the cigarette tax in the same manner as permit holders.

35 Code section 453A.16 is amended to provide that

1 manufacturers of cigarettes may only ship unstamped cigarettes  
2 into the state to licensed distributors or licensed  
3 distributors' agents.

4 Code section 453A.28 is amended to provide that the two-  
5 year statute of limitations does not apply if a false or  
6 fraudulent report is made with the intent to evade tax, if a  
7 report is not filed, or if the person is in possession of  
8 unstamped cigarettes. In these instances, the statute of  
9 limitations is unlimited.

10 Code section 453A.31 deals with a civil penalty for failure  
11 to keep records, selling cigarettes without a valid permit,  
12 making a false or incomplete report, or failing to abide with  
13 rules of the department. The present penalty is \$50 for each  
14 offense, each violation is a separate offense, and the same  
15 violation is a separate offense for each day it continues.

16 The amendment to the Code section strikes the \$50-a-day  
17 penalty in lieu of a three-tiered civil penalty for the above  
18 offenses: \$200 for the first offense; \$500 for the second  
19 offense within two years; \$1,000 for the third offense within  
20 two years and for subsequent offenses.

21 A second three-tiered penalty for possession of unstamped  
22 cigarettes is provided. This penalty is based on the number  
23 of cigarettes in the person's possession.

24 Number of	1st Violation	2nd Violation	Third
25 Cigarettes	Within 2 Years	Within 2 Years	Violation
26 41-400	\$200	\$400	\$600
27 401-2,000	\$500	\$1,000	\$1,500
28 2,001 or			
29 more	\$1,000	\$2,000	\$3,000

30 These penalties are no longer subject to mandatory waiver  
31 for reasonable cause.

32 Code section 453A.45(2), (3), and (4) are amended to  
33 require persons who sell tobacco products to retain records  
34 for two years from the date of sale instead of the present  
35 one-year requirement.

1 Code section 633.272 is amended to provide that, under  
2 partial intestacy, a surviving spouse is entitled to receive  
3 the amount of intestate property as provided in Code section  
4 633.211 or 633.212.

5 The bill takes effect upon enactment and some provisions  
6 have different applicability date provisions than the  
7 effective date.

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## SENATE FILE 2360

-5241

1 Amend Senate File 2360 as follows:

2 1. Page 15, by inserting after line 16 the  
3 following:

4 "Sec. 201. Section 422B.10, subsection 4,  
5 unnumbered paragraph 1, Code Supplement 1997, is  
6 amended to read as follows:

7 ~~Twenty-five~~ Except as provided in subsection 4A,  
8 twenty-five percent of each county's account shall be  
9 remitted based on the sum of property tax dollars  
10 levied by the board of supervisors if the tax was  
11 imposed in the unincorporated areas and each city in  
12 the county where the tax was imposed during the three-  
13 year period beginning July 1, 1982, and ending June  
14 30, 1985, as follows:

15 Sec. 202. Section 422B.10, Code Supplement 1997,  
16 is amended by adding the following new subsection:

17 NEW SUBSECTION. 4A. For counties that first  
18 impose the tax on or after July 1, 1998 twenty-five  
19 percent of each county's account shall be remitted  
20 based on the sum of property tax dollars levied by the  
21 board of supervisors if the tax was imposed in the  
22 unincorporated areas and each city in the county where  
23 the tax was imposed during the three-year period  
24 beginning July 1, 1992, and ending June 30, 1995, as  
25 follows:

26 a. To the board of supervisors a pro rata share  
27 based upon the percentage of the total property tax  
28 dollars levied by the board of supervisors during the  
29 above three-year period.

30 b. To each city council where the tax was imposed  
31 a pro rata share based upon the percentage of property  
32 tax dollars levied by the city during the above three-  
33 year period of the above total property tax dollars  
34 levied by the board of supervisors and each city where  
35 the tax was imposed during the above three-year  
36 period."

37 2. Page 38, by inserting after line 10 the  
38 following:

39 "\_\_\_\_\_. Sections 201 and 202 of this Act, amending  
40 section 422B.10, take effect July 1, 1998."

By ROBERT E. DVORSKY  
O. GENE MADDOX

S-5241 FILED MARCH 12, 1998

W/D 4/14/98

P. 1217

## SENATE FILE 2360

S-5187

Amend Senate File 2360 as follows:

1. Page 15, by inserting after line 8 the following:
  - "Sec. 101. Section 422.121, Code Supplement 1997, as amended to read as follows:
    - 422.121 APPROPRIATION -- LIMITATION.
      - Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division. Notwithstanding section 422.120, for tax years beginning on or after January 1, 1997, the livestock production tax credit shall only be allowed for cow-calf operations. In calculating the tax credit for cow-calf operations for tax years beginning in the 1997 calendar year, bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year and stockers and feeders sold during the tax year are to be counted. In calculating the tax credit for cow-calf operations for tax years beginning on or after January 1, 1998, only those bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations on July 1 of the tax year are to be counted."
2. Page 38, by inserting after line 10 the following:
  - "\_\_\_\_\_. Section 101 of this Act, amending section 422.121, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1997, for tax years beginning on or after that date."
3. Title page, line 6, by inserting after the word "taxes" the following: "and the livestock production credit".

By O. GENE MADDOX

S-5187 FILED MARCH 11, 1998

*Adopted 4-14-98 (P.1216)*

SENATE FILE 2360

S-5172

- Amend Senate File 2360 as follows:
  1. By striking page 1 line 22, through page 2, line 15.
  2. By striking page 10, line 35, through page 11, line 5.
  3. Page 18, by striking lines 24 through 31.
  4. By striking page 18, line 32, through page 19, line 3.
  5. By numbering, renumbering and correcting internal references as necessary.

By O. GENE MADDOX

S-5172 FILED MARCH 10, 1998

*Adopted 4-14-98 (P.1216)*

## SENATE FILE 2360

S-5390

1 Amend Senate File 2360 as follows:

2 1. Page 3, by inserting after line 17 the  
3 following:

4 "Sec. 111. NEW SECTION. 422.12A INCOME TAX  
5 CHECKOFF FOR THE ARTS.

6 1. A person who files an individual or a joint  
7 income tax return with the department of revenue and  
8 finance under section 422.13 may designate one dollar  
9 or more to be paid to the Iowa state arts council as  
10 established in section 303.86. If the refund due on  
11 the return or the payment remitted with the return is  
12 insufficient to pay the amount designated by the  
13 taxpayer to the Iowa state arts council, the amount  
14 designated shall be reduced to the remaining amount of  
15 the refund or the remaining amount remitted with the  
16 return. The designation of a contribution to the Iowa  
17 state arts council under this section is irrevocable.

18 2. The director of revenue and finance shall draft  
19 the income tax form to allow the designation of  
20 contributions to the Iowa state arts council on the  
21 tax return. The department, on or before January 31,  
22 shall transfer the total amount designated on the tax  
23 form due in the preceding year to an arts fund created  
24 in the division of arts of the department of cultural  
25 affairs.

26 3. The division of arts may authorize payment from  
27 the arts fund for purposes of supporting division of  
28 arts activities.

29 4. The department shall adopt rules to implement  
30 this section. However, before a checkoff pursuant to  
31 this section shall be permitted, all liabilities on  
32 the books of the department of revenue and finance and  
33 accounts identified as owing under section 421.17 and  
34 the political contribution allowed under section 56.18  
35 shall be satisfied."

36 2. Page 38, by inserting after line 4 the  
37 following:

38 "\_\_\_\_. Section 111 of this Act, establishing  
39 section 422.12A, applies retroactively to January 1,  
40 1998, for tax years beginning on or after that date."

By MIKE CONNOLLY

S-5390 FILED MARCH 26, 1998

W/D  
4/14/98  
(p. 1216)

SENATE FILE 2360

S-5384

1 Amend Senate File 2360 as follows:  
2 1. Page 22, by striking lines 15 and 16 and  
3 inserting the following: "with this chapter. In  
4 addition, the tax imposed under this chapter is a lien  
5 on the share of the estate passing to the surviving  
6 spouse, and parents, grandparents, great-grandparents,  
7 and other lineal ascendants, children including  
8 legally adopted children and biological children  
9 entitled to inherit under the laws of this state,  
10 stepchildren, and grandchildren, great-grandchildren,  
11 and other lineal descendants. The".

By O. GENE MADDOX

S-5384 FILED MARCH 25, 1998

W/D 4-14-98 (P. 1217)

SENATE FILE 2360

S-5295

1 Amend Senate File 2360 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Section 1. Section 359.33, Code 1997, is amended  
5 to read as follows:  
6 359.33 TAX FOR NONOWNED CEMETERY.  
7 ~~They~~ The township trustees may levy a tax not-to  
8 ~~exceed six-and-three-fourths-cents-per-thousand~~  
9 ~~dollars-of-assessed-value-of-taxable-property to~~  
10 ~~improve and maintain any cemetery not owned by the~~  
11 ~~township, provided the same if the cemetery is devoted~~  
12 ~~to general public use."~~  
13 2. Title page, line 6, by inserting after the  
14 word "taxes;" the following: "providing a property  
15 tax levy for certain cemeteries;".

By ROBERT E. DVORSKY

S-5295 FILED MARCH 23, 1998

4/14/98  
Withdrawn  
(P. 1215)

Maddox  
Douglas  
Delubery

SSB 2082

Ways & Means

Succeeded By  
SENATE/HOUSE FILE SE/HF 2360  
BY (PROPOSED DEPARTMENT OF  
REVENUE AND FINANCE BILL)

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

**A BILL FOR**

1 An Act relating to the administration of the tax and related laws  
2 by the department of revenue and finance, including  
3 administration of state individual income, corporate income,  
4 franchise, sales, services, and use, motor fuel, cigarette and  
5 tobacco, local option, inheritance and estate, and property  
6 taxes; providing penalties; and including effective and  
7 retroactive applicability date provisions.

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

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1 Section 1. Section 421.1, unnumbered paragraph 8, Code  
2 1997, is amended to read as follows:

3 The state board shall ~~hold-at-least-six-regular-meetings~~  
4 ~~each-year,-the-first-of-which-shall-be-on-the-second-secular~~  
5 ~~day-of-July~~ meet as deemed necessary by the chairperson.

6 Special meetings of the state board may be called by the  
7 chairperson on five days' notice given to each member. All  
8 meetings shall be held at the office of the tax department  
9 unless a different place within the state is designated by the  
10 state board or in the notice of the meeting.

11 Sec. 2. Section 421.16, Code Supplement 1997, is amended  
12 to read as follows:

13 421.16 EXPENSES.

14 The director, ~~deputy-directors,~~ and department employees  
15 are entitled to receive from the state their actual necessary  
16 expenses while traveling on the business of the department.  
17 The expenditures shall be sworn to by the party who incurred  
18 the expense, and approved and allowed by the director.  
19 However, such expenses shall not be allowed residents of Polk  
20 county while in the city of Des Moines or traveling between  
21 their homes and the city of Des Moines.

22 Sec. 3. Section 421.17, subsection 29, paragraph g, Code  
23 Supplement 1997, is amended by adding the following new  
24 unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. The department of revenue and  
26 finance shall send the written notification required by this  
27 paragraph when the person's liability is payable to the clerk  
28 of district court. The judicial department shall prescribe  
29 procedures for contesting the amount of the person's liability  
30 to the clerk. Other applicable procedures shall be prescribed  
31 by the department of revenue and finance. The written  
32 notification shall state the clerk's assertion of rights to  
33 all or a portion of the payment, the clerk's entitlement to  
34 recover the liability through the setoff procedure, the basis  
35 of the assertions, the person's opportunity to request within

1 fifteen days of mailing of the notice that the department  
 2 divide a jointly or commonly owned right to payment between  
 3 owners, the person's opportunity to contest the liability to  
 4 the clerk by written application to the clerk, and the  
 5 person's opportunity to contest the department's setoff  
 6 procedure. If a person files written notice of intent to  
 7 contest an allegation with the clerk within fifteen days of  
 8 the mailing of the notice, the clerk shall hold the payment  
 9 until disposition of the allegation. Upon completion of the  
 10 setoff, the department shall file, at least monthly, with the  
 11 clerk of the district court a notice of satisfaction of each  
 12 obligation to the full extent of all moneys collected in  
 13 satisfaction of the obligation. The clerk shall record the  
 14 notice and enter a satisfaction for the amounts collected, and  
 15 no separate written notice is required.

16 Sec. 4. Section 421.18, Code 1997, is amended to read as  
 17 follows:

18 421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

19 It shall be the duty of all public officers and employees  
 20 of the state and ~~of all municipalities~~ local governments to  
 21 give to the director of revenue and finance information in  
 22 their possession relating to taxation when required by the  
 23 director, and to co-operate with and aid the director's  
 24 efforts to secure a fair, equitable, and just enforcement of  
 25 the taxation and revenue laws.

