

APR 19 1985

HOUSE FILE 764

WAYS & MEANS CALENDAR

BY COMMITTEE ON WAYS AND MEANS

(Formerly House Study Bill 398)

Passed House, Date 4-24-85 (71797) Passed Senate, Date 5-3-85 (P. 1957)
 Vote: Ayes 63 Nays 36 Vote: Ayes 34 Nays 16
 Approved Item Veto March 13, 1986

A BILL FOR

1 An Act relating to unpaid taxes and enforcement of taxes
 2 administered by the department of revenue, making an
 3 appropriation, and providing civil and criminal
 4 penalties.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 764

1 Section 1. Sections 1 through 4 of this Act may be cited
2 as the "Iowa Tax Amnesty Act".

3 Sec. 2. DEFINITIONS. When used in sections 1 through 4 of
4 this Act, unless the context otherwise requires:

5 1. "Department" means the department of revenue.

6 2. "Taxpayer" means a person, corporation or other entity
7 subject to any tax imposed by a law of this state, payable to
8 this state, and administered by the department pursuant to
9 chapter 98, 324, 324A, 422, 422A, 423, 450, 450A, 450B, or
10 451.

11 3. "Director" means the director of the department.

12 Sec. 3. AMNESTY PROGRAM.

13 1. The director shall establish a tax amnesty program.
14 The amnesty program shall apply to tax liabilities delinquent
15 as of December 31, 1984, including tax on returns not filed,
16 tax liabilities on the books of the department as of December
17 31, 1984, or tax liabilities not reported nor established but
18 delinquent as of December 31, 1984. For a taxpayer who has a
19 tax liability, the director shall accept cash, certified
20 check, cashier's check or money order for the full amount of
21 the tax liability.

22 2. The amnesty program shall be for a period from
23 September 3, 1985 through October 31, 1985 for any tax
24 liabilities which are delinquent as of December 31, 1984.

25 3. The amnesty program shall provide that upon written
26 application by a taxpayer and payment by the taxpayer of
27 amounts due from the taxpayer to this state for a tax covered
28 by the amnesty program plus interest equal to fifty percent of
29 the interest that would have been owed through December 31,
30 1984, the department shall not seek to collect any other
31 interest or penalties which may be applicable and the
32 department shall not seek civil or criminal prosecution for a
33 taxpayer for the period of time for which amnesty has been
34 granted to the taxpayer. Failure to pay all taxes delinquent
35 as of December 31, 1984 and due to this state except those

1 adjustments made pursuant to a federal audit completed after
2 the effective date of this Act shall invalidate any amnesty
3 granted pursuant to this Act. Amnesty shall be granted for
4 only the taxable periods specified in the application and only
5 if all amnesty conditions are satisfied by the taxpayer.

6 4. Amnesty shall not be granted to a taxpayer who is a
7 party to an active criminal investigation or to a criminal
8 litigation which is pending in a district court, the court of
9 appeals, or the supreme court of this state for nonpayment or
10 fraud in relation to any state tax imposed by a law of this
11 state.

12 5. The director shall prepare and make available amnesty
13 application forms which contain requirements for approval of
14 an application. The director may deny any application
15 inconsistent with sections 1 through 4 of this Act.

16 Sec. 4. Sections 1 through 3 of this Act are exempt from
17 the rulemaking process of the Iowa administrative procedure
18 Act.

19 Sec. 5. Section 98.13, subsection 2, Code 1985, is amended
20 to read as follows:

21 2. ISSUANCE.

22 a. The department shall issue state permits to
23 distributors, wholesalers, and cigarette vendors subject to
24 the conditions provided in this division. Cities may issue
25 retail permits to dealers within their respective limits.
26 County boards of supervisors may issue retail permits to
27 dealers in their respective counties, outside of the corporate
28 limits of cities. Upon issuance of a retail permit by a city
29 council or board of supervisors, the council or board shall
30 forthwith certify to the department the action taken.

31 b. A permit shall not be issued by the department to any
32 distributor, wholesaler, vendor or retailer having any
33 obligation due and owing at the time of application to pay any
34 delinquent tax, or the interest or penalty on the tax,
35 administered by the department. If the applicant is a

1 partnership, a permit shall not be issued if any partner owes
2 any delinquent tax, penalty or interest. If the applicant is
3 a corporation, a permit shall not be issued if any officer,
4 member of the board of directors or any person having a legal
5 or equitable interest in the ownership of the corporation owes
6 any delinquent tax, interest or penalty.

7 Sec. 6. Section 98.22, subsection 1, Code 1985, is amended
8 to read as follows:

9 1. If ~~any~~ a person holding a permit issued by the
10 department under this division, including a retailer permit
11 for railway car, has willfully violated ~~the provisions of~~
12 section 98.2, the department shall revoke the permit issued
13 ~~the person~~ upon notice and hearing. If the person violates
14 any other provision of this division, or ~~any~~ a rule
15 ~~promulgated~~ adopted under this division, or fails to pay any
16 tax administered by the department or the interest or penalty
17 on the tax, the department may revoke the permit issued to the
18 person, after giving the permit holder an opportunity to be
19 heard upon ten days' written notice stating the reason for the
20 contemplated revocation and the time and place at which the
21 person may appear and be heard. The hearing shall be held in
22 the county of the permit holder's place of business, or in a
23 county in or through which it transacts business. The notice
24 shall be given by mailing a copy by certified mail to the
25 permit holder's place of business as ~~the same~~ it appears on
26 the application for a permit. If, upon hearing, the
27 department finds that the violation has occurred, the
28 department may revoke the permit.

29 Sec. 7. Section 98.29, Code 1985, is amended to read as
30 follows:

31 98.29 NOTICE AND APPEAL.

32 The department shall notify any person assessed pursuant to
33 section 98.28 by sending a written notice of such the
34 determination and assessment by certified mail to the
35 principal place of business of ~~such~~ the person as shown on the

1 person's application for permit, if any, and in case no such
2 application was filed by such the person, to the person's last
3 known address. A determination by the department of the
4 amount of tax, penalty, and interest due, or the amount of
5 refund for excess tax paid, is final unless the person
6 aggrieved by the determination appeals to the director for a
7 revision of the determination within thirty days from the
8 postmark date of the notice of determination of tax, penalty,
9 and interest or refund owing. The director shall grant a
10 hearing and upon the hearing, the director shall determine the
11 correct tax, penalty, and interest or refund due and notify
12 the appellant of the decision by certified mail. Judicial
13 review of action of the department director may be sought in
14 accordance with the terms of the Iowa administrative procedure
15 Act and section 422.29.

16 Sec. 8. Section 324.4, unnumbered paragraph 2, Code 1985,
17 is amended to read as follows:

18 A license shall not be issued if the applicant is a foreign
19 corporation, unless it is at the time properly qualified under
20 the laws of this state to do business therein in this state.
21 A license shall not be issued to an applicant having any
22 obligation, due and owing at the time of application, to pay
23 any delinquent tax, or the interest or penalty on the tax,
24 administered by the department of revenue. If the applicant
25 is a partnership, a license shall not be issued if any partner
26 owes any delinquent tax, penalty or interest. If the
27 applicant is a corporation, a license shall not be issued if
28 any officer, member of the board of directors or person having
29 a substantial legal or equitable interest in the ownership of
30 the corporation owes any delinquent tax, interest or penalty.

31 Sec. 9. Section 324.65, Code 1985, is amended by adding
32 the following new unnumbered paragraphs:

33 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
34 fails to pay fuel taxes when due, any officer of a corporation
35 or association, or any partner of a partnership, having

1 control or supervision of or the authority for remitting the
2 fuel tax payments, who has intentionally failed to pay the tax
3 is personally liable for the payment of the fuel taxes,
4 interest and penalty due and unpaid. The dissolution of a
5 corporation, association or partnership shall not discharge a
6 person's liability for failure to remit the tax due.

7 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
8 sells the licensee's or other person's business or stock of
9 goods or quits the business, the licensee or other person
10 shall prepare a final return and pay all tax due within the
11 time required by law. All successors to the licensee or other
12 person, if any, shall withhold sufficient of their purchase
13 price, in money or money's worth, to pay the amount of any
14 tax, interest or penalty due and unpaid until the former
15 licensee or other person, or a predecessor, whether immediate
16 or not, produces a valid receipt from the department showing
17 that tax is paid, or a valid certificate stating that no taxes
18 are due. If successors of the business or stock of goods
19 intentionally fail to withhold any amount due from the
20 purchase price as provided in this paragraph, they are
21 personally liable for the payment of the taxes, interest and
22 penalty accrued and unpaid on account of the operation of the
23 business by the former licensee or other person. A successor
24 shall secure a valid receipt or certificate from any former
25 licensee or other person. However, a person foreclosing on a
26 valid security interest or retaking possession of premises
27 under a valid lease is not a "successor" for purposes of this
28 paragraph.

29 Sec. 10. Section 324.66, unnumbered paragraph 1, Code
30 1985, is amended to read as follows:

31 The appropriate state agency shall administer the taxes
32 imposed by this chapter in the same manner as and subject to
33 ~~all-the-provisions-of~~ section 422.25, subsection 4 and section
34 422.52, subsection 3. Notwithstanding section 422.52,
35 subsection 3, all special fuel licensees are required to file

1 a bond with the director in an amount as established by the
2 director.

3 Sec. 11. Section 324.68, unnumbered paragraph 1, Code
4 1985, is amended to read as follows:

5 If a licensee files a false report of the data or
6 information required by this chapter, or fails, refuses, or
7 neglects to file a report required by this chapter, or to pay
8 the full amount of fuel tax as required by this chapter, or
9 any tax due, owing and administered by the department of
10 revenue, and interest and penalty if appropriate, then after
11 ten days' written notice by registered mail directed to the
12 last known address of the licensee setting a time and place at
13 which the licensee may appear and show cause why the license
14 should not be canceled, and if the licensee fails to appear or
15 if upon the hearing it is shown by a preponderance of the
16 evidence that the failure to correctly report or pay was with
17 intent to evade the tax, the appropriate state agency may
18 cancel the license and shall notify the licensee of the
19 cancellation by registered mail to the licensee's last known
20 address.