26 Sec. 5. Section 421.40, unnumbered paragraph 3, Code 1997,  
 27 is amended to read as follows:

28 The departments, the general assembly, and the courts shall  
 29 pay their claims in a timely manner. If a claim for services,  
 30 supplies, materials, or a contract which is payable from the  
 31 state treasury remains unpaid after sixty days following the  
 32 receipt of the claim or the satisfactory delivery, furnishing,  
 33 or performance of the services, supplies, materials, or  
 34 contract, whichever date is later, the state shall pay  
 35 interest at the rate of one percent per month on the unpaid

1 amount of the claim. This paragraph does not apply to claims  
2 against the state under chapters 25 and 669 or to claims paid  
3 by federal funds. The interest shall be charged to the  
4 appropriation or fund to which the claim is certified.  
5 Departments may enter into contracts for goods or services on  
6 payment terms of less than sixty days, and pay interest on the  
7 unpaid amount of any claim, if the state may obtain a  
8 financial benefit or incentive which would not otherwise be  
9 available from the vendor. The department, in consultation  
10 with the department of general services and other affected  
11 agencies, shall develop policies to promote consistency and  
12 fiscal responsibility with respect to payment terms authorized  
13 under this paragraph. The director of the department of  
14 revenue and finance shall adopt rules under chapter 17A  
15 relating to the administration of this paragraph.

16 Sec. 6. Section 422.5, subsections 3 and 11, Code  
17 Supplement 1997, are amended by striking the subsections.

18 Sec. 7. Section 422.13, subsection 5, Code 1997, is  
19 amended to read as follows:

20 5. Notwithstanding subsections 1 through 4 and sections  
21 422.15 and 422.36, a partnership, a limited liability company  
22 whose members are taxed on the company's income under  
23 provisions of the Internal Revenue Code, trust, or corporation  
24 whose stockholders are taxed on the corporation's income under  
25 the provisions of the Internal Revenue Code ~~is entitled to~~  
26 ~~request permission from the director~~ may, not later than the  
27 due date for filing its return for the taxable year, including  
28 any extension thereof, elect to file a composite return for  
29 the nonresident partners, members, beneficiaries, or  
30 shareholders. The director may ~~grant permission to file or~~  
31 require that a composite return be filed under the conditions  
32 deemed appropriate by the director. A partnership, limited  
33 liability company, trust, or corporation filing a composite  
34 return is liable for tax required to be shown due on the  
35 return. All powers of the director and requirements of the

1 director apply to returns filed under this subsection  
2 including, but not limited to, the provisions of this division  
3 and division VI of this chapter.

4 Sec. 8. Section 422.16, subsection 2, unnumbered paragraph  
5 2, Code 1997, is amended to read as follows:

6 Every withholding agent on or before the end of the second  
7 month following the close of the calendar year in which the  
8 withholding occurs shall make an annual reporting of taxes  
9 withheld and other information prescribed by the director and  
10 send to the department copies of wage and tax statements with  
11 the return. At the discretion of the director, the  
12 withholding agent shall not be required to send wage  
13 statements and tax statements with the annual reporting return  
14 form if the information is available from the Internal Revenue  
15 Service or other state or federal agencies.

16 Sec. 9. Section 422.23, unnumbered paragraph 2, Code 1997,  
17 is amended by striking the unnumbered paragraph.

18 Sec. 10. Section 422.25, subsection 1, paragraph b, Code  
19 1997, is amended to read as follows:

20 b. The period for examination and determination of the  
21 correct amount of tax is unlimited in the case of a false or  
22 fraudulent return made with the intent to evade tax or in the  
23 case of a failure to file a return. In lieu of the period of  
24 limitation for any prior year for which an overpayment of tax  
25 or an elimination or reduction of an underpayment of tax due  
26 for that prior year results from the carryback to that prior  
27 year of a net operating loss or net capital loss, the period  
28 is the period of limitation for the taxable year of the net  
29 operating loss or net capital loss which results in the  
30 carryback. If the tax found due is greater than the amount  
31 paid, the department shall compute the amount due, together  
32 with interest and penalties as provided in subsection 2, and  
33 shall mail a notice of assessment to the taxpayer and, if  
34 applicable, to the taxpayer's authorized representative of the  
35 total, which shall be computed as a sum certain if paid on or

1 before the last day of the month in which the notice is  
2 postmarked dated, or on or before the last day of the  
3 following month if the notice is postmarked dated after the  
4 twentieth day of any month. The notice shall also inform the  
5 taxpayer of the additional interest and penalty which will be  
6 added to the total due if not paid on or before the last day  
7 of the applicable month.

8 Sec. 11. Section 422.25, subsection 3, Code 1997, is  
9 amended to read as follows:

10 3. If the amount of the tax as determined by the  
11 department is less than the amount paid, the excess shall be  
12 refunded with interest, the interest to begin to accrue on the  
13 first day of the second calendar month following the date of  
14 payment or the date the return was due to be filed, or the  
15 extended due date by which the return was due to be filed if  
16 ninety percent of the tax was paid by the original due date,  
17 or was filed, whichever is the latest, at the rate in effect  
18 under section 421.7 counting each fraction of a month as an  
19 entire month under the rules prescribed by the director. If  
20 an overpayment of tax results from a net operating loss or net  
21 capital loss which is carried back to a prior year, the  
22 overpayment, for purposes of computing interest on refunds,  
23 shall be considered as having been made on the date a claim  
24 for refund or amended return carrying back the net operating  
25 loss or net capital loss is filed with the department or on  
26 the first day of the second calendar month following the date  
27 of the actual payment of the tax, whichever is later.  
28 However, when the net operating loss or net capital loss  
29 carryback to a prior year eliminates or reduces an  
30 underpayment of tax due for an earlier year, the full amount  
31 of the underpayment of tax shall bear interest at the rate in  
32 effect under section 421.7 for each month counting each  
33 fraction of a month as an entire month from the due date of  
34 the tax for the earlier year to the last day of the taxable  
35 year in which the net operating loss or net capital loss

1 occurred.

2 Sec. 12. Section 422.33, subsection 1, unnumbered  
3 paragraph 1, Code Supplement 1997, is amended to read as  
4 follows:

5 A tax is imposed annually upon each corporation organized  
6 ~~under the laws of this state, and upon each foreign~~  
7 corporation doing business in this state, or deriving income  
8 from sources within this state, in an amount computed by  
9 applying the following rates of taxation to the net income  
10 received by the corporation during the income year:

11 Sec. 13. Section 422.33, subsection 2, unnumbered  
12 paragraph 1, Code Supplement 1997, is amended to read as  
13 follows:

14 If the trade or business of the corporation is carried on  
15 entirely within the state, the tax shall be imposed on the  
16 entire net income, but if the trade or business is carried on  
17 partly within and partly without the state or if income is  
18 derived from sources partly within and partly without the  
19 state, or if income is derived from trade or business and  
20 sources, all of which are not entirely in the state, the tax  
21 shall be imposed only on the portion of the net income  
22 reasonably attributable to the trade or business or sources  
23 within the state, with the net income attributable to the  
24 state to be determined as follows:

25 Sec. 14. Section 422.42, subsection 6, Code Supplement  
26 1997, is amended to read as follows:

27 6. "Gross taxable services" means the total amount  
28 received in money, credits, property, or other consideration,  
29 valued in money, from services rendered, furnished, or  
30 performed in this state except where such service ~~is performed~~  
31 ~~on tangible personal property delivered into interstate~~  
32 ~~commerce or~~ is used in processing of tangible personal  
33 property for use in taxable retail sales or services and  
34 embraced within the provisions of this division. However, the  
35 taxpayer may take credit in the taxpayer's report of gross

1 taxable services for an amount equal to the value of services  
2 rendered, furnished, or performed when the full value of such  
3 the services thereof is refunded either in cash or by credit.  
4 Taxes paid on gross taxable services represented by accounts  
5 found to be worthless and actually charged off for income tax  
6 purposes may be credited upon a subsequent payment of the tax  
7 due hereunder, but if any such accounts are thereafter  
8 collected by the taxpayer, a tax shall be paid upon the  
9 amounts so collected.

10 Sec. 15. Section 422.42, subsection 18, unnumbered  
11 paragraph 1, Code Supplement 1997, is amended to read as  
12 follows:

13 "Services" means all acts or services rendered, furnished,  
14 or performed, other than services ~~performed-on-tangible~~  
15 ~~personal-property-delivered-into-interstate-commerce,~~ or  
16 services used in processing of tangible personal property for  
17 use in taxable retail sales or services, for an "employer" as  
18 defined in section 422.4, subsection 3, for a valuable  
19 consideration by any person engaged in any business or  
20 occupation specifically enumerated in this division. The tax  
21 shall be due and collectible when the service is rendered,  
22 furnished, or performed for the ultimate user thereof of the  
23 service.

24 Sec. 16. Section 422.44, unnumbered paragraph 2, Code  
25 1997, is amended by striking the unnumbered paragraph.

26 Sec. 17. Section 422.45, subsection 7, paragraph b,  
27 unnumbered paragraph 1, Code Supplement 1997, is amended to  
28 read as follows:

29 Such governmental unit, educational institution, or  
30 nonprofit private museum shall, not more than ~~six-months~~ one  
31 year after the final settlement has been made, make  
32 application to the department for any refund of the amount of  
33 such the sales or use tax which shall have been paid upon any  
34 goods, wares or merchandise, or services rendered, furnished,  
35 or performed, such the application to be made in the manner

1 and upon forms to be provided by the department, and the  
2 department shall forthwith audit such the claim and, if  
3 approved, issue a warrant to such the governmental unit,  
4 educational institution, or nonprofit private museum in the  
5 amount of such the sales or use tax which has been paid to the  
6 state of Iowa under such the contract.

7 Sec. 18. Section 422.45, subsection 46, Code Supplement  
8 1997, is amended to read as follows:

9 46. The gross receipts from the sale of property or of  
10 services performed on property which the seller retailer  
11 transfers to a carrier for shipment to a point outside of  
12 Iowa, places in the United States mail or parcel post directed  
13 to a point outside of Iowa, or transports to a point outside  
14 of Iowa by means of the seller's retailer's own vehicles, and  
15 which is not thereafter returned to a point within Iowa,  
16 except solely in the course of interstate commerce or  
17 transportation. This exemption shall not apply if the  
18 purchaser, consumer, or their agent, other than a carrier,  
19 takes physical possession of the property in Iowa.

20 Sec. 19. Section 422.47, subsection 3, paragraphs a and b,  
21 Code Supplement 1997, are amended to read as follows:

22 a. The department shall issue or the seller may separately  
23 provide exemption certificates in the form prescribed by the  
24 director to assist retailers in properly accounting for  
25 nontaxable sales of tangible personal property or services to  
26 purchasers for ~~purposes-of-resale-or-for-processing, except~~  
27 fuel-consumed-in-processing a nontaxable purpose. The  
28 department shall also allow the use of exemption certificates  
29 for those circumstances in which a sale is taxable but the  
30 seller is not obligated to collect tax from the buyer.

31 b. The sales tax liability for all sales of tangible  
32 personal property and all sales of services is upon the seller  
33 and the purchaser unless the seller takes in good faith from  
34 the purchaser a valid exemption certificate stating under  
35 penalties for perjury that the purchase is for ~~resale-or-for~~

1 processing a nontaxable purpose and is not a retail sale as  
2 defined in section 422.42, subsection 14, or the seller is not  
3 obligated to collect tax due, or unless the seller takes a  
4 fuel exemption certificate pursuant to subsection 4. If the  
5 tangible personal property or services are purchased tax free  
6 pursuant to a valid exemption certificate which is taken in  
7 good faith by the seller, and the tangible personal property  
8 or services are used or disposed of by the purchaser in a  
9 nonexempt manner, the purchaser is solely liable for the taxes  
10 and shall remit the taxes directly to the department and  
11 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
12 422.57, 422.58, and 422.59 shall apply to the purchaser.

13 Sec. 20. Section 422.47, subsection 3, paragraph e, Code  
14 Supplement 1997, is amended to read as follows:

15 e. If the circumstances change and as a result the  
16 tangible personal property or services are used or disposed of  
17 by the purchaser in a nonexempt manner or the purchaser  
18 becomes obligated to pay the tax, the purchaser is liable  
19 solely for the taxes and shall remit the taxes directly to the  
20 department in accordance with this subsection.

21 Sec. 21. Section 422.47, subsection 4, paragraph c, Code  
22 Supplement 1997, is amended to read as follows:

23 c. The purchaser may apply to the department for its  
24 review of the fuel exemption certificate. In this event, the  
25 department shall review the fuel exemption certificate within  
26 twelve months from the date of application and determine the  
27 correct amount of the exemption. If the amount determined by  
28 the department is different than the amount that the purchaser  
29 claims is exempt, the department shall promptly notify the  
30 purchaser of the determination. Failure of the department to  
31 make a determination within twelve months from the date of  
32 application shall constitute a determination that the fuel  
33 exemption certificate is correct as submitted. A  
34 determination of exemption by the department is final unless  
35 the purchaser appeals to the director for a revision of the

1 determination within ~~thirty~~ sixty days after the ~~postmark~~ date  
 2 of the notice of determination. The director shall grant a  
 3 hearing, and upon the hearing the director shall determine the  
 4 correct exemption and notify the purchaser of the decision by  
 5 mail. The decision of the director is final unless the  
 6 purchaser seeks judicial review of the director's decision  
 7 under section 422.55 within ~~thirty~~ sixty days after the  
 8 ~~postmark~~ date of the notice of the director's decision.  
 9 Unless there is a substantial change, the department shall not  
 10 impose penalties pursuant to section 422.58, both  
 11 retroactively to purchases made after the date of application  
 12 and prospectively until the department gives notice to the  
 13 purchaser that a tax or additional tax is due, for failure to  
 14 remit any tax due which is in excess of a determination made  
 15 under this section. A determination made by the department  
 16 pursuant to this subsection does not constitute an audit for  
 17 purposes of section 422.54.

18 Sec. 22. Section 422.50, Code 1997, is amended to read as  
 19 follows:

20 422.50 RECORDS REQUIRED.

21 It shall be the duty of every retailer required to make a  
 22 report return and pay any tax under this division, to preserve  
 23 those records of the gross ~~proceeds-of~~ receipts from sales or  
 24 services as the director may require and it shall be the duty  
 25 of every retailer to preserve for a period of five years all  
 26 invoices and other records of goods, wares, merchandise, or  
 27 ~~services purchased-for-resale~~; and all these books, invoices,  
 28 and other records shall be open to examination at any time by  
 29 the department, and shall be made available within this state  
 30 for examination upon reasonable notice when the director  
 31 orders.

32 Sec. 23. Section 422.52, subsection 3, unnumbered  
 33 paragraph 2, Code 1997, is amended by striking the unnumbered  
 34 paragraph.

35 Sec. 24. Section 422.60, subsection 1, Code 1997, is

1 amended to read as follows:

2 1. A franchise tax according to and measured by net income  
3 is imposed on financial institutions for the privilege of  
4 doing business in this state as ~~financial-institutions~~  
5 corporations.

6 Sec. 25. Section 422.68, subsection 4, Code 1997, is  
7 amended to read as follows:

8 4. The department may make photostat, microfilm, or other  
9 photographic copies of records, reports, and other papers  
10 either filed by the taxpayer or prepared by the department.  
11 In addition, the department may create and use any system of  
12 recordkeeping reasonably calculated to preserve its records  
13 for any time period required by law. When such photostat, or  
14 microfilm, or other copies have been made, the department may  
15 destroy such the original records which are the basis for the  
16 copies in such any manner as prescribed by the director. Such  
17 photostat-or Photostat, microfilm, or other types of copies,  
18 when no longer of use, may be destroyed as provided in  
19 subsection 3. ~~Such-photostat~~ Photostat, microfilm, or other  
20 photographic records shall be admissible in evidence when duly  
21 certified and authenticated by the officer having custody and  
22 control thereof of them.

23 Sec. 26. Section 422.72, subsection 1, unnumbered  
24 paragraph 1, Code Supplement 1997, is amended to read as  
25 follows:

26 It is unlawful for the director, or any person having an  
27 administrative duty under this chapter, or any present or  
28 former officer or other employee of the state authorized by  
29 the director to examine returns, to divulge in any manner  
30 whatever, the business affairs, operations, or information  
31 obtained by an investigation under this chapter of records and  
32 equipment of any person visited or examined in the discharge  
33 of official duty, or the amount or source of income, profits,  
34 losses, expenditures or any particular thereof, set forth or  
35 disclosed in any return, or to permit any return or copy of a

1 return or any book containing any abstract or particulars  
 2 thereof to be seen or examined by any person except as  
 3 provided by law. It is unlawful for any person to willfully  
 4 inspect, except as authorized by the director, any return or  
 5 return information. However, the director may authorize  
 6 examination of such state returns and other state information  
 7 which is confidential under this section, if a reciprocal  
 8 arrangement exists, by tax officers of another state or the  
 9 federal government. The director may, by rules adopted  
 10 pursuant to chapter 17A, authorize examination of state  
 11 information and returns by other officers or employees of this  
 12 state to the extent required by their official duties and  
 13 responsibilities. Disclosure of state information to tax  
 14 officers of another state is limited to disclosures which have  
 15 a tax administrative purpose and only to officers of those  
 16 states which by agreement with this state limit the disclosure  
 17 of the information as strictly as the laws of this state  
 18 protecting the confidentiality of returns and information.  
 19 The director shall place upon the state tax form a notice to  
 20 the taxpayer that state tax information may be disclosed to  
 21 tax officials of another state or of the United States for tax  
 22 administrative purposes.

23 Sec. 27. Section 422.110, Code 1997, is amended to read as  
 24 follows:

25 422.110 INCOME TAX CREDIT IN LIEU OF REFUND.  
 26 In lieu of the fuel tax refund provided in sections section  
 27 452A.17 to-452A-19, a person or corporation subject to  
 28 taxation under divisions II or III of this chapter except  
 29 persons-or-corporations-licensed-under-section-452A-47 may  
 30 elect to receive an income tax credit for-tax-years-beginning  
 31 on-or-after-January-17-1975. The person or corporation which  
 32 elects to receive an income tax credit shall cancel its refund  
 33 permit obtained under section 452A.18 within thirty days after  
 34 the first day of its tax year or the permit becomes invalid at  
 35 that time. For the purposes of this section, "person"

1 includes a person claiming a tax credit based upon the  
2 person's pro rata share of the earnings from a partnership,  
3 limited liability company, or corporation which is not subject  
4 to a tax under division II or III of this chapter as a  
5 partnership, limited liability company, or corporation. If  
6 the election to receive an income tax credit has been made, it  
7 remains effective for at least one tax year, and for  
8 subsequent tax years unless a change is requested and a new  
9 refund permit applied for within thirty days after the first  
10 day of the person's or corporation's tax year. The income tax  
11 credit shall be the amount of the Iowa fuel tax paid on fuel  
12 purchased by the person or corporation and used-as-follows: is  
13 subject to the conditions provided in section 452A.17 with the  
14 exception that the income tax credit is not available for  
15 refunds relating to casualty losses, transport diversions,  
16 pumping credits, blending errors, idle time, power takeoffs,  
17 reefer units, and exports by eligible purchasers.

18 ~~1.--Motor-fuel-as-defined-in-section-452A.2,-subsection-17,~~  
19 ~~used-for-the-purpose-of-operating-or-propelling-farm-tractors,~~  
20 ~~corn-shellers,-rotter-mills,-truck-mounted-feed-grinders,~~  
21 ~~stationary-engines,-for-producing-denatured-alcohol-within-the~~  
22 ~~state,-for-cleaning-or-dyeing,-or-for-any-purpose-other-than~~  
23 ~~in-watercraft-or-aircraft-or-in-motor-vehicles-operated-or~~  
24 ~~intended-to-be-operated-upon-the-public-highways.~~

25 ~~2.--Special-fuel,-as-defined-in-section-452A.2,-used-for~~  
26 ~~the-purpose-of-operation-of-corn-shellers,-rotter-mills,-and~~  
27 ~~feed-grinders-mounted-on-trucks.~~

28 ~~3.--Motor-fuel-placed-in-motor-vehicles-and-used,-other~~  
29 ~~than-on-public-highways,-in-the-extraction-and-processing-of~~  
30 ~~natural-deposits.~~

31 ~~4.--Motor-fuel-or-special-fuel-used-by-a-bona-fide~~  
32 ~~commercial-fisher,-licensed-and-operating-under-an-owner's~~  
33 ~~certificate-for-commercial-fishing-gear-issued-pursuant-to~~  
34 ~~section-482.4.~~

35 ~~However,-no-credit-shall-be-given-with-respect-to-motor~~

1 fuel-taken-out-of-the-state-in-fuel-supply-tanks-of-motor  
 2 vehicles, motor-fuel-used-in-aircraft-or-watercraft, or motor  
 3 fuel-used-in-the-performance-of-a-contract-which-is-paid-out  
 4 of-state-funds-unless-the-contract-for-the-work-contains-a  
 5 certificate-made-under-penalty-for-false-certificate-that-the  
 6 estimate, bid-or-price-to-be-paid-for-the-work-includes-no  
 7 amount-representing-motor-fuel-tax-subject-to-a-credit. The  
 8 right to a credit under this section is not assignable and the  
 9 credit may be claimed only by the person or corporation that  
 10 purchased the fuel.

11 Sec. 28. Section 422.111, unnumbered paragraph 1, Code  
 12 1997, is 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 department shall provide forms for claiming the fuel tax  
 17 credit. If the fuel tax credit would result in an overpayment  
 18 of income tax, the person or corporation may apply for a  
 19 refund of the amount of overpayment or may have the  
 20 overpayment credited to income tax due in subsequent years.  
 21 Each person or corporation that claims a fuel tax credit shall  
 22 maintain the original invoices showing the purchase of the  
 23 fuel on which a credit is claimed. ~~No~~ An invoice is not  
 24 acceptable in support of a claim for credit unless it the  
 25 invoice is a separate serially numbered invoice covering no  
 26 more than one purchase of motor fuel or undyed special fuel,  
 27 prepared by the seller on a form approved by the department,  
 28 ~~nor-unless-it~~ or unless the invoice is legibly written with no  
 29 corrections or erasures and shows the date of sale, the name  
 30 and address of the seller and of the purchaser, the kind of  
 31 fuel, the gallonage in figures, the per gallon price of the  
 32 fuel, the total purchase price including the Iowa fuel tax,  
 33 and that the total purchase price has been paid. However, as  
 34 to refund invoices made on a billing machine the department  
 35 may waive these requirements. If an original invoice is lost

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

7 Sec. 29. Section 422.111, unnumbered paragraph 3, Code  
8 1997, is amended by striking the unnumbered paragraph.

9 Sec. 30. Section 422B.10, subsection 2, paragraph c, Code  
10 Supplement 1997, is amended to read as follows:

11 c. The director of revenue and finance shall remit a final  
12 payment of the remainder of tax moneys due the city or county  
13 for the fiscal year before November 10 of the next fiscal  
14 year. If an overpayment has resulted during the previous  
15 fiscal year, the ~~first~~ November ~~payment of the new fiscal year~~  
16 shall be adjusted to reflect any overpayment.

17 Sec. 31. Section 422D.3, unnumbered paragraph 4, Code  
18 1997, is amended to read as follows:

19 The director, in consultation with local officials, shall  
20 collect and account for a local income surtax and any interest  
21 and penalties. The director shall credit local income surtax  
22 receipts and any interest and penalties collected from returns  
23 filed on or before November 1 of the calendar year following  
24 the tax year for which the local income surtax is imposed to a  
25 "local income surtax fund" established in the ~~office of the~~  
26 ~~treasurer of state~~ department of revenue and finance. All  
27 local income surtax receipts and any interest and penalties  
28 received or refunded from returns filed after November 1 of  
29 the calendar year following the tax year for which the local  
30 income surtax is imposed shall be deposited in or withdrawn  
31 from the state general fund and shall be considered part of  
32 the cost of administering the local income surtax.

33 Sec. 32. Section 424.10, subsections 2 and 3, Code 1997,  
34 are amended to read as follows:

35 2. If a return required by this chapter is not filed, or

1 if a return when filed is incorrect or insufficient and the  
 2 maker fails to file a corrected or sufficient return within  
 3 twenty days after the return is required by notice from the  
 4 department, the department shall determine the amount of  
 5 charge due from information as the department may be able to  
 6 obtain and, if necessary, may estimate the charge on the basis  
 7 of external indices or factors. The department shall give  
 8 notice of the determination to the person liable for the  
 9 charge. The determination shall fix the charge unless the  
 10 person against whom it is assessed shall, within sixty days  
 11 after the ~~giving-of~~ date of the notice of the determination,  
 12 apply to the director for a hearing or unless the taxpayer  
 13 contests the determination by paying the tax, interest, and  
 14 penalty and timely filing a claim for refund. At the hearing  
 15 evidence may be offered to support the determination or to  
 16 prove that it is incorrect. After the hearing the director  
 17 shall give notice of the decision to the person liable for the  
 18 charge.

19 If a depositor's, receiver's, or other person's challenge  
 20 relates to the diminution rate, the burden of proof upon the  
 21 challenger shall only be satisfied by clear and convincing  
 22 evidence.