21 Sec. 12. Section 421.7, Code 1985, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 7. If a person files a purported return
24 of tax which does not contain information on which the
25 substantial correctness of the self-assessment may be judged
26 or which contains information that on its face indicates that
27 the self-assessment is substantially incorrect and the conduct
28 previously referred to in this paragraph is due to a position
29 which is frivolous or a desire which appears on the purported
30 return to delay or impede the administration of the tax laws
31 of this state, then the person shall pay a penalty of five
32 hundred dollars. This penalty shall be in addition to any
33 other penalty provided by law.

34 Sec. 13. Section 421.17, Code 1985, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 26. For any contested case, as defined in
2 section 17A.2, commenced on or after the effective date of
3 this Act, the person disputing the assessment must pay all
4 tax, interest and penalty pertaining to the disputed
5 assessment prior to the commencement of the contested case.
6 Upon a showing of good cause, the hearing officer may allow
7 the person to post a bond in lieu of paying all tax, interest
8 and penalty.

9 Sec. 14. Section 422.16, subsection 14, Code 1985, is
10 amended to read as follows:

11 14. The director may, when necessary and advisable in
12 order to secure the collection of the tax required to be
13 deducted and withheld or the amount actually deducted,
14 whichever is greater, require ~~a nonresident~~ an employer or
15 withholding agent to file with the director a bond, issued by
16 a surety company authorized to conduct business in this state
17 and approved by the insurance commissioner as to solvency and
18 responsibility, in ~~such~~ an amount as the director may fix, to
19 secure the payment of the tax and penalty due or which may
20 become due. In lieu of the bond, securities shall be kept in
21 the custody of the department and may be sold by the director
22 at public or private sale, without notice to the depositor, if
23 it becomes necessary to do so in order to recover any tax and
24 penalty due. Upon ~~any such~~ a sale, any surplus above the
25 amounts due under this section shall be returned to the
26 ~~nonresident~~ employer or withholding agent who deposited the
27 securities.

28 Sec. 15. Section 422.28, Code 1985, is amended to read as
29 follows:

30 422.28 REVISION OF TAX.

31 A taxpayer may appeal to the director for revision of the
32 tax, interest or penalties assessed at any time within ninety
33 thirty days from the date of the notice of the assessment of
34 tax, additional tax, interest or penalties. The director
35 shall grant a hearing and if, upon the hearing, the director

1 determines that the tax, interest or penalties are excessive
2 or incorrect, the director shall revise them according to the
3 law and the facts and adjust the computation of the tax,
4 interest or penalties accordingly. The director shall notify
5 the taxpayer by registered mail of the result of the hearing
6 and shall refund to the taxpayer the amount, if any, paid in
7 excess of the tax, interest or penalties found by the director
8 to be due, with interest after sixty days from the date of
9 payment by the taxpayer at the rate in effect under section
10 421.7 for each month or a fraction of a month. The director
11 may, on the director's own motion at any time, abate any
12 portion of tax, interest or penalties which the director
13 determines is excessive in amount, or erroneously or illegally
14 assessed. The director shall prepare quarterly reports, which
15 shall be included in the annual statistical reports required
16 under section 422.75, summarizing each case in which an
17 abatement of tax, interest or penalties was made under this
18 section, but a report shall not disclose the identity of the
19 taxpayer.

20 Sec. 16. Section 422.47, subsection 3, paragraph b, Code
21 1985, is amended to read as follows:

22 b. The sales tax liability for all sales of tangible
23 personal property and all sales of services ~~shall-be~~ is upon
24 the seller and the purchaser unless the seller takes in good
25 faith from the purchaser a valid exemption certificate stating
26 under penalties for perjury that the purchase is for resale or
27 for processing and is not a retail sale as defined in section
28 422.42, subsection 3. ~~Where~~ If the tangible personal property
29 or services are purchased tax free pursuant to a valid
30 exemption certificate which is taken in good faith by the
31 seller, and the tangible personal property or services are
32 used or disposed of by the purchaser in a nonexempt manner,
33 the purchaser ~~shall-be~~ is solely liable for the taxes and
34 shall remit ~~said~~ the taxes directly to the department and
35 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,

1 422.57, 422.58 and 422.59 shall apply to such the purchaser.
2 Sec. 17. Section 422.52, Code 1985, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 6. a. If a purchaser fails to pay tax
5 imposed by this division to the retailer required to collect
6 the tax, then in addition to all of the rights, obligations
7 and remedies provided, the tax is payable by the purchaser
8 directly to the department, and sections 422.50, 422.51,
9 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59
10 apply to the purchaser. For failure, the retailer and
11 purchaser are liable, unless the circumstances described in
12 subsections 422.47, subsection 3, paragraphs "b" and "e" are
13 applicable.

14 b. If a retailer or a purchaser fails to pay the tax when
15 due, any officer of a corporation or association, or any
16 partner of a partnership, having control or supervision of, or
17 the authority for remitting the tax payments who has
18 intentionally failed to pay the tax is personally liable for
19 the payment of the taxes, interest and penalty due and unpaid.
20 The dissolution of a corporation, association or partnership
21 does not discharge a person's liability for failure to remit
22 the tax due.

23 c. If any retailer subject to this division sells the
24 retailer's business or stock of goods or quits the business,
25 the retailer shall prepare a final return and pay all tax due
26 within the time required by law. All successors to the
27 retailer, if any, shall withhold sufficient of their purchase
28 price, in money or money's worth, to pay the amount of tax,
29 interest or penalty due and unpaid until the former retailer
30 or a predecessor, whether immediate or not, produces a valid
31 receipt from the department showing that tax is paid, or a
32 valid certificate stating that no taxes are due. If
33 successors of the business or stock of goods intentionally
34 fail to withhold the amount due from the purchase price as
35 provided in this paragraph, they are personally liable for the

1 payment of the taxes, interest and penalty accrued and unpaid
2 on account of the operation of the business by the former
3 retailer or predecessor. A successor shall secure a valid
4 receipt or certificate from the former retailer or
5 predecessor. However, a person foreclosing on a valid
6 security interest or retaking possession of premises under a
7 valid lease is not a "successor" for purposes of this
8 paragraph.

9 d. A person sponsoring a flea market, or a craft, antique,
10 coin, or stamp show or similar event shall obtain from every
11 retailer selling tangible personal property or taxable
12 services at the event proof that the retailer possesses a
13 valid sales tax permit or secure from the retailer a
14 statement, taken in good faith, that property or services
15 offered for sale are not subject to sales tax. Failure to do
16 so renders a sponsor of the event liable for payment of any
17 sales tax, interest and penalty due and owing from any
18 retailer selling property or services at the event. Sections
19 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58
20 and 422.59 apply to the sponsors.

21 Sec. 18. Section 422.53, subsections 2 and 5, Code 1985,
22 are amended to read as follows:

23 2. The applicant must have a permit for each place of
24 business. A permit shall not be issued to an applicant having
25 any obligations due and owing at the time of application, to
26 pay any delinquent tax, or the interest and penalty on the
27 tax, administered by the department. If the applicant is a
28 partnership, a permit shall not be issued if any partner owes
29 any delinquent tax, penalty or interest. If the applicant is
30 a corporation, a permit shall not be issued if any officer,
31 member of the board of directors or any person having a sub-
32 stantial legal or equitable interest in the ownership of the
33 corporation owes any delinquent tax, penalty or interest.

34 5. If the holder of a permit fails to comply with any of
35 the provisions of this division or any orders or rules of the

1 department adopted under this division or fails to pay any tax
2 administered by the department or the interest or penalty on
3 the tax, the director upon hearing after giving ten days'
4 notice of the time and place of the hearing to show cause why
5 the permit should not be revoked, may revoke the permit. The
6 director may restore permits after revocation. The director
7 shall adopt rules setting forth the period of time a retailer
8 must wait before a permit may be restored or a new permit may
9 be issued. The waiting period shall not exceed ninety days
10 from the date of the revocation of the permit.

11 Sec. 19. Section 422.58, subsection 2, Code 1985, is
12 amended to read as follows:

13 2. a. Any person who ~~shall~~ knowingly ~~sell~~ sells tangible
14 personal property, tickets or admissions to places of
15 amusement and athletic events, or gas, water, electricity, and
16 communication service at retail, or ~~engage~~ engages in the
17 rendering, furnishing, or performing of services enumerated in
18 section 422.43, in this state without procuring a permit, as
19 provided in section 422.53, or who ~~shall-violate-the~~
20 ~~provisions-of~~ violates section 422.49, and the officers of any
21 corporation who ~~shall~~ so act~~7-shall-be~~ acts is guilty of a
22 simple serious misdemeanor.

23 b. Any A person who ~~shall~~ knowingly ~~sell~~ sells tangible
24 personal property, tickets or admissions to places of
25 amusement and athletic events, or gas, water, electricity, and
26 communication service at retail, or ~~engage~~ engages in the
27 rendering, furnishing, or performing of services enumerated in
28 section 422.43, in this state after the person's license ~~shall~~
29 have has been revoked and before it has been restored as
30 provided in section 422.53, subsection 5 and the officers of
31 any corporation who ~~shall~~ so act ~~shall-be~~ are guilty of a
32 serious an aggravated misdemeanor.

33 Sec. 20. Section 423.9, unnumbered paragraph 1, Code 1985,
34 is amended to read as follows:

35 Every retailer maintaining a place of business in this

1 state and making sales of tangible personal property for use
2 in this state, not exempted under ~~the provisions of~~ section
3 423.4 nor collectible under ~~the provisions of~~ section 423.7,
4 shall at the time of making such the sales, whether within or
5 without the state, collect the tax imposed by this chapter
6 from the purchaser, and give to the purchaser a receipt
7 ~~therefor~~ for the tax in the manner and form prescribed by the
8 director, if the director ~~shall~~, by ~~regulation~~, ~~require such~~
9 rules requires a receipt. Each such retailer shall list with
10 the department the name and address of all the retailer's
11 agents operating in this state, and the location of ~~any and~~
12 all the retailer's distribution or sales houses or offices or
13 other places of business in this state. A permit shall not be
14 issued to a retailer having any obligation due and owing at
15 the time of application, to pay any delinquent tax, interest
16 or penalty administered by the department. If the applicant
17 is a partnership, a permit shall not be issued if any partner
18 owes any delinquent tax, penalty or interest. If the
19 applicant is a corporation, a permit shall not be issued if
20 any officer, member of the board of directors or any person
21 having a substantial legal or equitable interest in the
22 ownership of the corporation owes any delinquent tax, penalty
23 or interest.