23 3. If the amount paid is greater than the correct charge,  
 24 penalty, and interest due, the department shall refund the  
 25 excess, with interest after sixty days from the date of  
 26 payment at the rate in effect under section 421.7, pursuant to  
 27 rules prescribed by the director. However, the director shall  
 28 not allow a claim for refund that has not been filed with the  
 29 department within five years after the charge payment upon  
 30 which a refund is claimed became due, or one year after the  
 31 charge payment was made, whichever time is later. A  
 32 determination by the department of the amount of charge,  
 33 penalty, and interest due, or the amount of refund for any  
 34 excess amount paid, is final unless the person aggrieved by  
 35 the determination appeals to the director for a revision of

1 the determination within ~~thirty~~ sixty days from the postmark  
2 date of the notice of determination of charge, penalty, and  
3 interest due or refund owing. The director shall grant a  
4 hearing, and upon hearing the director shall determine the  
5 correct charge, penalty, and interest due or refund owing, and  
6 notify the appellant of the decision by mail. The decision of  
7 the director is final unless the appellant seeks judicial  
8 review of the director's decision under section 424.13.

9 Sec. 33. Section 427.1, subsection 14, unnumbered  
10 paragraph 1, Code Supplement 1997, is amended to read as  
11 follows:

12 A society or organization claiming an exemption under  
13 subsection 5 or subsection 8 ~~of this section~~ shall file with  
14 the assessor not later than ~~July 1~~ April 15 a statement upon  
15 forms to be prescribed by the director of revenue and finance,  
16 describing the nature of the property upon which the exemption  
17 is claimed and setting out in detail any uses and income from  
18 the property derived from the rentals, leases, or other uses  
19 of the property not solely for the appropriate objects of the  
20 society or organization. Upon the filing and allowance of the  
21 claim, the claim shall be allowed on the property for  
22 successive years without further filing as long as the  
23 property is used for the purposes specified in the original  
24 claim for exemption. When the property is sold or  
25 transferred, the county recorder shall provide notice of the  
26 transfer to the assessor. The notice shall describe the  
27 property transferred and the name of the person to whom title  
28 to the property is transferred.

29 Sec. 34. Section 427.1, subsection 24, Code Supplement  
30 1997, is amended to read as follows:

31 24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of  
32 agricultural land may designate not more than two acres of the  
33 land for use as a wildlife habitat. After inspection, if the  
34 land meets the standards established by the natural resource  
35 commission for a wildlife habitat under section 483A.3, the

1 department of natural resources shall certify the designated  
 2 land as a wildlife habitat and shall send a copy of the  
 3 certification to the appropriate assessor not later than  
 4 February 1 of the assessment year for which the exemption is  
 5 requested. The department of natural resources may  
 6 subsequently withdraw certification of the designated land if  
 7 it fails to meet the established standards for a wildlife  
 8 habitat and the assessor shall be given written notice of the  
 9 decertification.

10 Sec. 35. Section 428.1, unnumbered paragraph 1, Code 1997,  
 11 is amended to read as follows:

12 Every person shall list for the assessor all property  
 13 subject to taxation in the state, of which the person is the  
 14 owner, or has the control or management, ~~in the following~~  
 15 manner including but not limited to the following:

16 Sec. 36. Section 429.2, subsection 1, Code 1997, is  
 17 amended to read as follows:

18 1. Notwithstanding the provisions of chapter 17A, the  
 19 taxpayer shall have thirty days from the date of ~~postmark~~ of  
 20 the notice of assessment to appeal the assessment to the state  
 21 board of tax review. Thereafter, the proceedings before the  
 22 state board of tax review shall conform to the provisions of  
 23 subsection 2, section 421.1, subsection 4, and chapter 17A.

24 Sec. 37. Section 450.4, subsection 5, Code 1997, is  
 25 amended to read as follows:

26 5. On the value of that portion of installment payments  
 27 which will be includable as net income as defined in section  
 28 422.7 as received by a beneficiary under an annuity which was  
 29 purchased under an employees pension or retirement plan. This  
 30 exemption does not apply to those payments that are exempt  
 31 from Iowa income tax pursuant to section 422.8, subsection 2.

32 Sec. 38. Section 450.20, unnumbered paragraph 1, Code  
 33 1997, is amended to read as follows:

34 It The department of revenue and finance shall also keep a  
 35 separate record of any deferred estate upon which the tax due

1 is not paid within fifteen months from the death of the  
2 decedent, showing substantially the same facts as are required  
3 in other cases, and also showing:

4 Sec. 39. Section 450.22, Code 1997, is amended to read as  
5 follows:

6 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES  
7 REQUIRED.

8 When the heirs or persons entitled to inherit the property  
9 of an estate subject to tax under this chapter desire to avoid  
10 the appointment of a personal representative as provided in  
11 section 450.21, and in all instances where real estate is  
12 involved and there are no regular probate proceedings, they or  
13 one of them shall file under oath the inventories required by  
14 section 633.361 and the required reports, perform all the  
15 duties required by this chapter of the personal  
16 representative, and file the inheritance tax return. However,  
17 this section does not apply and a return is not required even  
18 though real estate is part of the assets subject to tax under  
19 this chapter, if all of the assets are held in joint tenancy  
20 with right of survivorship between husband and wife alone, or  
21 if the estate exclusively consists of property held in joint  
22 tenancy with the right of survivorship solely by the decedent  
23 and any individuals listed in section 450.9 as individuals  
24 that are entirely exempt from Iowa inheritance tax and the  
25 estate does not have a federal estate tax obligation. When  
26 this section applies, proceedings for the collection of the  
27 tax when a personal representative is not appointed, shall  
28 conform as nearly as possible to proceedings under this  
29 chapter in other cases.

30 Sec. 40. Section 450.37, Code 1997, is amended by adding  
31 the following new subsection:

32 NEW SUBSECTION. 3. In addition to the applicable period  
33 of limitation for examination and determination, the  
34 department shall make an examination to adjust the value of  
35 real property for Iowa inheritance tax purposes to the value

1 accepted by the internal revenue service for federal estate  
2 tax purposes. The department shall make an examination and  
3 adjustment for the value of the real property at any time  
4 within six months from the date of receipt by the department  
5 of written notice from the personal representative for the  
6 estate that all federal estate tax matters between the estate  
7 and the internal revenue service have been concluded. To  
8 begin the running of the six-month period, the notice shall be  
9 in writing in a form sufficient to inform the department of  
10 the final disposition of the federal estate tax obligation  
11 with the internal revenue service and a copy of the federal  
12 document showing the final disposition and final federal  
13 adjustments of all real property values must be attached. The  
14 department shall make an adjustment to the value of real  
15 property for inheritance tax purposes to the value accepted  
16 for federal estate tax purposes regardless of whether an  
17 inheritance clearance has been issued, an appraisal has been  
18 obtained on the real property indicating a contrary value,  
19 whether there has been an acceptance of another value for real  
20 property by the department, or whether an agreement has been  
21 entered into by the department and the personal representative  
22 for the estate and persons having an interest in the real  
23 property regarding the value of the real property.  
24 Notwithstanding the period of limitation specified in section  
25 450.94, subsection 3, the personal representative for the  
26 estate shall have six months from the day of final disposition  
27 of any real property valuation matter between the personal  
28 representative for the estate and the internal revenue service  
29 to claim a refund of an overpayment of tax due to the change  
30 in the valuation of real property by the internal revenue  
31 service.

32 Sec. 41. Section 450.94, subsections 2 and 3, Code 1997,  
33 are amended to read as follows:

34 2. The taxpayer shall file an inheritance tax return on  
35 forms to be prescribed by the director of revenue and finance

1 on or before the last day of the ninth month after the death  
2 of the decedent. When an inheritance tax return is filed, the  
3 department shall examine it and determine the correct amount  
4 of tax. If the amount paid is less than the correct amount  
5 due, the department shall notify the taxpayer of the total  
6 amount due together with any penalty and interest which shall  
7 be a sum certain if paid on or before the last day of the  
8 month in which the notice is postmarked dated, or on or before  
9 the last day of the following month if the notice is  
10 postmarked dated after the twentieth day of a month and before  
11 the first day of the following month.

12 3. If the amount paid is greater than the correct tax,  
13 penalty, and interest due, the department shall refund the  
14 excess with interest. Interest shall be computed at the rate  
15 in effect under section 421.7, under the rules prescribed by  
16 the director counting each fraction of a month as an entire  
17 month and the interest shall begin to accrue on the first day  
18 of the second calendar month following the date of payment or  
19 on the date the return was due to be filed or was filed,  
20 whichever is the latest. However, the director shall not  
21 allow a claim for refund or credit that has not been filed  
22 with the department within three years after the tax payment  
23 upon which a refund or credit is claimed became due, or one  
24 year after the tax payment was made, whichever time is later.  
25 A determination by the department of the amount of tax,  
26 penalty, and interest due, or the amount of refund for excess  
27 tax paid, is final unless the person aggrieved by the  
28 determination appeals to the director for a revision of the  
29 determination within sixty days from the postmark date of the  
30 notice of determination of tax, penalty, and interest due or  
31 refund owing or unless the taxpayer contests the determination  
32 by paying the tax, interest, and penalty and timely filing a  
33 claim for refund. The director shall grant a hearing, and  
34 upon the hearing the director shall determine the correct tax,  
35 penalty, and interest or refund due, and notify the appellant

1 of the decision by mail. The decision of the director is  
2 final unless the appellant seeks judicial review of the  
3 director's decision under section 450.59 within sixty days  
4 after the postmark date of the notice of the director's  
5 decision.

6 Sec. 42. Section 451.12, Code 1997, is amended to read as  
7 follows:

8 451.12 APPLICABLE STATUTES -- PENALTIES.

9 All the provisions of chapter 450 with respect to the lien  
10 provisions of section 450.7, and the determination,  
11 imposition, payment, and collection of the tax imposed under  
12 that chapter, including penalty and interest upon delinquent  
13 taxes and the confidentiality of the tax return, are  
14 applicable to this chapter, except as they are in conflict  
15 with this chapter. The exceptions to the lien provisions  
16 found in section 450.7 do not apply to this chapter. The  
17 penalty provisions set out in section 450.53 shall apply to a  
18 person in possession of assets to be reported for purposes of  
19 taxation who willfully makes a false or fraudulent return or  
20 willfully fails to pay the tax, supply the information, make,  
21 sign, or file the required return within the time required by  
22 law or a person who willfully attempts in any manner to evade  
23 taxes imposed by this chapter or avoid payment of the tax.  
24 The director of revenue and finance shall adopt rules  
25 necessary for the enforcement of this chapter.

26 Sec. 43. Section 452A.2, subsection 11, Code 1997, is  
27 amended to read as follows:

28 11. "Exporter" means a person or other entity who acquires  
29 fuel in this state exclusively for export to another state.

30 Sec. 44. Section 452A.2, subsection 17, paragraph a, Code  
31 1997, is amended to read as follows:

32 a. All products commonly or commercially known or sold as  
33 gasoline, (including casinghead and absorption or natural  
34 gasoline), regardless of their classifications or uses, and  
35 including transmix which serves as a buffer between fuel

1 products in the pipeline distribution process.

2 Sec. 45. Section 452A.8, subsection 1, unnumbered  
3 paragraph 1, Code 1997, is amended to read as follows:

4 For the purpose of determining the amount of the  
5 supplier's, restrictive supplier's, or importer's tax  
6 liability, a supplier or restrictive supplier shall file a  
7 return, not later than the last day of the month following the  
8 month in which this division becomes effective and not later  
9 than the last day of each calendar month thereafter, and an  
10 importer shall file a report return semi-monthly with the  
11 department, signed under penalty for false certification. For  
12 an importer for the reporting period from the first day of the  
13 month through the fifteenth of the month, the report return is  
14 due on the last day of the month. For an importer for the  
15 reporting period from the sixteenth of the month through the  
16 last day of the month, the report return is due on the  
17 fifteenth day of the following month. The reports returns  
18 shall include the following:

19 Sec. 46. Section 452A.8, subsection 2, unnumbered  
20 paragraph 1, Code 1997, is amended to read as follows:

21 At the time of filing a report return, a supplier or  
22 restrictive supplier shall pay to the department the full  
23 amount of the fuel tax due for the preceding calendar month.  
24 An importer shall pay to the department the full amount of  
25 fuel tax due for the preceding semimonthly period. The tax  
26 shall be computed as follows:

27 Sec. 47. Section 452A.8, subsection 2, paragraph d, Code  
28 1997, is amended to read as follows:

29 d. The director may require by rule that reports returns  
30 be filed by electronic transmission.

31 Sec. 48. Section 452A.8, subsection 3, Code 1997, is  
32 amended to read as follows:

33 3. For the purpose of determining the amount of the tax  
34 liability on alcohol blended to produce ethanol blended  
35 gasoline, each licensed blender shall, not later than the last

1 day of each month following the month in which the blending is  
2 done, file with the department a monthly report return, signed  
3 under penalty for false certificate, containing information  
4 required by rules adopted by the director.

5 Sec. 49. Section 452A.9, Code 1997, is amended to read as  
6 follows:

7 452A.9 ~~REPORT~~ RETURN FROM PERSONS NOT LICENSED AS  
8 SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

9 Every person other than a licensed supplier, restrictive  
10 supplier, or importer, who purchases, brings into this state,  
11 or otherwise acquires within this state motor fuel or undyed  
12 special fuel, not otherwise exempted, which the person has  
13 knowingly not paid or incurred liability to pay either to a  
14 licensee or to a dealer the motor fuel or special fuel tax,  
15 shall be subject to the provisions of this division that apply  
16 to suppliers, restrictive suppliers, and importers of motor  
17 fuel or undyed special fuel and shall make file the same  
18 reports returns and make the same tax payments and be subject  
19 to the same penalties for delinquent ~~reporting-or-nonreporting~~  
20 filing or nonfiling or delinquent payment or nonpayment as  
21 apply to suppliers, restrictive suppliers, and importers.

22 Sec. 50. Section 452A.15, subsection 3, Code 1997, is  
23 amended to read as follows:

24 3. The reports required in this section shall be for  
25 information purposes only and the department may in its  
26 discretion waive the filing of any of these reports not  
27 necessary for proper administration of this division. The  
28 reports required in this section shall be certified under  
29 penalty for false certificate and filed with the department  
30 within the time allowed for filing of suppliers' and  
31 restrictive suppliers' reports returns of motor fuel or  
32 special fuel withdrawn from a terminal within this state or  
33 imported into this state.

34 Sec. 51. Section 452A.17, subsection 1, paragraph a,  
35 subparagraph (4), Code Supplement 1997, is amended to read as

1 follows:

2 (4) Fuel used in unlicensed vehicles, stationary engines,  
3 and implements used in agricultural production, and machinery  
4 and equipment used for nonhighway purposes.

5 Sec. 52. Section 452A.17, subsection 1, paragraph b,  
6 subparagraphs (4) and (5), Code Supplement 1997, are amended  
7 to read as follows:

8 (4) The claim shall state the gallonage of motor fuel ~~or~~  
9 ~~undyed-special-fuel~~ that was used or will be used by the  
10 claimant other than in aircraft, watercraft, or to propel  
11 motor vehicles and the gallonage of undyed special fuel that  
12 was or will be used by the claimant other than in aircraft or  
13 to propel motor vehicles, the manner in which the motor fuel  
14 or undyed special fuel was used or will be used, and the  
15 equipment in which it was used or will be used.

16 (5) The claim shall state whether the claimant used fuel  
17 for aircraft, watercraft, or to propel motor vehicles from the  
18 same tanks or receptacles in which the claimant kept the motor  
19 fuel ~~or-undyed-special-fuel~~ on which the refund is claimed or  
20 whether the claimant used fuel for aircraft or to propel motor  
21 vehicles from the same tanks or receptacles in which the  
22 claimant kept the undyed special fuel on which the refund is  
23 claimed.

24 Sec. 53. Section 452A.17, subsection 2, Code Supplement  
25 1997, is amended to read as follows:

26 2. In lieu of the refund provided in this section, a  
27 person may receive an income tax credit as provided in chapter  
28 422, division IX, but only as to motor fuel ~~or-undyed-special~~  
29 ~~fuel~~ not used in motor vehicles, aircraft, or watercraft or as  
30 to undyed special fuel not used in motor vehicles or aircraft.

31 Sec. 54. Section 452A.17, subsection 3, paragraph b, Code  
32 Supplement 1997, is amended to read as follows:

33 b. A refund shall not be paid with respect to any motor  
34 fuel ~~or-undyed-special-fuel~~ taken out of this state in supply  
35 tanks of watercraft, aircraft, or motor vehicles or with

1 respect to any undyed special fuel taken out of this state in  
2 supply tanks of aircraft or motor vehicles.

3 Sec. 55. Section 452A.17, subsection 3, paragraph c, Code  
4 Supplement 1997, is amended by striking the paragraph.

5 Sec. 56. Section 452A.21, unnumbered paragraph 1, Code  
6 1997, is amended to read as follows:

7 Persons not licensed under this division who blend motor  
8 fuel and alcohol to produce ethanol blended gasoline may file  
9 for a refund for the difference between taxes paid on the  
10 motor fuel purchased to produce ethanol blended gasoline and  
11 the tax due on the ethanol blended gasoline blended. If,  
12 during any month, a person licensed under this division uses  
13 tax paid motor fuel to blend ethanol blended gasoline and the  
14 refund otherwise due under this section is greater than the  
15 licensee's total tax liability for that month, the licensee is  
16 entitled to a credit. The claim for credit shall be filed as  
17 part of the report return required by section 452A.8.

18 Sec. 57. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT  
19 FUEL.

20 If an amount of tax represented by a licensee to a  
21 purchaser as constituting tax due is computed upon gallonage  
22 that is not taxable or the amount represented is in excess of  
23 the actual amount of tax due and the amount represented is  
24 actually paid by the purchaser to the licensee, the excess  
25 amount of tax paid shall be returned to the purchaser by the  
26 licensee. If the licensee fails to return the excess tax paid  
27 to the purchaser, the amount which the purchaser has paid to  
28 the licensee shall be remitted by the licensee to the  
29 department.

30 Sec. 58. Section 452A.60, unnumbered paragraph 1, Code  
31 1997, is amended to read as follows:

32 The department of revenue and finance or the state  
33 department of transportation shall prescribe and furnish all  
34 forms, as applicable, upon which reports, returns, and  
35 applications shall be made and claims for refund presented

1 under this chapter and may prescribe forms of record to be  
2 kept by suppliers, restrictive suppliers, importers,  
3 exporters, blenders, common carriers, contract carriers,  
4 licensed compressed natural gas and liquefied petroleum gas  
5 dealers and users, terminal operators, and interstate  
6 commercial motor vehicle operators.

7 Sec. 59. Section 452A.61, Code 1997, is amended to read as  
8 follows:

9 452A.61 TIMELY FILING OF REPORTS AND RETURNS -- EXTENSION.

10 The reports, returns, and remittances required under this  
11 chapter shall be deemed filed within the required time if  
12 postpaid, properly addressed and postmarked on or before  
13 midnight of the day on which due and payable. If the final  
14 filing date falls on a Saturday, Sunday or legal holiday the  
15 next secular or business day shall be the final filing date.

16 The department of revenue and finance or the state  
17 department of transportation upon application may grant a  
18 reasonable extension of time for the filing of any required  
19 report, return, or tax payment, ~~or~~ both.

20 Sec. 60. Section 452A.63, Code 1997, is amended to read as  
21 follows:

22 452A.63 INFORMATION CONFIDENTIAL.

23 All information obtained by the department of revenue and  
24 finance or the state department of transportation from the  
25 examining of reports, returns, or records required to be filed  
26 or kept under this chapter shall be treated as confidential  
27 and shall not be divulged except to other state officers, a  
28 member or members of the general assembly, or any duly  
29 appointed committee of either or both houses of the general  
30 assembly, or to a representative of the state having some  
31 responsibility in connection with the collection of the taxes  
32 imposed or in proceedings brought under ~~the provisions of~~ this  
33 chapter. The appropriate state agency may make available to  
34 the public on or before forty-five days following the last day  
35 of the month in which the tax is required to be paid, the

1 names of suppliers, restrictive suppliers, and importers and  
 2 as to each of them the total gallons of motor fuel, undyed  
 3 special fuel, and ethanol-blended gasoline withdrawn from  
 4 terminals or imported into the state during that month. The  
 5 department of revenue and finance or the state department of  
 6 transportation, upon request of officials entrusted with  
 7 enforcement of the motor vehicle fuel tax laws of the federal  
 8 government or any other state, may forward to such these  
 9 officials any pertinent information which the appropriate  
 10 state agency may have relative to motor fuel and special fuel  
 11 provided the officials of the other state furnish like  
 12 information.

13 Any person violating ~~the-provisions-of~~ this section, and  
 14 disclosing the contents of any records, returns, or reports  
 15 required to be kept or made under ~~the-provisions-of~~ this  
 16 chapter, except as otherwise provided, shall be guilty of a  
 17 simple misdemeanor.

18 Sec. 61. Section 452A.67, Code 1997, is amended to read as  
 19 follows:

20 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

21 The department shall examine the return and enforce  
 22 collection of any amount of tax, penalty, fine, or interest  
 23 over and above the amount shown to be due by reports the  
 24 return filed by a licensee as soon as practicable but no later  
 25 than three years after the return is filed. An assessment  
 26 shall not be made covering a period beyond three years after  
 27 the return is filed except that the period for the examination  
 28 and determination of the correct amount of tax is unlimited in  
 29 the case of a false or fraudulent return made with the intent  
 30 to evade tax or in the case of a failure to file a return.

31 Sec. 62. Section 452A.68, unnumbered paragraph 1, Code  
 32 1997, is amended to read as follows:

33 If a licensee files a false report return of the data or  
 34 information required by this chapter, or fails, refuses, or  
 35 neglects to file a report return required by this chapter, or

1 to pay the full amount of fuel tax as required by this  
2 chapter, or is substantially delinquent in paying a tax due,  
3 owing, and administered by the department of revenue and  
4 finance, and interest and penalty if appropriate, or if the  
5 person is a corporation and if any officer having a  
6 substantial legal or equitable interest in the ownership of  
7 the corporation owes any delinquent tax of the licensee  
8 corporation, or interest or penalty on the tax, administered  
9 by the department, then after ten days' written notice by mail  
10 directed to the last known address of the licensee setting a  
11 time and place at which the licensee may appear and show cause  
12 why the license should not be canceled, and if the licensee  
13 fails to appear or if upon the hearing it is shown that the  
14 licensee failed to correctly report or pay the tax, the  
15 appropriate state agency may cancel the license and shall  
16 notify the licensee of the cancellation by mail to the  
17 licensee's last known address.

18 Sec. 63. Section 452A.74A, subsection 7, Code 1997, is  
19 amended to read as follows:

20 7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person,  
21 including an officer of a corporation or a manager of a  
22 limited liability company, who is required to make, render,  
23 sign, or verify any report or return required by this chapter  
24 and who makes a false or fraudulent report or return, or who  
25 fails to file a report or return with the intent to evade the  
26 tax, shall be guilty of a fraudulent practice. Any person who  
27 aids, abets, or assists another person in making any false or  
28 fraudulent report or return or false statement in any report  
29 or return with the intent to evade payment of tax shall be  
30 guilty of a fraudulent practice.

31 Sec. 64. Section 452A.86, Code 1997, is amended to read as  
32 follows:

33 452A.86 METHOD OF DETERMINING GALLONAGE.

34 The exclusive method of determining gallonage of any  
35 purchases or sales of motor fuel, undyed special fuel,

1 compressed natural gas, or liquefied petroleum gas as defined  
 2 in this chapter and distillate fuels shall be on a gross  
 3 volume basis. A temperature-adjusted or other method shall  
 4 not be used, except as it applies to liquefied petroleum gas  
 5 and the sale or exchange of petroleum products between  
 6 petroleum refiners. All invoices, bills of lading, or other  
 7 records of sale or purchase and all reports returns or records  
 8 required to be made, kept, and maintained by a supplier,  
 9 restrictive supplier, importer, exporter, blender, or  
 10 compressed natural gas or liquefied petroleum gas dealer or  
 11 user shall be made, kept, and maintained on the gross volume  
 12 basis. For purposes of this section, "distillate fuels" means  
 13 any fuel oil, gas oil, topped crude oil, or other petroleum  
 14 oils derived by refining or processing crude oil or unfinished  
 15 oils which have a boiling range at atmospheric pressure which  
 16 falls completely or in part between five hundred fifty and  
 17 twelve hundred degrees Fahrenheit.

18 Sec. 65. Section 453A.6, subsection 3, Code 1997, is  
 19 amended to read as follows:

20 3. Payment of such the tax shall be evidenced by stamps  
 21 purchased from the department by a distributor or manufacturer  
 22 and securely affixed to each individual package of cigarettes  
 23 in amounts equal to the tax thereon as imposed by this  
 24 chapter, or by the impressing of an indicium upon individual  
 25 packages of cigarettes, under regulations prescribed by the  
 26 director.

27 Sec. 66. Section 453A.6, Code 1997, is amended by adding  
 28 the following new subsections:

29 NEW SUBSECTION. 4. Any other person who purchases or is  
 30 in possession of unstamped cigarettes shall pay the tax  
 31 directly to the department.

32 NEW SUBSECTION. 5. The per cigarette amount of the tax  
 33 shall be added to the selling price of every package of  
 34 cigarettes sold in this state and shall be collected from the  
 35 purchaser so that the ultimate consumer bears the burden of

1 the tax.

2 Sec. 67. Section 453A.8, subsection 1, Code 1997, is  
3 amended to read as follows:

4 1. Stamps shall be sold by and purchased from the  
5 department. The department shall sell stamps to the holder of  
6 a state distributor's or manufacturer's permit which has not  
7 been revoked and to no other person. Stamps shall be sold to  
8 the permit holders at a discount of two percent of the face  
9 value. Stamps shall be sold in ~~unbroken-books-of-one-thousand~~  
10 stamps, unbroken rolls of thirty thousand stamps, or unbroken  
11 lots of any other ~~form~~ form authorized by the director.