24 Sec. 21. Section 423.13, Code 1985, is amended by adding
25 the following new unnumbered paragraphs:

26 NEW UNNUMBERED PARAGRAPH. If a retailer or a purchaser
27 fails to pay the tax due, any officer of a corporation or
28 association, or any partner of a partnership, having control
29 or supervision of or the authority for remitting the tax
30 payments, who has intentionally failed to pay the tax is
31 personally liable for the failure. The dissolution of a
32 corporation, association or partnership does not discharge the
33 individual's liability for failure to remit the tax due.

34 NEW UNNUMBERED PARAGRAPH. If a retailer sells the
35 retailer's business or stock of goods or quits the business,

1 the retailer shall prepare a final return and pay all tax due
2 within the time required by law. All successors to the
3 retailer, if any, shall withhold sufficient of their purchase
4 price, in money or money's worth, to pay the amount of tax,
5 interest or penalty due and unpaid until the former retailer
6 or a predecessor, whether immediate or not, produces a valid
7 receipt from the department showing that tax is paid, or a
8 valid certificate stating that no taxes are due. If
9 successors of the business or stock of goods intentionally
10 fail to withhold the amount due from the purchase price as
11 provided in this paragraph, they are personally liable for the
12 payment of the taxes, interest and penalty accrued and unpaid
13 on account of the operation of the business by the former
14 retailer or predecessor. A successor shall secure a valid
15 receipt or certificate from the former retailer or
16 predecessor. However, a person foreclosing on a valid
17 security interest or retaking possession of premises under a
18 valid lease is not a "successor" for purposes of this
19 paragraph.

20 Sec. 22. Section 423.22, Code 1985, is amended to read as
21 follows:

22 423.22 REVOKING PERMITS.

23 Whenever-any If a retailer maintaining a place of business
24 in this state, or authorized to collect the tax herein imposed
25 pursuant to section 423.10, fails to comply with any of the
26 provisions of this chapter or any orders or rules prescribed
27 and adopted under this chapter, or fails to pay any tax
28 administered by the department or the interest or penalty on
29 the tax, the director may, upon notice and hearing as
30 hereinafter provided, by order revoke the permit, if any,
31 issued to such the retailer under section 422.53, or if such
32 the retailer is a corporation authorized to do business in
33 this state under chapter 494, may certify to the secretary of
34 state a copy of an order finding that such the retailer has
35 failed to comply with certain specified provisions, orders or

1 rules. The secretary of state shall, upon receipt of ~~such~~ the
2 certified copy, revoke the permit authorizing ~~said~~ the
3 corporation to do business in this state, and shall issue a
4 new permit only when ~~such~~ the corporation ~~shall-have~~ has
5 obtained from the director an order finding that ~~such~~ the
6 corporation has complied with its obligations under this
7 chapter. No order authorized in this section shall be made
8 until the retailer is given an opportunity to be heard and to
9 show cause why ~~such~~ the order should not be made, and the
10 retailer shall be given ten days' notice of the time, place,
11 and purpose of ~~such~~ the hearing. The director may issue a new
12 permit pursuant to section 422.53 after ~~such~~ revocation. The
13 preceding provision ~~shall-apply~~ applies to users and persons
14 supplying services enumerated in section 422.43.

15 Sec. 23. Section 450.94, subsection 3, Code 1985, is
16 amended to read as follows:

17 3. If the amount paid is greater than the correct tax,
18 penalty and interest due, the department shall refund the
19 excess, with interest after sixty days from the date of
20 payment at the rate in effect under section 421.7, under the
21 rules prescribed by the director. However, the director shall
22 not allow a claim for refund or credit that has not been filed
23 with the department within three years after the tax payment
24 upon which a refund or credit is claimed became due, or one
25 year after the tax payment was made, whichever time is ~~the~~
26 later. A determination by the department of the amount of
27 tax, penalty and interest due, or the amount of refund for
28 excess tax paid, is final unless the person aggrieved by the
29 determination appeals to the director for a revision of the
30 determination within ~~ninety~~ thirty days from the postmark date
31 of the notice of determination of tax, penalty and interest
32 due or refund owing. The director shall grant a hearing, and
33 upon the hearing the director shall determine the correct tax,
34 penalty and interest or refund due, and notify the appellant
35 of the decision by certified mail. The decision of the

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

5 Sec. 24. There is appropriated from the general fund of
6 the state to the department of revenue for the fiscal year
7 beginning July 1, 1985 and ending June 30, 1986 the sum of two
8 hundred fifty thousand (250,000) dollars or so much thereof as
9 necessary, to be used to administer this Act.

10 EXPLANATION

11 This bill provides for a state tax amnesty program to be
12 administered by the department of revenue from September 3,
13 1985 through October 31, 1985. The program covers tax
14 liabilities delinquent as of December 31, 1984 and authorizes
15 a taxpayer to pay this delinquent tax with one half of the
16 interest which would ordinarily be due during the period of
17 the amnesty program without being subject to further civil and
18 criminal prosecution.

19 The bill also amends chapters 98, 324, 421, 422, 423, and
20 450 to provide additional authority to the department of
21 revenue relating to the issuance of permits and licenses, the
22 revocation of permits and licenses, the placement of re-
23 sponsibility for payment of taxes of partnerships and corpora-
24 tions, the filing of fidelity bonds by permittees and li-
25 censees, increasing the penalty for failure to have a sales
26 tax permit as required, and reducing the time for filing an
27 appeal of the director's determination of tax due from 90 to
28 30 days.

29 The bill also appropriates \$250,000 to the department of
30 revenue to administer the state tax amnesty program and other
31 provisions of the bill.

32
33
34
35

HOUSE FILE 764

H-3946

1 Amend House File 764 as follows:

2 1. Page 3, by inserting after line 28 the
3 following:

4 "Sec. _____. Section 98.28, Code 1985 is amended to
5 read as follows:

6 98.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST
7 -- PENALTY.

8 If after any audit, examination of records, or
9 other investigation the department finds that any
10 person has sold cigarettes without stamps affixed
11 thereto as required by this division or that any
12 person has failed to pay at least ninety percent of
13 any tax imposed upon the person, the department shall
14 fix and determine the amount of tax due, and shall
15 assess the tax against the person, together with a
16 penalty of five ten percent of the amount of the tax.
17 The taxpayer shall pay interest on the tax or
18 additional tax at the rate determined under section
19 421.7 counting each fraction of a month as an entire
20 month, computed from the date the tax was due. If any
21 person fails to furnish evidence satisfactory to the
22 director showing purchases of sufficient stamps to
23 stamp unstamped cigarettes purchased by the person,
24 the presumption shall be that the cigarettes were sold
25 without the proper stamps affixed thereto. Within two
26 years after the return is filed or within two years
27 after the return became due, whichever is later, the
28 department shall examine it and determine the correct
29 amount of tax."

30 2. Page 4, by inserting after line 15 the
31 following:

32 "Sec. _____. Section 98.46, subsection 6, Code 1985
33 is amended to read as follows:

34 6. The director in issuing the final assessment
35 pursuant to subsection 3 shall add to the amount of
36 tax found due and unpaid a penalty of five ten percent
37 of the tax if less than ninety percent of the tax has
38 been paid, except that, if the director finds that the
39 taxpayer has made a false and fraudulent return with
40 intent to evade the tax imposed by this division, the
41 penalty shall be fifty percent of the entire tax as
42 shown by the return as corrected. The director in
43 assessing a tax on the basis of a return made pursuant
44 to subsection 4 shall add to the amount of tax found
45 due and unpaid a penalty of fifty percent of the tax.
46 The penalty imposed under this subsection is not
47 subject to waiver."

48 3. Page 4, by inserting after line 30 the
49 following:

50 "Sec. _____. Section 324.65, unnumbered paragraph 1,

H-3946

Page Two

1 Code 1985, is amended to read as follows:

2 If a licensee or other person fails to remit at
3 least ninety percent of the tax due with the filing of
4 the return on or before the due date or pays less than
5 ninety percent of any tax required to be shown on the
6 return, there shall be added to the tax a penalty of
7 five ten percent of the amount of the tax due. The
8 penalty imposed under this section is not subject to
9 waiver. The taxpayer shall also pay interest on the
10 tax or additional tax at the rate in effect under
11 section 421.7 counting each fraction of a month as an
12 entire month, computed from the date the return was
13 required to be filed."

14 4. Page 7, by inserting after line 8 the
15 following:

16 "Sec. ____ . Section 422.16, subsection 10,
17 paragraph b, unnumbered paragraph 1, Code 1985, is
18 amended to read as follows:

19 If any person or withholding agent fails to remit
20 at least ninety percent of the tax due with the filing
21 of the semimonthly, monthly, or quarterly deposit form
22 on or before the due date, or pays less than ninety
23 percent of any tax required to be shown on the
24 semimonthly, monthly, or quarterly deposit form, there
25 shall be added to the tax a penalty of ten twenty
26 percent of the amount of the tax due."

27 5. Page 7, by inserting after line 27 the
28 following:

29 "Sec. ____ . Section 422.25, subsection 2, Code
30 1985, is amended to read as follows:

31 2. In addition to the tax or additional tax
32 determined by the department under subsection 1, the
33 taxpayer shall pay interest on the tax or additional
34 tax at the rate in effect under section 421.7 for each
35 month counting each fraction of a month as an entire
36 month, computed from the date the return was required
37 to be filed. If any person fails to remit at least
38 ninety percent of the tax due with the filing of the
39 return on or before the due date, or pays less than
40 ninety percent of any tax required to be shown on the
41 return, there shall be added to the tax a penalty of
42 five ten percent of the tax due. In case of willful
43 failure to file a return with intent to evade tax, or
44 in case of willfully filing a false return with intent
45 to evade tax, in lieu of the penalty otherwise
46 provided in this subsection, there shall be added to
47 the amount required to be shown as tax on the return
48 fifty percent of the amount of the tax. The penalty
49 imposed under this subsection is not subject to
50 waiver."