12 Sec. 68. Section 453A.15, subsections 1, 3, 4, and 6, Code  
13 1997, are amended to read as follows:

14 1. The director may prescribe the forms necessary for the  
15 efficient administration of this division and may require  
16 uniform books and records to be used and kept by each permit  
17 holder or other person as deemed necessary. The director may  
18 also require each permit holder or other person to keep and  
19 retain in the director's possession evidence on prescribed  
20 forms of all transactions involving the purchase and sale of  
21 cigarettes or the purchase and use of stamps. The evidence  
22 shall be kept for a period of two years from the date of each  
23 transaction, for the inspection at all times by the  
24 department.

25 3. The director may by regulation require every holder of  
26 a manufacturer's or state permit or other person to make and  
27 deliver to the department on or before the tenth day of each  
28 month a report or reports for the preceding calendar month,  
29 upon a form or forms prescribed by the director, and may  
30 require that such the reports shall be properly sworn to and  
31 executed by the permit holder or the holder's duly authorized  
32 representative or other person.

33 4. Every permit holder or other person shall, when  
34 requested by the department, make such additional reports as  
35 the department deems necessary and proper and shall at the

1 request of the department furnish full and complete  
2 information pertaining to any transaction of the permit holder  
3 or other person involving the purchase or sale or use of  
4 cigarettes or purchase of cigarette stamps.

5 6. If any distributor, manufacturer, or other person fails  
6 or refuses to pay any tax, penalties, or cost of audit  
7 hereinafter provided, and it becomes necessary to bring suit  
8 or to intervene in any manner for the establishment or  
9 collection of said claims, in any judicial proceedings, any  
10 report filed in the office of the director by such the  
11 distributor, manufacturer, or other person, or the  
12 distributor's, manufacturer's, or other person's  
13 representative, or a copy thereof, certified to by the  
14 director, showing the number of cigarettes sold by such the  
15 distributor, or the distributor's representative, the  
16 manufacturer, or the other person, upon which such a tax,  
17 penalty, or cost of audit has not been paid, or any audit made  
18 by the department from the books or records of said the  
19 distributor, manufacturer, or other person when signed and  
20 sworn to by the agent of the department making the audit as  
21 being made from the records of said the distributor,  
22 manufacturer, or other person from or to whom such the  
23 distributor, manufacturer, or other person has bought,  
24 received, or delivered cigarettes, whether from a  
25 transportation company or otherwise, such report or audit  
26 shall be admissible in evidence in such proceedings and shall  
27 be prima facie evidence of the contents thereof, ~~provided,~~  
28 ~~however, that.~~ However, the incorrectness of said the report  
29 or audit may be shown.

30 Sec. 69. Section 453A.16, Code 1997, is amended to read as  
31 follows:

32 453A.16 MANUFACTURER'S PERMIT.

33 The department may, upon application of any manufacturer,  
34 issue without charge to such the manufacturer a manufacturer's  
35 permit. Such The application shall contain such information

1 as the director shall prescribe. The holder of such a  
2 manufacturer's permit ~~shall be~~ is authorized to purchase  
3 stamps from the department, and to must affix such stamps to  
4 individual packages of cigarettes outside of this state, prior  
5 to their shipment into the state unless the cigarettes are  
6 shipped to an Iowa permitted distributor or an Iowa permitted  
7 distributor's agent.

8 Sec. 70. Section 453A.28, Code 1997, is amended to read as  
9 follows:

10 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --  
11 PENALTY.

12 If after any audit, examination of records, or other  
13 investigation the department finds that any person has sold  
14 cigarettes without stamps affixed thereto or that any person  
15 responsible for paying the tax has not done so as required by  
16 this division, the department shall fix and determine the  
17 amount of tax due, and shall assess the tax against the  
18 person, together with a penalty as provided in section 421.27.  
19 The taxpayer shall pay interest on the tax or additional tax  
20 at the rate determined under section 421.7 counting each  
21 fraction of a month as an entire month, computed from the date  
22 the tax was due. If any person fails to furnish evidence  
23 satisfactory to the director showing purchases of sufficient  
24 stamps to stamp unstamped cigarettes purchased by the person,  
25 the presumption shall be that the cigarettes were sold without  
26 the proper stamps affixed thereto. Within two years after the  
27 return report is filed or within two years after the return  
28 report became due, whichever is later, the department shall  
29 examine the return report and determine the correct amount of  
30 tax. The period for examination and determination of the  
31 correct amount of tax is unlimited in the case of a false or  
32 fraudulent report made with the intent to evade tax, or in the  
33 case of a failure to file a report, or if a person purchases  
34 or is in possession of unstamped cigarettes.

35 Sec. 71. Section 453A.29, Code 1997, is amended to read as

1 follows:

2 453A.29 NOTICE AND APPEAL.

3 The department shall notify any person assessed pursuant to  
 4 section 453A.28 by sending a written notice of the  
 5 determination by mail to the principal place of business of  
 6 the person as shown on the person's application for permit,  
 7 and if an application was not filed by the person, to the  
 8 person's last known address. A determination by the  
 9 department of the amount of tax, penalty, and interest due, or  
 10 the amount of refund for excess tax paid, is final, unless the  
 11 person aggrieved by the determination appeals to the director  
 12 for a revision of the determination within sixty days from the  
 13 postmark date of the notice of determination of tax, penalty,  
 14 and interest or refund owing or unless the taxpayer contests  
 15 the determination by paying the tax, interest, and penalty and  
 16 timely filing a claim for refund. The director shall grant a  
 17 hearing and upon the hearing, the director shall determine the  
 18 correct tax, penalty, and interest or refund due and notify  
 19 the appellant of the decision by mail. Judicial review of  
 20 action of the director may be sought in accordance with the  
 21 Iowa administrative procedure Act and section 422.29.

22 Sec. 72. Section 453A.31, Code 1997, is amended by  
 23 striking the section and inserting in lieu thereof the  
 24 following:

25 453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

26 If a permit holder fails to keep any of the records  
 27 required to be kept by the provisions of this division, or  
 28 sells cigarettes upon which a tax is required to be paid by  
 29 this division without at the time having a valid permit, or if  
 30 a distributor, wholesaler, manufacturer, or distributing agent  
 31 fails to make reports to the department as required, or makes  
 32 a false or incomplete report to the department, or if a  
 33 distributing agent stores unstamped cigarettes in the state or  
 34 distributes or delivers unstamped cigarettes within this state  
 35 without at the time of storage or delivery having a valid

1 permit, or if a person purchases or is in possession of  
2 unstamped cigarettes, or if a person affected by this division  
3 fails or refuses to abide by any of its provisions or the  
4 rules adopted under this division, the person is civilly  
5 liable to the state for a penalty as follows:

6 1. For possession of unstamped cigarettes:

7 a. A two hundred dollar penalty for the first violation if  
8 a person is in possession of more than forty but not more than  
9 four hundred unstamped cigarettes.

10 b. A five hundred dollar penalty for the first violation  
11 if a person is in possession of more than four hundred but not  
12 more than two thousand unstamped cigarettes.

13 c. A one thousand dollar penalty for the first violation  
14 if a person is in possession of more than two thousand  
15 unstamped cigarettes.

16 d. For a second violation within two years of the first  
17 violation, the penalty is four hundred dollars if a person is  
18 in possession of more than forty but not more than four  
19 hundred unstamped cigarettes; one thousand dollars if a person  
20 is in possession of more than four hundred but not more than  
21 two thousand unstamped cigarettes; and two thousand dollars if  
22 a person is in possession of more than two thousand unstamped  
23 cigarettes.

24 e. For a third or subsequent violation within two years of  
25 the first violation, the penalty is six hundred dollars if a  
26 person is in possession of more than forty but not more than  
27 four hundred unstamped cigarettes; one thousand five hundred  
28 dollars if a person is in possession of more than four hundred  
29 but not more than two thousand unstamped cigarettes; and three  
30 thousand dollars if a person is in possession of more than two  
31 thousand unstamped cigarettes.

32 2. For all other violations of this section:

33 a. A two hundred dollar penalty for the first violation.

34 b. A five hundred dollar penalty for a second violation  
35 within two years of the first violation.

1 c. A thousand dollar penalty for a third or subsequent  
2 violation within two years of the first violation.

3 The penalty imposed under this section shall be assessed  
4 and collected pursuant to section 453A.28 and is in addition  
5 to the tax, penalty, and interest imposed in that section.

6 Sec. 73. Section 453A.45, subsections 2, 3, and 4, Code  
7 1997, are amended to read as follows:

8 2. Every person who sells tobacco products to persons  
9 other than the ultimate consumer shall render with each sale  
10 itemized invoices showing the seller's name and address, the  
11 purchaser's name and address, the date of sale, and all prices  
12 and discounts. The person shall preserve legible copies of  
13 all such invoices for ~~one-year~~ two years from the date of  
14 sale.

15 3. Every retailer and subjobber shall procure itemized  
16 invoices of all tobacco products purchased. The invoices  
17 shall show the name and address of the seller and the date of  
18 purchase. The retailer and subjobber shall preserve a legible  
19 copy of each such invoice for ~~one-year~~ two years from the date  
20 of purchase. Invoices shall be available for inspection by  
21 the director or the director's authorized agents or employees  
22 at the retailer's or subjobber's place of business.

23 4. Records of all deliveries or shipments of tobacco  
24 products from any public warehouse of first destination in  
25 this state which is subject to the provisions of and licensed  
26 under chapter 554 shall be kept by the warehouse and be  
27 available to the director for inspection. They shall show the  
28 name and address of the consignee, the date, the quantity of  
29 tobacco products delivered, and such other information as the  
30 commissioner may require. These records shall be preserved  
31 for ~~one-year~~ two years from the date of delivery of the  
32 tobacco products.

33 Sec. 74. Section 453A.46, subsection 4, Code 1997, is  
34 amended to read as follows:

35 4. The department shall notify any person assessed

1 pursuant to this section by sending a written notice of the  
2 determination by mail to the principal place of business of  
3 the person as shown on the person's application for permit,  
4 and if an application was not filed by the person, to the  
5 person's last known address. A determination by the  
6 department of the amount of tax, penalty, and interest due, or  
7 the amount of refund for excess tax paid, is final, unless the  
8 person aggrieved by the determination appeals to the director  
9 for a revision of the determination within sixty days from the  
10 postmark date of the notice of determination of tax, penalty,  
11 and interest or refund owing or unless the taxpayer contests  
12 the determination by paying the tax, interest, and penalty and  
13 timely filing a claim for refund. The director shall grant a  
14 hearing and upon the hearing, the director shall determine the  
15 correct tax, penalty, and interest or refund due and notify  
16 the appellant of the decision by mail. Judicial review of  
17 action of the director may be sought in accordance with  
18 chapter 17A and section 422.29.

19 Sec. 75. Section 602.8102, subsection 59, Code 1997, is  
20 amended by striking the subsection.

21 Sec. 76. Section 633.272, Code 1997, is amended to read as  
22 follows:

23 633.272 PARTIAL INTESTACY.

24 If part but not all of the estate of a decedent is validly  
25 disposed of by will, the part not disposed of by will shall be  
26 distributed as provided herein for intestate estates. If the  
27 testator left a surviving spouse, and the spouse does not  
28 elect to take against the will, the spouse shall receive, in  
29 addition to the property given to the spouse by the will, ~~all~~  
30 ~~of-the-intestate-property-which-shall-be-subject-to-the~~  
31 ~~payment-of-its-proportionate-share-of-debts-and-charges~~  
32 ~~against-the-estate~~ the amount of intestate property set forth  
33 in section 633.211 or 633.212.

34 Sec. 77. Section 422.90, Code 1997, is repealed.

35 Sec. 78. Section 450.92, Code 1997, is repealed.

1 Sec. 79. DIRECTIONS TO CODE EDITOR. The Iowa Code editor  
2 shall transfer sections 427.3 through 427.7 to chapter 426A  
3 and change internal references as necessary.

4 Sec. 80. EFFECTIVE AND APPLICABILITY DATES.

5 1. Section 7 of this Act, amending section 422.13,  
6 subsection 5, applies retroactively to January 1, 1998, for  
7 tax years beginning on or after that date.

8 2. Section 9 of this Act, amending section 422.23,  
9 unnumbered paragraph 2, applies retroactively to January 1,  
10 1997, for tax years beginning on or after that date.

11 3. Sections 37 through 42 and section 78 of this Act,  
12 amending chapters 450 and 451, take effect July 1, 1998, for  
13 estates of decedents dying on or after that date.

14 4. This Act, being deemed of immediate importance, takes  
15 effect upon enactment.