H-3946
Page Three

1 6. Page 11, by inserting after line 10 the
2 following:

3 "Sec. ____ . Section 422.58, subsection 1, Code
4 1985, is amended to read as follows:

5 1. If a person or permit holder fails to remit at
6 least ninety percent of the tax due with the filing of
7 the semimonthly or monthly tax deposit form or return
8 on or before the due date, or pays less than ninety
9 percent of any tax required to be shown on the return,
10 excepting the period between the completion of an
11 examination of the books and records of a taxpayer and
12 the giving of notice to the taxpayer that a tax or
13 additional tax is due, there shall be added to the tax
14 a penalty of ~~ten~~ twenty percent of the amount of the
15 tax due. In case of willful failure to file a
16 semimonthly or monthly tax deposit form or return,
17 willful filing of a false semimonthly or monthly tax
18 deposit form or return or willful filing of a false or
19 fraudulent semimonthly or monthly tax deposit form or
20 return with intent to evade tax, in lieu of the
21 penalty otherwise provided in this subsection, there
22 shall be added to the amount required to be shown as
23 tax on the semimonthly or monthly tax deposit form or
24 return fifty percent of the amount of the tax. The
25 taxpayer shall also pay interest on the tax or
26 additional tax at the rate in effect under section
27 421.7 for each month counting each fraction of a month
28 as an entire month, computed from the date the
29 semimonthly or monthly tax deposit form or return was
30 required to be filed. The penalty and interest shall
31 be paid to the department and disposed of in the same
32 manner as other receipts under this division. Unpaid
33 penalties and interest may be enforced in the same
34 manner as the tax imposed by this division. The
35 penalty imposed under this subsection is not subject
36 to waiver."

37 7. Page 13, by inserting after line 19 the
38 following:

39 "Sec. ____ . Section 423.18, subsection 1, Code
40 1985, is amended to read as follows:

41 1. If a person or permit holder fails to remit at
42 least ninety percent of the tax due with the filing of
43 the monthly deposit form or return on or before the
44 due date, or pays less than ninety percent of any tax
45 required to be shown on the monthly deposit form or
46 return, excepting the period between the completion of
47 an examination of the books and records of a taxpayer
48 and the giving of notice to the taxpayer that a tax or
49 additional tax is due, there shall be added to the tax
50 a penalty of ~~five~~ ten percent of the tax due. For tax

H-3946

Page Four

1 due under section 423.9, the penalty shall be ten
2 percent. In case of willful failure to file a monthly
3 deposit form or return, willfully filing a false
4 monthly deposit form or return, or willfully filing a
5 false or fraudulent monthly deposit form or return
6 with intent to evade tax, in lieu of the penalty
7 otherwise provided in this subsection, there shall be
8 added to the amount required to be shown as tax on the
9 monthly deposit form or return fifty percent of the
10 amount of the tax. The taxpayer shall also pay
11 interest on the tax or additional tax at the rate in
12 effect under section 421.7, for each month counting
13 each fraction of a month as an entire month, computed
14 from the date the monthly deposit form or return was
15 required to be filed. The penalty and interest shall
16 be paid to the department and disposed of in the same
17 manner as other receipts under this chapter. Unpaid
18 penalties and interest may be collected in the same
19 manner as the tax imposed by this chapter. The
20 penalty imposed under this subsection is not subject
21 to waiver."

22 8. Page 14, by inserting after line 14 the
23 following:

24 "Sec. _____. Section 435.5, Code 1985, is amended to
25 read as follows:

26 435.5 PENALTY.

27 If any person fails to remit at least ninety
28 percent of the tax due with the filing of the return
29 on or before the due date, or pays less than ninety
30 percent of the total amount of the tax due as shown on
31 the return, there shall be added to the tax a penalty
32 of ~~five~~ ten percent of the tax due. In case of
33 willful failure to file a return with intent to evade
34 tax, or in case of willfully filing a false return
35 with intent to evade tax, in lieu of the penalty above
36 provided, there shall be added to the amount required
37 to be shown as tax on the return fifty percent of the
38 amount of the tax. The penalty imposed under this
39 section is not subject to waiver.

40 Sec. _____. Section 450.63, subsection 2, Code 1985,
41 is amended to read as follows:

42 2. If a person liable for the payment of tax as
43 stated in section 450.5 fails to remit at least ninety
44 percent of the tax due with the filing of the return
45 on or before the due date or pays less than ninety
46 percent of any tax required to be shown on the return,
47 there shall be added to the tax a penalty of ~~five~~ ten
48 percent of the amount of the tax due. The penalty
49 imposed under this subsection is not subject to
50 waiver."

Page Five

1 9. By renumbering as necessary.

H-3946 FILED APRIL 22, 1985 BY ROSENBERG of Story

Adopted as amended by 3777 4/24/85 (p 1773)

HOUSE FILE 764

H-3984

- 1 Amend House File 764 as follows:
- 2 1. Page 7, line 6, by striking the word "may" and
- 3 inserting the following: "shall".
- 4 2. Page 7, line 7, by inserting after the word
- 5 "bond" the following: "in an amount established by
- 6 the hearing officer, but not in excess of all tax,
- 7 interest, and penalty,".

BY CARPENTER of Polk
DODERER of Johnson
SCHNEKLOTH of Scott

H-3984 FILED APRIL 23, 1985

Adopted 4/24/85 (p. 1793)

HOUSE FILE 764

H-3993

- 1 Amend House File 764 as follows:
- 2 1. Page 7, by inserting after line 8 the
- 3 following:
- 4 "The director shall adopt rules establishing
- 5 procedures for payment of taxes under protest. If it
- 6 is finally determined that the tax is not due in whole
- 7 or in part, the department shall refund the part of
- 8 the tax payment which is determined not to be due
- 9 together with interest on the amount of the refund at
- 10 the rate as determined under section 421.7."

H-3993 FILED APRIL 23, 1985 BY CHAPMAN of Linn

Adopted 4/24 (p. 1793)

HOUSE FILE 764

H-3997

- 1 Amend amendment H-3946 to House File 764 as follows:
- 2 1. Page 2, line 48, by striking the word "fifty" and
- 3 inserting the word "seventy-five".
- 4 2. Page 3, line 24, by striking the word "fifty" and
- 5 inserting the word "seventy-five".
- 6 3. Page 4, line 9, by striking the word "fifty" and
- 7 inserting the word "seventy-five".
- 8 4. Page 4, line 37, by striking the word "fifty" and
- 9 inserting the word "seventy-five".

H-3997 FILED APRIL 24, 1985 BY ROSENBERG of Story

ADOPTED (p. 1793)

HOUSE FILE 764

H-4000

1 Amend House File 764 as follows:

2 1. Page 15, line 9, by inserting after the word
3 "Act." the following: "The first amounts received
4 from taxes due and interest penalties as a direct
5 result of the tax amnesty program specified under
6 sections 1 through 3 of this Act shall be credited to
7 the general fund of the state to reimburse the amount
8 of this appropriation used by the department to
9 administer this Act."

H-4000 FILED APRIL 24, 1985 BY DODERER of Johnson

ADOPTED (p 1746)

HOUSE FILE 764

H-4002

1 Amend House File 764 as follows:

2 1. Page 3, line 3, by striking the word "officer,"
3 and inserting the words "officer or".

4 2. Page 3, by striking line 4, and inserting the
5 following: "member of the board of directors having a
6 substantial legal".

7 3. Page 4, by striking line 28, and inserting
8 the following: "any officer or member of the board of
9 directors having".

10 4. Page 10, line 30, by striking the word "officer,"
11 and inserting the words "officer or".

12 5. Page 10, by striking line 31, and inserting the
13 following: "member of the board of directors having a
14 sub-".

15 6. Page 12, by striking line 20, and inserting the
16 following: "any officer or member of the board of
17 directors".

H-4002 FILED APRIL 24, 1985 BY DODERER of Johnson

ADOPTED (p 1796)

HOUSE FILE 764

BY COMMITTEE ON WAYS AND MEANS

(As Amended and Passed by the House April 24, 1985)

Passed House, Date See below Passed Senate, Date 5-3-85 (p. 1957)

Vote: Ayes _____ Nays _____ Vote: Ayes 34 Nays 16

Approved ^{February March} April 13, 1986 - Item #46 Voted (p. 336)

Motion to override Vote Failed 2-21 (p. 411)

A BILL FOR

1 An Act relating to unpaid taxes and enforcement of taxes
2 administered by the department of revenue, making an
3 appropriation, and providing civil and criminal
4 penalties.

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

Conference Committee appointed

8 *Senator Brewer (Chair), Hutchins*, Mann, Huelb, Peterson 5/4 (p. 1973)*

9 *Representative Rosenberg (Chair), O'Hara, Jabou, Hanson, Schablotz 5/4 (p. 2316)*

10 ** Hutchins resigned, Huelb appointed 1/13/86 (p. 17)*

11 House Amendments _____

13 *Passed per Conference Committee Report*

14 *House 1/20/86 (p. 172)*

15 *Failed Senate 1/27 (p. 152)*

23-3

16 *62-27*

17 *Motion to reconsider (p. 157)*

18 *" adopted 1/27 (p. 161)*

19 *Passed Senate 1/27 (p. 163)*

31-15

20
21
22
23
24
25

1 Section 1. Sections 1 through 4 of this Act may be cited
2 as the "Iowa Tax Amnesty Act".

3 Sec. 2. DEFINITIONS. When used in sections 1 through 4 of
4 this Act, unless the context otherwise requires:

5 1. "Department" means the department of revenue.

6 2. "Taxpayer" means a person, corporation or other entity
7 subject to any tax imposed by a law of this state, payable to
8 this state, and administered by the department pursuant to
9 chapter 98, 324, 324A, 422, 422A, 423, 450, 450A, 450B, or
10 451.

11 3. "Director" means the director of the department.

12 Sec. 3. AMNESTY PROGRAM.

13 1. The director shall establish a tax amnesty program.

14 The amnesty program shall apply to tax liabilities delinquent
15 as of December 31, 1984, including tax on returns not filed,
16 tax liabilities on the books of the department as of December
17 31, 1984, or tax liabilities not reported nor established but
18 delinquent as of December 31, 1984. For a taxpayer who has a
19 tax liability, the director shall accept cash, certified
20 check, cashier's check or money order for the full amount of
21 the tax liability.

22 2. The amnesty program shall be for a period from
23 September 3, 1985 through October 31, 1985 for any tax
24 liabilities which are delinquent as of December 31, 1984.

25 3. The amnesty program shall provide that upon written
26 application by a taxpayer and payment by the taxpayer of
27 amounts due from the taxpayer to this state for a tax covered
28 by the amnesty program plus interest equal to fifty percent of
29 the interest that would have been owed through December 31,
30 1984, the department shall not seek to collect any other
31 interest or penalties which may be applicable and the
32 department shall not seek civil or criminal prosecution for a
33 taxpayer for the period of time for which amnesty has been
34 granted to the taxpayer. Failure to pay all taxes delinquent
35 as of December 31, 1984 and due to this state except those

1 adjustments made pursuant to a federal audit completed after
2 the effective date of this Act shall invalidate any amnesty
3 granted pursuant to this Act. Amnesty shall be granted for
4 only the taxable periods specified in the application and only
5 if all amnesty conditions are satisfied by the taxpayer.

6 4. Amnesty shall not be granted to a taxpayer who is a
7 party to an active criminal investigation or to a criminal
8 litigation which is pending in a district court, the court of
9 appeals, or the supreme court of this state for nonpayment or
10 fraud in relation to any state tax imposed by a law of this
11 state.

12 5. The director shall prepare and make available amnesty
13 application forms which contain requirements for approval of
14 an application. The director may deny any application
15 inconsistent with sections 1 through 4 of this Act.

16 Sec. 4. Sections 1 through 3 of this Act are exempt from
17 the rulemaking process of the Iowa administrative procedure
18 Act.

19 Sec. 5. Section 98.13, subsection 2, Code 1985, is amended
20 to read as follows:

21 2. ISSUANCE.

22 a. The department shall issue state permits to
23 distributors, wholesalers, and cigarette vendors subject to
24 the conditions provided in this division. Cities may issue
25 retail permits to dealers within their respective limits.
26 County boards of supervisors may issue retail permits to
27 dealers in their respective counties, outside of the corporate
28 limits of cities. Upon issuance of a retail permit by a city
29 council or board of supervisors, the council or board shall
30 forthwith certify to the department the action taken.

31 b. A permit shall not be issued by the department to any
32 distributor, wholesaler, vendor or retailer having any
33 obligation due and owing at the time of application to pay any
34 delinquent tax, or the interest or penalty on the tax,
35 administered by the department. If the applicant is a

1 partnership, a permit shall not be issued if any partner owes
2 any delinquent tax, penalty or interest. If the applicant is
3 a corporation, a permit shall not be issued if any officer or
4 member of the board of directors having a substantial legal or
5 equitable interest in the ownership of the corporation owes
6 any delinquent tax, interest or penalty.

7 Sec. 6. Section 98.22, subsection 1, Code 1985, is amended
8 to read as follows:

9 1. If any a person holding a permit issued by the
10 department under this division, including a retailer permit
11 for railway car, has willfully violated ~~the provisions of~~
12 section 98.2, the department shall revoke the permit issued
13 ~~the person~~ upon notice and hearing. If the person violates
14 any other provision of this division, or any a rule
15 promulgated adopted under this division, or fails to pay any
16 tax administered by the department or the interest or penalty
17 on the tax, the department may revoke the permit issued to the
18 person, after giving the permit holder an opportunity to be
19 heard upon ten days' written notice stating the reason for the
20 contemplated revocation and the time and place at which the
21 person may appear and be heard. The hearing shall be held in
22 the county of the permit holder's place of business, or in a
23 county in or through which it transacts business. The notice
24 shall be given by mailing a copy by certified mail to the
25 permit holder's place of business as ~~the same~~ it appears on
26 the application for a permit. If, upon hearing, the
27 department finds that the violation has occurred, the
28 department may revoke the permit.

29 Sec. 7. Section 98.28, Code 1985 is amended to read as
30 follows:

31 98.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
32 PENALTY.

33 If after any audit, examination of records, or other
34 investigation the department finds that any person has sold
35 cigarettes without stamps affixed thereto as required by this

1 division or that any person has failed to pay at least ninety
2 percent of any tax imposed upon the person, the department
3 shall fix and determine the amount of tax due, and shall
4 assess the tax against the person, together with a penalty of
5 five ten percent of the amount of the tax. The taxpayer shall
6 pay interest on the tax or additional tax at the rate
7 determined under section 421.7 counting each fraction of a
8 month as an entire month, computed from the date the tax was
9 due. If any person fails to furnish evidence satisfactory to
10 the director showing purchases of sufficient stamps to stamp
11 unstamped cigarettes purchased by the person, the presumption
12 shall be that the cigarettes were sold without the proper
13 stamps affixed thereto. Within two years after the return is
14 filed or within two years after the return became due,
15 whichever is later, the department shall examine it and
16 determine the correct amount of tax.

17 Sec. 8. Section 98.29, Code 1985, is amended to read as
18 follows:

19 98.29 NOTICE AND APPEAL.

20 The department shall notify any person assessed pursuant to
21 section 98.28 by sending a written notice of such the
22 determination and assessment by certified mail to the
23 principal place of business of such the person as shown on the
24 person's application for permit, if any, and in case no such
25 application was filed by such the person, to the person's last
26 known address. A determination by the department of the
27 amount of tax, penalty, and interest due, or the amount of
28 refund for excess tax paid, is final unless the person
29 aggrieved by the determination appeals to the director for a
30 revision of the determination within thirty days from the
31 postmark date of the notice of determination of tax, penalty,
32 and interest or refund owing. The director shall grant a
33 hearing and upon the hearing, the director shall determine the
34 correct tax, penalty, and interest or refund due and notify
35 the appellant of the decision by certified mail. Judicial

1 review of action of the department director may be sought in
2 accordance with the terms of the Iowa administrative procedure
3 Act and section 422.29.

4 Sec. 9. Section 98.46, subsection 6, Code 1985 is amended
5 to read as follows:

6 6. The director in issuing the final assessment pursuant
7 to subsection 3 shall add to the amount of tax found due and
8 unpaid a penalty of five ten percent of the tax if less than
9 ninety percent of the tax has been paid, except that, if the
10 director finds that the taxpayer has made a false and
11 fraudulent return with intent to evade the tax imposed by this
12 division, the penalty shall be fifty percent of the entire tax
13 as shown by the return as corrected. The director in
14 assessing a tax on the basis of a return made pursuant to
15 subsection 4 shall add to the amount of tax found due and
16 unpaid a penalty of fifty percent of the tax. The penalty
17 imposed under this subsection is not subject to waiver.

18 Sec. 10. Section 324.4, unnumbered paragraph 2, Code 1985,
19 is amended to read as follows:

20 A license shall not be issued if the applicant is a foreign
21 corporation, unless it is at the time properly qualified under
22 the laws of this state to do business therein in this state.
23 A license shall not be issued to an applicant having any
24 obligation, due and owing at the time of application, to pay
25 any delinquent tax, or the interest or penalty on the tax,
26 administered by the department of revenue. If the applicant
27 is a partnership, a license shall not be issued if any partner
28 owes any delinquent tax, penalty or interest. If the
29 applicant is a corporation, a license shall not be issued if
30 any officer or member of the board of directors having a
31 substantial legal or equitable interest in the ownership of
32 the corporation owes any delinquent tax, interest or penalty.

33 Sec. 11. Section 324.65, unnumbered paragraph 1, Code
34 1985, is amended to read as follows:

35 If a licensee or other person fails to remit at least

1 ninety percent of the tax due with the filing of the return on
2 or before the due date or pays less than ninety percent of any
3 tax required to be shown on the return, there shall be added
4 to the tax a penalty of ~~five~~ ten percent of the amount of the
5 tax due. The penalty imposed under this section is not
6 subject to waiver. The taxpayer shall also pay interest on
7 the tax or additional tax at the rate in effect under section
8 421.7 counting each fraction of a month as an entire month,
9 computed from the date the return was required to be filed.

10 Sec. 12. Section 324.65, Code 1985, is amended by adding
11 the following new unnumbered paragraphs:

12 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
13 fails to pay fuel taxes when due, any officer of a corporation
14 or association, or any partner of a partnership, having
15 control or supervision of or the authority for remitting the
16 fuel tax payments, who has intentionally failed to pay the tax
17 is personally liable for the payment of the fuel taxes,
18 interest and penalty due and unpaid. The dissolution of a
19 corporation, association or partnership shall not discharge a
20 person's liability for failure to remit the tax due.

21 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
22 sells the licensee's or other person's business or stock of
23 goods or quits the business, the licensee or other person
24 shall prepare a final return and pay all tax due within the
25 time required by law. All successors to the licensee or other
26 person, if any, shall withhold sufficient of their purchase
27 price, in money or money's worth, to pay the amount of any
28 tax, interest or penalty due and unpaid until the former
29 licensee or other person, or a predecessor, whether immediate
30 or not, produces a valid receipt from the department showing
31 that tax is paid, or a valid certificate stating that no taxes
32 are due. If successors of the business or stock of goods
33 intentionally fail to withhold any amount due from the
34 purchase price as provided in this paragraph, they are
35 personally liable for the payment of the taxes, interest and

1 penalty accrued and unpaid on account of the operation of the
2 business by the former licensee or other person. A successor
3 shall secure a valid receipt or certificate from any former
4 licensee or other person. However, a person foreclosing on a
5 valid security interest or retaking possession of premises
6 under a valid lease is not a "successor" for purposes of this
7 paragraph.

8 Sec. 13. Section 324.66, unnumbered paragraph 1, Code
9 1985, is amended to read as follows:

10 The appropriate state agency shall administer the taxes
11 imposed by this chapter in the same manner as and subject to
12 ~~all the provisions of~~ section 422.25, subsection 4 and section
13 422.52, subsection 3. Notwithstanding section 422.52,
14 subsection 3, all special fuel licensees are required to file
15 a bond with the director in an amount as established by the
16 director.

17 Sec. 14. Section 324.68, unnumbered paragraph 1, Code
18 1985, is amended to read as follows:

19 If a licensee files a false report of the data or
20 information required by this chapter, or fails, refuses, or
21 neglects to file a report required by this chapter, or to pay
22 the full amount of fuel tax as required by this chapter, or
23 any tax due, owing and administered by the department of
24 revenue, and interest and penalty if appropriate, then after
25 ten days' written notice by registered mail directed to the
26 last known address of the licensee setting a time and place at
27 which the licensee may appear and show cause why the license
28 should not be canceled, and if the licensee fails to appear or
29 if upon the hearing it is shown by a preponderance of the
30 evidence that the failure to correctly report or pay was with
31 intent to evade the tax, the appropriate state agency may
32 cancel the license and shall notify the licensee of the
33 cancellation by registered mail to the licensee's last known
34 address.