16 EXPLANATION

17 The bill amends various provisions of state tax law. The  
18 amendments that are not just eliminating obsolete provisions  
19 are as follows:

20 Code section 421.1 is amended to delete the requirement  
21 that the state board of tax review meet six times a year and  
22 now provides that the state board meet as necessary.

23 Code section 421.17 is amended to provide, as part of the  
24 centralized debt collection system, that the department of  
25 revenue and finance is to notify a debtor of the clerk of  
26 court's right to all or a portion of any payment due the  
27 debtor from any state agency.

28 Code section 421.18 is amended to provide that not only  
29 public officers need to give the director information to  
30 assist in tax administration but employees and local  
31 governments need to also provide the information.

32 Code section 421.40 is amended to provide that departments  
33 may enter into contracts for goods and services and pay  
34 interest on payment terms of less than 60 days.

35 Code section 422.13 is amended to remove the requirement

1 that taxpayers need to get permission to file a composite  
2 return and provides that limited liability companies may join  
3 the filing of a composite return.

4 Code section 422.16 is amended to provide, that at the  
5 discretion of the director, withholding agents need not send  
6 wage and tax statements with the annual report if the  
7 information is available from other sources such as the  
8 internal revenue service or other state or federal agencies.

9 Code sections 422.23 and 602.8102(59), are amended to  
10 strike the requirement that provides that personal  
11 representatives of an estate can apply to the district court  
12 to determine initially whether the estate is subject to Iowa  
13 income tax.

14 Code sections 422.25, 422.47(4), 424.10, 429.2(1),  
15 450.94(2), 450.94(3), 453A.29, and 453A.46(4) are amended to  
16 provide that the 30-or 60-day appeal period, as applicable,  
17 commences on the date of the notice. Presently, the appeal  
18 period commences on the postmark date of the notice.

19 Code section 422.25(3) is amended to provide that when a  
20 taxpayer has paid 90 percent of the final tax liability by the  
21 original due date and files the return sometime in the six-  
22 month extended period after the original due date, interest on  
23 an overpayment of tax on the return starts to accrue two  
24 months after the end of the six-month extended period.

25 Code section 422.33(1) is amended to remove the provision  
26 that imposes the Iowa corporate income tax upon a corporation  
27 whose legal domicile (place where the corporation was created)  
28 is in Iowa and instead provides it on all corporations doing  
29 business in Iowa.

30 Code sections 422.33(2) is amended to provide that an Iowa-  
31 based corporation whose only activity outside Iowa is the  
32 ownership of intangible assets that have acquired a business  
33 situs outside Iowa may apportion its income to determine the  
34 portion of its income which is subject to Iowa income tax.

35 Code sections 422.42(6), 422.42(18), and 422.45(46) are

1 amended to make the exemption from Iowa sales tax for services  
2 performed on tangible property delivered into interstate  
3 commerce the same as the exemption from Iowa sales tax on  
4 tangible personal property delivered to a point outside of  
5 Iowa.

6 Code section 422.45(7) is amended to provide that  
7 governmental units, nonprofit educational institutions, and  
8 nonprofit private museums have one year instead of six months  
9 from final payment to apply for a refund of sales or use tax  
10 paid by a contractor on materials used in the performance of a  
11 construction contract.

12 Code section 422.47, which relates to the use of sales tax  
13 exemption certificates, is amended to provide that an  
14 exemption certificate may be used to substantiate the sale of  
15 nontaxable items as well as sales made to persons holding a  
16 direct pay permit. Current law only provides for exemption  
17 certificates for materials purchased for resale or use in  
18 processing.

19 Code section 422.50 is amended to provide that retailers  
20 are required to keep records on the gross receipts from the  
21 sale of services as well as the sale of tangible personal  
22 property.

23 Code section 422.60(1) is amended to allow the department  
24 to impose the franchise tax on financial institutions doing  
25 business in this state as corporations rather than as  
26 financial institutions.

27 Code section 422.68(4) is amended to allow the department  
28 to use new technologies to preserve records as required by  
29 law.

30 Code section 422.72(1) is amended to make it unlawful to  
31 willfully inspect returns for any reason other than as  
32 authorized by the director of revenue and finance. The  
33 penalty is a serious misdemeanor.

34 Code section 422.90 is repealed. The section stated that  
35 the penalty imposed for underpayment of estimated tax is not

1 subject to waiver for reasonable cause.

2 Code section 422.110 is amended to provide that an income  
3 tax credit in lieu of a full tax refund is not available for  
4 credit relating to casualty loss, transport diversions,  
5 pumping credits, blending errors, idle time, power takeoffs,  
6 reefer units, and exports by eligible purchasers. However, a  
7 refund remains available if a refund permit is obtained from  
8 the department.

9 Code section 422.111 is amended to provide that a refund is  
10 only available for undyed special fuel since no tax is imposed  
11 on dyed special fuel.

12 Code section 422B.10(2) is amended to provide that if an  
13 overpayment has been made to a local jurisdiction for local  
14 option sales tax during the previous fiscal year, the November  
15 payment must reflect the adjustment.

16 Code section 422D.3 is amended to move a local income  
17 surtax fund from the state treasurer's office to the  
18 department of revenue and finance.

19 Code section 427.1(14) is amended to move the sign-up date  
20 from July 1 to April 15 for claiming a property tax exemption  
21 by war veterans organizations and religious, literary, and  
22 charitable societies. This would allow the taxpayer to appeal  
23 the assessment to the board of review prior to its adjournment  
24 if the claim is denied.

25 Code section 427.1(24) is amended to provide a February 1  
26 deadline for certifying eligibility for the wildlife habitat  
27 property tax exemption. Other property tax credit and  
28 exemptions provide specific certification deadlines.

29 Code sections 427.3 through 427.7 are to be transferred to  
30 Code chapter 426A by the Iowa Code editor so that all  
31 provisions pertaining to the military service property tax  
32 exemption appear in the same chapter.

33 Code section 428.1 is amended to provide that the listing  
34 contained in section 428.1, subsections 1 through 5, does not  
35 encompass all situations where a person is required to list

1 property for the assessor.

2 Code section 450.4(5) is amended to provide that the  
3 exemption from Iowa inheritance tax does not apply to  
4 installment payments received by a nonresident beneficiary  
5 under an annuity which was purchased under an employee pension  
6 or retirement plan, that are includable as net income under  
7 Code section 422.7, but exempt from Iowa income tax under Code  
8 section 422.8(2).

9 Code section 450.20 is amended to specify that the  
10 department must keep a separate record on any deferred estate  
11 where the tax is not paid within 15 months from the date of  
12 death.

13 Code section 450.22 is amended to provide that, in addition  
14 to the surviving spouse as already provided in this statute,  
15 when the estate does not have a federal estate tax obligation  
16 and all property of the estate is held in joint tenancy with  
17 the right of survivorship solely by the decedent and a lineal  
18 ascendant, child, stepchild, or lineal descendant, or any  
19 combination of these individuals, an Iowa inheritance tax  
20 return need not be filed.

21 Code section 450.37 is amended to allow the department of  
22 revenue and finance to adjust previously accepted, submitted,  
23 appraised, or agreed upon values of real property if the new  
24 values have been accepted for federal estate tax purposes.  
25 Also, the personal representative for the estate may claim a  
26 refund of tax if the personal representative for the estate  
27 files a claim for refund within six months of the final  
28 disposition of any real property valuation matter.

29 Code section 451.12 is amended to provide that a lien for  
30 Iowa estate tax could be made on those items listed as  
31 exemptions under Code section 450.7 for inheritance tax.

32 Code section 452A.2(11) and (17) are amended to provide  
33 that a person need not export fuel exclusively to be  
34 considered an exporter and that transmix is taxed as motor  
35 vehicle fuel. Transmix is a product that is used as a buffer

1 between fuel types being transported through a pipeline.

2 Code sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60,  
3 452A.61, 452A.63, 452A.67, 452A.68, 452A.74A, and 452A.86 are  
4 amended to provide consistency in the motor vehicle fuel tax  
5 by changing the word "report" to "return". When the motor  
6 vehicle fuel tax chapters were amended to change the point of  
7 taxation during the 1995 Session of the General Assembly,  
8 these sections were not amended.

9 Code section 452A.17(1) is amended to provide that a fuel  
10 tax refund is available for machinery and equipment used for  
11 nonhighway purposes.

12 Code section 452A.17 is also amended to provide that  
13 records need to be kept relating to fuel used in watercraft  
14 and further to provide that no refund will be issued for  
15 undyed special fuel taken out of the state in the fuel supply  
16 tank of a vehicle.

17 Code section 452A.22 is created to require a licensee who  
18 collects tax in error from a consumer to either return the tax  
19 to the consumer or remit it to the department.

20 Code section 453A.6(3) is amended to list distributors and  
21 manufacturers as those who must stamp cigarettes.

22 Code section 453A.6 is also amended by adding two new  
23 subsections. The first new subsection provides that any  
24 person who is in possession of unstamped cigarettes shall pay  
25 the tax directly to the department. The second new subsection  
26 provides that the tax shall be added to the selling price and  
27 collected from the purchasers so that the ultimate consumer  
28 bears the burden of the tax.

29 Code section 453A.8(1) is amended to provide that the  
30 department is no longer required to sell cigarette stamps in  
31 unbroken books of 1,000 stamps.

32 Code section 453A.15 is amended to provide that any person  
33 who is not licensed must keep records, file reports, and pay  
34 the cigarette tax in the same manner as permit holders.

35 Code section 453A.16 is amended to provide that

1 manufacturers of cigarettes may only ship unstamped cigarettes  
2 into the state to licensed distributors or licensed  
3 distributors' agents.

4 Code section 453A.28 is amended to provide that the two-  
5 year statute of limitations does not apply if a false or  
6 fraudulent report is made with the intent to evade tax, if a  
7 report is not filed, or if the person is in possession of  
8 unstamped cigarettes. In these instances, the statute of  
9 limitations is unlimited.

10 Code section 453A.31 deals with a civil penalty for failure  
11 to keep records, selling cigarettes without a valid permit,  
12 making a false or incomplete report, or failing to abide with  
13 rules of the department. The present penalty is \$50 for each  
14 offense, each violation is a separate offense, and the same  
15 violation is a separate offense for each day it continues.

16 The amendment to the Code section strikes the \$50-a-day  
17 penalty in lieu of a three-tiered civil penalty for the above  
18 offenses: \$200 for the first offense; \$500 for the second  
19 offense within two years; \$1,000 for the third offense within  
20 two years and for subsequent offenses.

21 A second three-tiered penalty for possession of unstamped  
22 cigarettes is provided. This penalty is based on the number  
23 of cigarettes in the person's possession.

24 Number of	1st Violation	2nd Violation	Third
25 Cigarettes	Within 2 Years	Within 2 Years	Violation
26 41-400	\$200	\$400	\$600
27 401-2,000	\$500	\$1,000	\$1,500
28 2,001 or			
29 more	\$1,000	\$2,000	\$3,000

30 These penalties are no longer subject to mandatory waiver  
31 for reasonable cause.

32 Code section 453A.45(2), (3), and (4) are amended to  
33 require persons who sell tobacco products to retain records  
34 for two years from the date of sale instead of the present  
35 one-year requirement.

1 Code section 633.272 is amended to provide that, under  
2 partial intestacy, a surviving spouse is entitled to receive  
3 the amount of intestate property as provided in Code section  
4 633.211 or 633.212.

5 The bill takes effect upon enactment and some provisions  
6 have different applicability date provisions than the  
7 effective date.

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**MEMORANDUM**

TO: MEMBERS OF THE 1998 GENERAL ASSEMBLY

FROM: IOWA DEPARTMENT OF REVENUE & FINANCE

DATE: JANUARY 20, 1998

RE: THE DEPARTMENT'S BILL RELATING TO TECHNICAL CORRECTIONS TO THE IOWA CODE AND PROVIDING AN EFFECTIVE AND RETROACTIVE APPLICABILITY DATE

The department's bill makes technical corrections and deletes obsolete sections of the Code and provides retroactive effective dates of January 1, 1998 for tax years beginning on or after that date for some of the amendments.

Section 1 of the bill amends Code section 421.1 by deleting the requirement that the state board of tax review meet six times a year and now provides the state board meet as necessary. This amendment is being made because there have been numerous occasions when the board was required to meet but there were no cases to hear.

Section 2 of the bill amends Code section 421.16 to clarify that all department employees, not just the deputy director, secretaries and assistants, are entitled to necessary expenses while traveling on business.

Section 3 of the bill amends Code section 421.17(29) to provide as part of the centralized collection system the department is to notify a debtor of the clerk of the court's right to all or a portion of any payment due the debtor from any state agency.

Section 4 of the bill amends Code section 421.18 to clarify that not only public officers need to give the director information to assist in tax administration likewise employees and local governments need to provide information.

Section 5 of the bill amends section 421.40 and provides that departments may enter into contracts for goods and services and pay interest on payment terms of less than 60 days. In the past vendors have not entered into contracts where it would have been financially beneficial to departments because interest on payments did not accrue until after 60 days.