35 Sec. 15. Section 421.7, Code 1985, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 7. If a person files a purported return
3 of tax which does not contain information on which the
4 substantial correctness of the self-assessment may be judged
5 or which contains information that on its face indicates that
6 the self-assessment is substantially incorrect and the conduct
7 previously referred to in this paragraph is due to a position
8 which is frivolous or a desire which appears on the purported
9 return to delay or impede the administration of the tax laws
10 of this state, then the person shall pay a penalty of five
11 hundred dollars. This penalty shall be in addition to any
12 other penalty provided by law.

13 Sec. 16. Section 421.17, Code 1985, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 26. For any contested case, as defined in
16 section 17A.2, commenced on or after the effective date of
17 this Act, the person disputing the assessment must pay all
18 tax, interest and penalty pertaining to the disputed
19 assessment prior to the commencement of the contested case.
20 Upon a showing of good cause, the hearing officer shall allow
21 the person to post a bond in an amount established by the
22 hearing officer, but not in excess of all tax, interest, and
23 penalty, in lieu of paying all tax, interest and penalty.

24 The director shall adopt rules establishing procedures for
25 payment of taxes under protest. If it is finally determined
26 that the tax is not due in whole or in part, the department
27 shall refund the part of the tax payment which is determined
28 not to be due together with interest on the amount of the
29 refund at the rate as determined under section 421.7.

30 Sec. 17. Section 422.16, subsection 10, paragraph b,
31 unnumbered paragraph 1, Code 1985, is amended to read as
32 follows:

33 If any person or withholding agent fails to remit at least
34 ninety percent of the tax due with the filing of the
35 semimonthly, monthly, or quarterly deposit form on or before

1 the due date, or pays less than ninety percent of any tax
2 required to be shown on the semimonthly, monthly, or quarterly
3 deposit form, there shall be added to the tax a penalty of ten
4 percent of the amount of the tax due.

5 Sec. 18. Section 422.16, subsection 14, Code 1985, is
6 amended to read as follows:

7 14. The director may, when necessary and advisable in
8 order to secure the collection of the tax required to be
9 deducted and withheld or the amount actually deducted,
10 whichever is greater, require ~~a nonresident~~ an employer or
11 withholding agent to file with the director a bond, issued by
12 a surety company authorized to conduct business in this state
13 and approved by the insurance commissioner as to solvency and
14 responsibility, in ~~such~~ an amount as the director may fix, to
15 secure the payment of the tax and penalty due or which may
16 become due. In lieu of the bond, securities shall be kept in
17 the custody of the department and may be sold by the director
18 at public or private sale, without notice to the depositor, if
19 it becomes necessary to do so in order to recover any tax and
20 penalty due. Upon ~~any such~~ a sale, any surplus above the
21 amounts due under this section shall be returned to the
22 ~~nonresident~~ employer or withholding agent who deposited the
23 securities.

24 Sec. 19. Section 422.25, subsection 2, Code 1985, is
25 amended to read as follows:

26 2. In addition to the tax or additional tax determined by
27 the department under subsection 1, the taxpayer shall pay
28 interest on the tax or additional tax at the rate in effect
29 under section 421.7 for each month counting each fraction of a
30 month as an entire month, computed from the date the return
31 was required to be filed. If any person fails to remit at
32 least ninety percent of the tax due with the filing of the
33 return on or before the due date, or pays less than ninety
34 percent of any tax required to be shown on the return, there
35 shall be added to the tax a penalty of ~~five~~ ten percent of the

1 tax due. In case of willful failure to file a return with
2 intent to evade tax, or in case of willfully filing a false
3 return with intent to evade tax, in lieu of the penalty
4 otherwise provided in this subsection, there shall be added to
5 the amount required to be shown as tax on the return seventy-
6 five percent of the amount of the tax. The penalty imposed
7 under this subsection is not subject to waiver.

8 Sec. 20. Section 422.28, Code 1985, is amended to read as
9 follows:

10 422.28 REVISION OF TAX.

11 A taxpayer may appeal to the director for revision of the
12 tax, interest or penalties assessed at any time within ninety
13 thirty days from the date of the notice of the assessment of
14 tax, additional tax, interest or penalties. The director
15 shall grant a hearing and if, upon the hearing, the director
16 determines that the tax, interest or penalties are excessive
17 or incorrect, the director shall revise them according to the
18 law and the facts and adjust the computation of the tax,
19 interest or penalties accordingly. The director shall notify
20 the taxpayer by registered mail of the result of the hearing
21 and shall refund to the taxpayer the amount, if any, paid in
22 excess of the tax, interest or penalties found by the director
23 to be due, with interest after sixty days from the date of
24 payment by the taxpayer at the rate in effect under section
25 421.7 for each month or a fraction of a month. The director
26 may, on the director's own motion at any time, abate any
27 portion of tax, interest or penalties which the director
28 determines is excessive in amount, or erroneously or illegally
29 assessed. The director shall prepare quarterly reports, which
30 shall be included in the annual statistical reports required
31 under section 422.75, summarizing each case in which an
32 abatement of tax, interest or penalties was made under this
33 section, but a report shall not disclose the identity of the
34 taxpayer.

35 Sec. 21. Section 422.47, subsection 3, paragraph b, Code

1 1985, is amended to read as follows:

2 b. The sales tax liability for all sales of tangible
3 personal property and all sales of services ~~shall-be~~ is upon
4 the seller and the purchaser unless the seller takes in good
5 faith from the purchaser a valid exemption certificate stating
6 under penalties for perjury that the purchase is for resale or
7 for processing and is not a retail sale as defined in section
8 422.42, subsection 3. ~~Where~~ If the tangible personal property
9 or services are purchased tax free pursuant to a valid
10 exemption certificate which is taken in good faith by the
11 seller, and the tangible personal property or services are
12 used or disposed of by the purchaser in a nonexempt manner,
13 the purchaser ~~shall-be~~ is solely liable for the taxes and
14 shall remit ~~said~~ the taxes directly to the department and
15 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
16 422.57, 422.58, and 422.59 shall apply to ~~such~~ the purchaser.

17 Sec. 22. Section 422.52, Code 1985, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 6. a. If a purchaser fails to pay tax
20 imposed by this division to the retailer required to collect
21 the tax, then in addition to all of the rights, obligations
22 and remedies provided, the tax is payable by the purchaser
23 directly to the department, and sections 422.50, 422.51,
24 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59
25 apply to the purchaser. For failure, the retailer and
26 purchaser are liable, unless the circumstances described in
27 subsections 422.47, subsection 3, paragraphs "b" and "e" are
28 applicable.

29 b. If a retailer or a purchaser fails to pay the tax when
30 due, any officer of a corporation or association, or any
31 partner of a partnership, having control or supervision of, or
32 the authority for remitting the tax payments who has
33 intentionally failed to pay the tax is personally liable for
34 the payment of the taxes, interest and penalty due and unpaid.
35 The dissolution of a corporation, association or partnership

1 does not discharge a person's liability for failure to remit
2 the tax due.

3 c. If any retailer subject to this division sells the
4 retailer's business or stock of goods or quits the business,
5 the retailer shall prepare a final return and pay all tax due
6 within the time required by law. All successors to the
7 retailer, if any, shall withhold sufficient of their purchase
8 price, in money or money's worth, to pay the amount of tax,
9 interest or penalty due and unpaid until the former retailer
10 or a predecessor, whether immediate or not, produces a valid
11 receipt from the department showing that tax is paid, or a
12 valid certificate stating that no taxes are due. If
13 successors of the business or stock of goods intentionally
14 fail to withhold the amount due from the purchase price as
15 provided in this paragraph, they are personally liable for the
16 payment of the taxes, interest and penalty accrued and unpaid
17 on account of the operation of the business by the former
18 retailer or predecessor. A successor shall secure a valid
19 receipt or certificate from the former retailer or
20 predecessor. However, a person foreclosing on a valid
21 security interest or retaking possession of premises under a
22 valid lease is not a "successor" for purposes of this
23 paragraph.

24 d. A person sponsoring a flea market, or a craft, antique,
25 coin, or stamp show or similar event shall obtain from every
26 retailer selling tangible personal property or taxable
27 services at the event proof that the retailer possesses a
28 valid sales tax permit or secure from the retailer a
29 statement, taken in good faith, that property or services
30 offered for sale are not subject to sales tax. Failure to do
31 so renders a sponsor of the event liable for payment of any
32 sales tax, interest and penalty due and owing from any
33 retailer selling property or services at the event. Sections
34 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58
35 and 422.59 apply to the sponsors.

1 Sec. 23. Section 422.53, subsections 2 and 5, Code 1985,
2 are amended to read as follows:

3 2. The applicant must have a permit for each place of
4 business. A permit shall not be issued to an applicant having
5 any obligations due and owing at the time of application, to
6 pay any delinquent tax, or the interest and penalty on the
7 tax, administered by the department. If the applicant is a
8 partnership, a permit shall not be issued if any partner owes
9 any delinquent tax, penalty or interest. If the applicant is
10 a corporation, a permit shall not be issued if any officer or
11 member of the board of directors having a substantial legal or
12 equitable interest in the ownership of the corporation owes
13 any delinquent tax, penalty or interest.

14 5. If the holder of a permit fails to comply with any of
15 the provisions of this division or any orders or rules of the
16 department adopted under this division or fails to pay any tax
17 administered by the department or the interest or penalty on
18 the tax, the director upon hearing after giving ten days'
19 notice of the time and place of the hearing to show cause why
20 the permit should not be revoked, may revoke the permit. The
21 director may restore permits after revocation. The director
22 shall adopt rules setting forth the period of time a retailer
23 must wait before a permit may be restored or a new permit may
24 be issued. The waiting period shall not exceed ninety days
25 from the date of the revocation of the permit.

26 Sec. 24. Section 422.58, subsection 1, Code 1985, is
27 amended to read as follows:

28 1. If a person or permit holder fails to remit at least
29 ninety percent of the tax due with the filing of the
30 semimonthly or monthly tax deposit form or return on or before
31 the due date, or pays less than ninety percent of any tax
32 required to be shown on the return, excepting the period
33 between the completion of an examination of the books and
34 records of a taxpayer and the giving of notice to the taxpayer
35 that a tax or additional tax is due, there shall be added to

1 the tax a penalty of ten twenty percent of the amount of the
2 tax due. In case of willful failure to file a semimonthly or
3 monthly tax deposit form or return, willful filing of a false
4 semimonthly or monthly tax deposit form or return or willful
5 filing of a false or fraudulent semimonthly or monthly tax
6 deposit form or return with intent to evade tax, in lieu of
7 the penalty otherwise provided in this subsection, there shall
8 be added to the amount required to be shown as tax on the
9 semimonthly or monthly tax deposit form or return seventy-five
10 percent of the amount of the tax. The taxpayer shall also pay
11 interest on the tax or additional tax at the rate in effect
12 under section 421.7 for each month counting each fraction of a
13 month as an entire month, computed from the date the
14 semimonthly or monthly tax deposit form or return was required
15 to be filed. The penalty and interest shall be paid to the
16 department and disposed of in the same manner as other
17 receipts under this division. Unpaid penalties and interest
18 may be enforced in the same manner as the tax imposed by this
19 division. The penalty imposed under this subsection is not
20 subject to waiver.

21 Sec. 25. Section 422.58, subsection 2, Code 1985, is
22 amended to read as follows:

23 2. a. Any person who ~~shall~~ knowingly ~~sell~~ sells tangible
24 personal property, tickets or admissions to places of
25 amusement and athletic events, or gas, water, electricity, and
26 communication service at retail, or ~~engage~~ engages in the
27 rendering, furnishing, or performing of services enumerated in
28 section 422.43, in this state without procuring a permit, as
29 provided in section 422.53, or who ~~shall-violate-the~~
30 ~~provisions-of~~ violates section 422.49, and the officers of any
31 corporation who ~~shall~~ so ~~act~~, ~~shall-be~~ acts is guilty of a
32 simple serious misdemeanor.

33 b. Any A person who ~~shall~~ knowingly ~~sell~~ sells tangible
34 personal property, tickets or admissions to places of
35 amusement and athletic events, or gas, water, electricity, and

1 communication service at retail, or engage engages in the
2 rendering, furnishing, or performing of services enumerated in
3 section 422.43, in this state after the person's license shall
4 have has been revoked and before it has been restored as
5 provided in section 422.53, subsection 5 and the officers of
6 any corporation who shall so act shall-be are guilty of a
7 serious an aggravated misdemeanor.

8 Sec. 26. Section 423.9, unnumbered paragraph 1, Code 1985,
9 is amended to read as follows:

10 Every retailer maintaining a place of business in this
11 state and making sales of tangible personal property for use
12 in this state, not exempted under ~~the provisions of~~ section
13 423.4 nor collectible under ~~the provisions of~~ section 423.7,
14 shall at the time of making such the sales, whether within or
15 without the state, collect the tax imposed by this chapter
16 from the purchaser, and give to the purchaser a receipt
17 therefor for the tax in the manner and form prescribed by the
18 director, if the director shall, by regulation, ~~require such~~
19 rules requires a receipt. Each such retailer shall list with
20 the department the name and address of all the retailer's
21 agents operating in this state, and the location of ~~any and~~
22 all the retailer's distribution or sales houses or offices or
23 other places of business in this state. A permit shall not be
24 issued to a retailer having any obligation due and owing at
25 the time of application, to pay any delinquent tax, interest
26 or penalty administered by the department. If the applicant
27 is a partnership, a permit shall not be issued if any partner
28 owes any delinquent tax, penalty or interest. If the
29 applicant is a corporation, a permit shall not be issued if
30 any officer or member of the board of directors having a
31 substantial legal or equitable interest in the ownership of
32 the corporation owes any delinquent tax, penalty or interest.

33 Sec. 27. Section 423.13, Code 1985, is amended by adding
34 the following new unnumbered paragraphs:

35 NEW UNNUMBERED PARAGRAPH. If a retailer or a purchaser

1 fails to pay the tax due, any officer of a corporation or
2 association, or any partner of a partnership, having control
3 or supervision of or the authority for remitting the tax
4 payments, who has intentionally failed to pay the tax is
5 personally liable for the failure. The dissolution of a
6 corporation, association or partnership does not discharge the
7 individual's liability for failure to remit the tax due.

8 NEW UNNUMBERED PARAGRAPH. If a retailer sells the
9 retailer's business or stock of goods or quits the business,
10 the retailer shall prepare a final return and pay all tax due
11 within the time required by law. All successors to the
12 retailer, if any, shall withhold sufficient of their purchase
13 price, in money or money's worth, to pay the amount of tax,
14 interest or penalty due and unpaid until the former retailer
15 or a predecessor, whether immediate or not, produces a valid
16 receipt from the department showing that tax is paid, or a
17 valid certificate stating that no taxes are due. If
18 successors of the business or stock of goods intentionally
19 fail to withhold the amount due from the purchase price as
20 provided in this paragraph, they are personally liable for the
21 payment of the taxes, interest and penalty accrued and unpaid
22 on account of the operation of the business by the former
23 retailer or predecessor. A successor shall secure a valid
24 receipt or certificate from the former retailer or
25 predecessor. However, a person foreclosing on a valid
26 security interest or retaking possession of premises under a
27 valid lease is not a "successor" for purposes of this
28 paragraph.

29 Sec. 28. Section 423.18, subsection 1, Code 1985, is
30 amended to read as follows:

31 1. If a person or permit holder fails to remit at least
32 ninety percent of the tax due with the filing of the monthly
33 deposit form or return on or before the due date, or pays less
34 than ninety percent of any tax required to be shown on the
35 monthly deposit form or return, excepting the period between

1 the completion of an examination of the books and records of a
2 taxpayer and the giving of notice to the taxpayer that a tax
3 or additional tax is due, there shall be added to the tax a
4 penalty of five ten percent of the tax due. For tax due under
5 section 423.9, the penalty shall be ten percent. In case of
6 willful failure to file a monthly deposit form or return,
7 willfully filing a false monthly deposit form or return, or
8 willfully filing a false or fraudulent monthly deposit form or
9 return with intent to evade tax, in lieu of the penalty
10 otherwise provided in this subsection, there shall be added to
11 the amount required to be shown as tax on the monthly deposit
12 form or return seventy-five percent of the amount of the tax.
13 The taxpayer shall also pay interest on the tax or additional
14 tax at the rate in effect under section 421.7, for each month
15 counting each fraction of a month as an entire month, computed
16 from the date the monthly deposit form or return was required
17 to be filed. The penalty and interest shall be paid to the
18 department and disposed of in the same manner as other
19 receipts under this chapter. Unpaid penalties and interest
20 may be collected in the same manner as the tax imposed by this
21 chapter. The penalty imposed under this subsection is not
22 subject to waiver.

23 Sec. 29. Section 423.22, Code 1985, is amended to read as
24 follows:

25 423.22 REVOKING PERMITS.

26 Whenever-any If a retailer maintaining a place of business
27 in this state, or authorized to collect the tax herein imposed
28 pursuant to section 423.10, fails to comply with any of the
29 provisions of this chapter or any orders or rules prescribed
30 and adopted under this chapter, or fails to pay any tax
31 administered by the department or the interest or penalty on
32 the tax, the director may, upon notice and hearing as
33 hereinafter provided, by order revoke the permit, if any,
34 issued to such the retailer under section 422.53, or if such
35 the retailer is a corporation authorized to do business in

1 this state under chapter 494, may certify to the secretary of
2 state a copy of an order finding that such the retailer has
3 failed to comply with ~~certain~~ specified provisions, orders or
4 rules. The secretary of state shall, upon receipt of such the
5 certified copy, revoke the permit authorizing ~~said the~~
6 corporation to do business in this state, and shall issue a
7 new permit only when such the corporation ~~shall-have~~ has
8 obtained from the director an order finding that such the
9 corporation has complied with its obligations under this
10 chapter. No order authorized in this section shall be made
11 until the retailer is given an opportunity to be heard and to
12 show cause why such the order should not be made, and the
13 retailer shall be given ten days' notice of the time, place,
14 and purpose of such the hearing. The director may issue a new
15 permit pursuant to section 422.53 after such revocation. The
16 preceding provision ~~shall-apply~~ applies to users and persons
17 supplying services enumerated in section 422.43.

18 Sec. 30. Section 435.5, Code 1985, is amended to read as
19 follows:

20 435.5 PENALTY.

21 If any person fails to remit at least ninety percent of the
22 tax due with the filing of the return on or before the due
23 date, or pays less than ninety percent of the total amount of
24 the tax due as shown on the return, there shall be added to
25 the tax a penalty of ~~five~~ ten percent of the tax due. In case
26 of willful failure to file a return with intent to evade tax,
27 or in case of willfully filing a false return with intent to
28 evade tax, in lieu of the penalty above provided, there shall
29 be added to the amount required to be shown as tax on the
30 return ~~seventy-five~~ seventy-five percent of the amount of the tax. The
31 penalty imposed under this section is not subject to waiver.

32 Sec. 31. Section 450.63, subsection 2, Code 1985, is
33 amended to read as follows:

34 2. If a person liable for the payment of tax as stated in
35 section 450.5 fails to remit at least ninety percent of the

1 tax due with the filing of the return on or before the due
2 date or pays less than ninety percent of any tax required to
3 be shown on the return, there shall be added to the tax a
4 penalty of ~~five~~ ten percent of the amount of the tax due. The
5 penalty imposed under this subsection is not subject to
6 waiver.

7 Sec. 32. Section 450.94, subsection 3, Code 1985, is
8 amended to read as follows:

9 3. If the amount paid is greater than the correct tax,
10 penalty and interest due, the department shall refund the
11 excess, with interest after sixty days from the date of
12 payment at the rate in effect under section 421.7, under the
13 rules prescribed by the director. However, the director shall
14 not allow a claim for refund or credit that has not been filed
15 with the department within three years after the tax payment
16 upon which a refund or credit is claimed became due, or one
17 year after the tax payment was made, whichever time is the
18 later. A determination by the department of the amount of
19 tax, penalty and interest due, or the amount of refund for
20 excess tax paid, is final unless the person aggrieved by the
21 determination appeals to the director for a revision of the
22 determination within ninety thirty days from the postmark date
23 of the notice of determination of tax, penalty and interest
24 due or refund owing. The director shall grant a hearing, and
25 upon the hearing the director shall determine the correct tax,
26 penalty and interest or refund due, and notify the appellant
27 of the decision by certified mail. The decision of the
28 director is final unless the appellant seeks judicial review
29 of the director's decision under section 450.59 within sixty
30 days after the postmark date of the notice of the director's
31 decision.