Section 6 of the bill amends section 422.5 by striking subsection 3 which refers to taxation of active duty pay prior to January 1, 1977 and subsection 11 which refers to income exclusion between January 1, 1992 but before January 1, 1993.

Section 7 of the bill amends section 422.13 by removing the requirement that taxpayers need to get permission to file a composite return. Permission is not required since the department reviews all these returns which are few in number.

Section 8 of the bill amends Code section 422.16 to provide, at the discretion of the director, withholding agents need not send wage statements with the annual report if the information is available from other sources such as the Internal Revenue Service or other state or federal agencies. Much of the wage information is now available by electronic means.

Section 9 of the bill amends Code section 422.23 by striking the second unnumbered paragraph which provides that personal representatives of an estate can apply to the district court to determine initially whether the estate is subject to Iowa income tax. This paragraph is in conflict with the Administrative Procedures Act which requires exhaustion of administrative remedies prior to seeking judicial review.

Sections 10, 32, 36, 41, 71, and 74 amend the following Code sections: 422.25, 424.10, 429.2, 450.94(3), 453A.29 and 453A.46 which all provide when the sixty day appeal period commences. Presently the sixty days commence on the postmark date of the notice. The amendment provides the sixty days commence on the date of the notice. The department retains a copy of the notice but does not record mailing dates as they are sent by regular mail. The billing date is what is presently being used.

Section 11 amends Code section 422.25(3) to provide that when a taxpayer has paid ninety percent of the final tax liability by the original due date and files the return sometime in the six-month extended period after the original due date, interest on an overpayment of tax on the return starts to accrue two months after the end of the six-month extended period.

Section 12 amends Code section 422.33(1) to remove the provision that imposes the Iowa corporate income tax upon a corporation whose legal domicile (place where the corporation was created) is in Iowa. Such imposition seems to be contrary to the modern scope of state corporate income taxes which is to base the tax on corporate business activity or sources which are in the taxing state.

Section 13 of the bill amends Code section 422.33 (2), introductory paragraph to clarify that an Iowa based corporation whose only activity outside Iowa is the ownership of intangible assets that have acquired a business situs outside Iowa may apportion its income to determine the portion of its income which is subject to Iowa income tax.

Sections 14, 15, and 18 amend Code sections 422.42(6), 422.42(18) and 422.45(46) to make the exemption from Iowa sales tax for services performed on tangible property delivered into interstate commerce the same as the exemption from Iowa sales tax on tangible personal property delivered outside of Iowa.

Section 16 of the bill amends Code section 422.44 to remove an obsolete reference to cities and counties which are exempt under other sections of the Code.

Section 17 of the bill amends Code section 422.45(7) which provides that governmental units, nonprofit educational institutions, and nonprofit private museums have one year instead of six months from final payment to apply for a refund of sales or use tax paid by a contractor on materials used in the performance of a construction contract.

There are situations where the agency fails to file within the six months period, the department is required to deny the refund. The agency then appeals to the State Appeal Board who in turn grants the refund. Extending the period to file will eliminate paper work for the department and the agencies requesting the return.

Sections 19, 20 and 21 make changes to various subsections of Code section 422.47 relating to the use of sales tax exemption certificates. The amendments now provide the exemption certificate may be used to substantiate the sale of nontaxable items as well as sales made to persons holding a direct pay permit. Prior law only provided for exemption certificates for materials purchased for resale or use in processing.

Section 22 of the bill amends Code section 422.50 to clarify that retailers are required to keep records on the gross receipts from the sale of services as well as the sale of tangible personal property.

Section 23 of the bill amends Code section 422.52 by eliminating obsolete language relating to securities held by the department for periods beginning July 1, 1991 and ending June 30, 1993.

Section 24 of the bill amends Code section 422.60(1) to allow the department to impose the franchise tax on financial institutions doing business in this state as corporations rather than financial institutions.

Iowa Code section 422.60(1) imposes a franchise tax on financial institutions for privilege of doing business in Iowa as a financial institution. Currently there are non-Iowa domiciled banks which receive rental income from leases of tangible personal property which is located in Iowa and is used in the conduct of Iowa businesses or receive interest from loans secured by Iowa real estate. An organization must both take deposits and make loans in order to be considered a bank for bank regulatory purposes. Because these non-domiciled banks do not take deposits, but make loans and lease tangible personal property located in this state they do not fall within the

definition of a bank as contained in Iowa Code section 422.61(1) and they are not doing business in this state as a financial institution.

Also these banks are exempt from the Iowa corporation income tax by section 422.34(1) as they are granted an exempt status under this section.

Section 25 of the bill amends Code section 422.68(4) to clarify that the department can use new technologies to preserve records as required by law.

Section 26 of the bill amends Code section 422.72(1) relating to release of confidential information. The new provision makes it unlawful to willfully inspect returns for personal reasons. (For IRS provisions this is classified as "employee browsing".)

Section 27 of the bill amends Code section 422.110 relating income tax credit in lieu of refund for motor vehicle fuel tax. The amendment provides that an income tax credit is not available for credit relating to casualty loss, transport diversions, pumping credits, blending errors, idle time, power take offs, reefer units and exports by eligible purchaser. However, a refund is available through a refund permit.

Sections 28 and 29 of the bill amend Code section 422.111 to clarify that a refund is only available for undyed special fuel as no tax is imposed on dyed special fuel and strikes obsolete language that applies to only years 1975 and 1976.

Section 30 of the bill amends Code Supplement 1997, section 422B.10(2) to clarify that if there is an overpayment made to the local jurisdiction for local option sales tax during the previous fiscal year, the November payment will reflect the adjustment.

Section 31 of the bill amends Code section 422D.3(4) which moves a local income surtax fund from the treasurer's office to the department. All the paperwork and processing is done within the department so both agencies agree that the surtax fund should be in the department of revenue and finance.

Section 33 of the bill amends Code section 427.1(14) which permits claims for property tax exemption to be filed with the assessor through July 1. Section 441.37 permits a dissatisfied taxpayer to appeal an assessment to the board of review which meets during the month of May. The present appeal process does not work if the claim for exemption is filed with the assessor after the board adjourns which happens in many instances. The amendment will move the sign-up date from July 1 to April 15 so the taxpayer can appeal the assessment to the board of review prior to its adjournment.

Section 34 of the bill amends Code Supplement 1997, section 427.1(24). Assessors have requested that a specific date be included in the statute for certifying eligibility for the wildlife habitat property tax exemption. Other property tax credit and exemptions provide specific certification dates. The amendment includes a February 1 certification

date that will be of administrative benefit to assessors by giving them a cut-off point to finalize their certifications.

Section 35 of the bill amends Code section 428.1 to clarify that the listing contained in section 428.1, subsections 1 through 5, does not encompass all situations where a person is required to list property for the assessor. The amendment makes the list nonexclusive so it covers all circumstances not listed.

Section 37 of the bill amends Code section 450.4(5) to provide that the exemption from Iowa inheritance tax does not apply to installment payments received by a nonresident beneficiary under an annuity which was purchased under an employee pension or retirement plan, that are includable as net income under section 422.7, but exempt from Iowa income tax under section 422.8(2).

Section 38 of the bill amends Code section 450.20 to clarify that the Department must keep a separate record on any deferred estate where the tax is not paid within fifteen months from the date of death.

Section 39 of the bill amends section 450.22 to provide that, in addition to the surviving spouse as already provided in this statute, when the estate does not have a federal estate tax obligation and all of the property of the estate is held in joint tenancy with the right of survivorship solely by the decedent and a lineal ascendant, child, stepchild and/or lineal descendant, or any combination of these individuals, an Iowa inheritance tax return need not be filed.

Section 40 of the bill amends section 450.37 to allow the department of revenue and finance to adjust previously accepted, submitted, appraised or agreed upon values of real property accepted for federal estate tax purposes. Also the personal representative for the estate may claim a refund of tax if the personal representative for the estate files a claim for refund within six months of the final disposition of any real property valuation matter.

Section 42 of the bill amends Code section 451.12 to assure that a lien for Iowa estate tax could be made on those items listed as exceptions under Code sections 450.7.

Sections 43 and 44 of the bill amend Code section 452A.2 (11) and (17) to assure that Transmix is taxed as motor vehicle fuel. Transmix is a product that is used as a buffer between fuel types being transported through a pipeline.

Sections 45, 46, 47, 48, 49, 50, 56, 58, 59, 60, 61, 62, 63 and 64 of the bill amend Code sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60, 452A.61, 452A.63, 452A.67, 452A.68, 452A.74 and 452A.86 to provide consistency in the motor vehicle fuel tax by changing the word "report" to "return." When the motor vehicle fuel tax chapters were amended to change the point of taxation during the 1995 Session of the General Assembly, these chapters were missed.

Section 51 of the bill amends Code Supplement 1997, section 452A.17(1) to clarify that a fuel tax refund is available for machinery and equipment used for non highway purposes.

Sections 52, 53, and 54 of the bill amend various subsections of 452A.17 relating to refund of fuel and records needed to be kept relating to fuel used in watercraft or aircraft and further provides that no refund will be issued for undyed fuel taken out of the state in the fuel supply tank of a vehicle or aircraft.

Section 55 of the bill strikes 452A.17, paragraph "c" which relates to refunds of motor fuel tax to contractors who have a contract with a governmental agency. This provision has never been used and is meaningless.

Section 57 of the bill amends Code chapter 452A by adding a new subsection which requires a licensee who collects tax in error from a consumer to either return the tax to the consumer or remit it to the department. This amendment is consistent with the same subsection on retail sales tax.

Sections 65 and 66 of the bill amend Code section 453A.6 by adding two new subsections. The first new subsection provides that any person who is in possession of unstamped cigarettes shall pay the tax directly to the department. The second new subsection provides that the tax shall be added to the selling price and collected from the purchasers so that the ultimate consumer bears the burden of the tax.

Section 67 of the bill amends Code section 453A.8(1) to clarify that the department no longer sells cigarette stamps in unbroken books of one thousand stamps and clarifies that manufacturers can stamp cigarettes.

Section 68 of the bill amends various subsections of Code section 453A.15 to provide that any person who is not licensed must keep records, file reports and pay tax in the same manner as permit holders.

Section 69 of the bill amends Code section 453A.16 to clarify that manufacturers of cigarettes may only ship unstamped cigarettes into the state to licensed distributors or licensed distributor's agents.

Section 70 of the bill amends Code section 453A.28 to provide that the two year statute of limitations does not apply in case of a false or fraudulent report made with the intent to evade tax, or the person is in possession of unstamped cigarettes. In these instances, the statute of limitations is unlimited.

Section 72 of the bill amends Code section 453A.31 which deals with civil penalty for failure to keep records, selling cigarettes without a valid permit, make a false or incomplete report or fails to abide with rules of the department. The present penalty is

fifty dollars for each offense, each violation is a separate offense and the same violation is a separate offense for each day it continues. The amendment strikes the fifty dollar a day penalty in lieu of a three-tiered penalty for the above offenses. The first offense, \$200. Five hundred dollars for the second offense within two years and \$1000 for the third offense within two years and subsequent violations.

A second three- tiered penalty for possession of unstamped cigarettes is provided. This penalty is based on the number of cigarettes in the person's possession.

Number of Cigarettes	1st Violation Within 2 Years	2nd Violation Within 2 Years	Third Violation
40--400	\$200	\$400	\$600
401-2,000	\$500	\$1,000	\$1,500
2,001 or more	\$1,000	\$2,000	\$3,000

These penalties are not subject to waiver for reasonable cause.

Section 73 of the bill amends section 453A.45 to change the period of time records relating to tobacco tax are to be retained from one year to two years. This makes cigarette and tobacco tax the same.

Section 75 of the bill strikes subsection 59 of Code section 602.8102. Section 9 of this bill deletes a portion of section 422.23 to eliminate a conflict with the Administrative Procedures Act. Subsection 59 refers to the deleted portion of section 422.23.

Section 76 of the bill amends Code section 633.272 to clarify that under partial intestate, a surviving spouse is entitled to receive the amount of intestate property as provided in Iowa Code sections 633.211 or 633.212.

Section 77 of the bill amends Code section 422.90 by striking the section which relates to waiver of penalty for reasonable cause. Penalty is now subject to waivers only under statutory exceptions.

Section 78 of the bill strikes Code section 450.92 relating to compromise settlements which is redundant in that the director of revenue and finance has authority for compromise settlements for all taxes under section 421.5.

Section 79 of the bill transfers sections 427.3 through 427.7 to chapter 426A. Under the existing statutes, some provisions pertaining to the military service property tax exemption appear in chapter 426A and others appear in chapter 427. The department has over the years received a number of complaints from both the public and local

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government officials who administer the program that it would be beneficial if the provisions were all located in one chapter. This amendment will do that.

Section 80 provides effective and retroactive dates.