32 Sec. 33. There is appropriated from the general fund of
33 the state to the department of revenue for the fiscal year
34 beginning July 1, 1985 and ending June 30, 1986 the sum of two
35 hundred fifty thousand (250,000) dollars or so much thereof as

1 necessary, to be used to administer this Act. The first
2 amounts received from taxes due and interest penalties as a
3 direct result of the tax amnesty program specified under
4 sections 1 through 3 of this Act shall be credited to the
5 general fund of the state to reimburse the amount of this
6 appropriation used by the department to administer this Act.

- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE 12
MAY 2, 1985

S-4189

HOUSE FILE 764

- 1 Amend House File 764, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 5, by striking lines 18 through 32.
- 4 2. Page 6, line 5, by striking the word "not" and
- 5 inserting the word "not".
- 6 3. By striking page 6, line 10 through page 7,
- 7 line 7.
- 8 4. Page 7, by striking lines 8 through 16.
- 9 5. Page 7, by striking lines 17 through 34.
- 10 6. By striking page 8, line 30 through page 9,
- 11 line 4.
- 12 7. Page 9, by striking lines 5 through 23.
- 13 8. Page 10, line 7, by striking the word "not"
- 14 and inserting the following: "not".
- 15 9. By striking page 11, line 29 through page 12,
- 16 line 24 and inserting the following:
- 17 "b. A person sponsoring a flea market, or a craft,
- 18 antique,".
- 19 10. Page 13, by striking lines 1 through 25.
- 20 11. Page 14, line 19, by striking the word "not"
- 21 and inserting the following: "not".
- 22 12. Page 15, by striking lines 8 through 32.
- 23 13. By striking page 15, line 33 through page 16,
- 24 line 28.
- 25 14. Page 17, line 21, by striking the word "not"
- 26 and inserting the following: "not".
- 27 15. By striking page 17, line 23 through page 18,
- 28 line 17.
- 29 16. Page 18, line 31, by striking the word "not"
- 30 and inserting the following: "not".
- 31 17. Page 19, line 5, by striking the word "not"
- 32 and inserting the following: "not".

S-4189 Filed May 1, 1985

By HOLDEN & HUTCHINS

o/c 5/2 (j. 1923)

1 Amend House File 764, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 2, by inserting after line 15 the
 4 following:
 5 "6. Any rules or written pronouncements
 6 interpreting the revenue laws that were made by the
 7 director of revenue or by the director of any division
 8 of the department of revenue prior to the effective
 9 date of the Iowa Administrative Procedure Act shall be
 10 deemed to have been and continue to be in full force
 11 and effect until reversed, repealed or modified in
 12 accordance with the provisions of the Iowa
 13 Administrative Procedure Act or by law."

S-4020 Filed April 26, 1985 By HULTMAN
(Adopted 5/3/85 (j. 1943))

1 Amend House File 764 as amended, passed and
 2 reprinted by the House as follows:
 3 1. Page 6, line 4, by striking the words "five
 4 ten" and inserting the following: "five".
 5 2. Page 14, line 1, by striking the words "ten
 6 twenty" and inserting the following: "ten".

S-4185 Filed May 1, 1985 By HUTCHINS
o/o 5/3 (j. 1922)

S-4190 page 4

1 "return" the following: "fifty".

2 23. Page 18, line 25, by striking the words "five
3 ten" and inserting the following: "five".

4 24. Page 18, line 30, by inserting after the word
5 "return" the following: "fifty".

6 25. Page 19, line 4, by striking the words "five
7 ten" and inserting the following: "five".

8 26. Page 20, line 2, by striking the word
9 "penalties".

10 27. Page 20, by inserting after line 6 the
11 following:

12 "Sec. ____ . Sections 40 and 41 of this Act are
13 retroactive to January 1, 1985 for tax years beginning
14 on or after that date."

S-4190 Filed May 1, 1985

by COMMITTEE ON WAYS & MEANS

A- Adopted 5/2/85 (p. 1902)

B- Adopted 5/3 (p. 1923)

C- 11/10 (p. 1947)

1 "return" the following: "fifty".

2 14. Page 10, by inserting after line 34 the
A 3 following:

4 "Sec. 41. Section 422.33, subsection 5, unnumbered
5 paragraph 1, Code 1985, as amended by 1985 Iowa Acts,
6 Senate File 561, section 7, is amended to read as
7 follows:

8 The taxes imposed under this division shall be
9 reduced by a state tax credit for increasing research
10 activities in this state equal to six and one-half
11 percent of the state's apportioned share of the
12 qualifying expenditures for increasing research
13 activities. The state's apportioned share of the
14 qualifying expenditures for increasing research
15 activities is a percent equal to the ratio of
16 qualified research expenditures in this state to the
17 total qualified research expenditures. For purposes
18 of this subsection, "qualifying expenditures for
19 increasing research activities" means the qualifying
20 expenditures as defined for the federal credit for
21 increasing research activities computed which would be
22 allowable under section 30 of the Internal Revenue
23 Code of 1954, as-amended-to-and-including in effect on
24 January 1, 1983 1985. The-research-activities-credit
25 is-applicable-for-taxable-years-beginning-after
26 December-31,-1985-to-the-same-extent-that-the-credit
27 is-applicable-for-federal-income-tax-purposes-for
28 taxable-years-beginning-after-December-31,-1985-"

29 15. Page 12, line 35, by inserting after the word
B 30 "sponsors." the following: "For purposes of this
31 paragraph a person sponsoring a flea market, or a
32 craft, antique, coin or stamp show or similar event
33 does not include a nonprofit organization which
34 sponsors an event less than three times a year or a
35 state, county or district agricultural fair."

36 16. Page 13, by striking lines 9 through 13 and
37 inserting the following: "any delinquent tax, penalty
38 or interest."

39 17. Page 14, line 1, by striking the word
40 "twenty" and inserting the following: "fifteen".

41 18. Page 14, line 9, by inserting after the word
42 "return" the following: "fifty".

43 19. Page 15, by striking lines 28 through 32 and
44 inserting the following: "owes any delinquent tax,
45 penalty or interest."

46 20. Page 17, line 4, by striking the words "five
47 ten" and inserting the following: "five".

48 21. Page 17, line 5, by striking the word "ten"
49 and inserting the following: "ten fifteen".

50 22. Page 17, line 12, by inserting after the word

A
1 apportioned share of the qualifying expenditures for
2 increasing research activities is a percent equal to
3 the ratio of qualified research expenditures in this
4 state to total qualified research expenditures. For
5 purposes of this section, an individual may claim a
6 research credit for qualifying research expenditures
7 incurred by a partnership, subchapter S corporation,
8 and estate or trust electing to have the income taxed
9 directly to the individual. The amount claimed by the
10 individual shall be based upon the pro rata share of
11 the individual's earnings of a partnership, subchapter
12 S corporation, or estate or trust. For purposes of
13 this section, "qualifying expenditures for increasing
14 research activities" means the qualifying expenditures
15 as defined for the federal credit for increasing
16 research activities computed which would be allowable
17 under section 30 of the Internal Revenue Code of 1954,
18 as amended to and including in effect on January 1,
19 1983 1985. The research activities credit is
20 applicable for taxable years beginning after December
21 31, 1985 to the same extent that the credit is
22 applicable for federal income tax purposes for taxable
23 years beginning after December 31, 1985."

24 10. Page 9, line 4, by striking the word "twenty"
25 and inserting the following: "fifteen".

26 11. Page 9, by inserting after line 4 the
27 following:

B
28 "Sec. ____ . Section 422.16, subsection 10,
29 paragraph b, unnumbered paragraph 2, Code 1985, is
30 amended to read as follows:

31 In the case of willful failure to file a
32 semimonthly, monthly, or quarterly deposit form with
33 intent to evade tax or willful filing of a false
34 semimonthly, monthly, or quarterly deposit form with
35 intent to evade tax, in lieu of the penalty otherwise
36 provided in this paragraph, there is added to the
37 amount required to be shown as tax on the semimonthly,
38 monthly, or quarterly deposit form, fifty seventy-five
39 percent of the amount of the tax. The taxpayer shall
40 also pay interest on the tax or additional tax at the
41 rate in effect under section 421.7, for each month
42 counting each fraction of a month as an entire month,
43 computed from the date the semimonthly, monthly, or
44 quarterly deposit form was required to be filed. The
45 penalty and interest become a part of the tax due from
46 the withholding agent. The penalty imposed under this
47 subsection is not subject to waiver."

48 12. Page 9, line 35, by striking the words "five
49 ten" and inserting the following: "five".

50 13. Page 10, line 5, by inserting after the word

1 Amend House File 764 as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 3, by striking lines 2 through 6 and
4 inserting the following: "any delinquent tax, penalty
5 or interest."

6 2. By striking page 3, line 29 through page 4,
7 line 16.

8 3. Page 5, line 8, by striking the words "five
9 ten" and inserting the following: "five".

10 4. Page 5, line 12, by striking the word "fifty"
11 and inserting the following: "fifty seventy-five".

12 5. Page 5, line 16, by striking the word "fifty"
13 and inserting the following: "fifty seventy-five".

14 6. Page 5, by striking lines 28 through 32 and
15 inserting the following: "owes any delinquent tax,
16 penalty or interest."

17 7. By striking page 5, line 33 through page 6,
18 line 9.

19 8. Page 6, by inserting after line 9 the
20 following:

21 "Sec. ____ . Section 324.65, unnumbered paragraph 2,
22 Code 1985, is amended to read as follows:

23 The appropriate state agency shall not remit any
24 part of a penalty for delinquent payment where the
25 delinquency results from the fact that a check given
26 in payment is not honored because of insufficient
27 funds in the account upon which the check was drawn.
28 However, if it appears as a result of an investigation
29 or from a preponderance of the evidence adduced at a
30 hearing that there has been a deliberate attempt on
31 the part of a licensee or other person to evade
32 payment of fuel taxes there shall be added to the
33 assessment against the offending person and collected
34 a penalty of fifty seventy-five percent of the tax
35 due. Any report required of licensees or persons
36 operating under divisions I, II and III, upon which no
37 tax may be due, is subject to a penalty of ten dollars
38 if the report is not timely filed with the appropriate
39 state agency."

40 9. Page 8, by inserting after line 29 the
41 following:

42 "Sec. 40. Section 422.10, unnumbered paragraph 1,
43 Code 1985, as amended by 1985 Iowa Acts, Senate File
44 561, section 5, is amended to read as follows:

45 The taxes imposed under this division shall be
46 reduced by a state tax credit for increasing research
47 activities in this state. For individuals, the credit
48 shall equal six and one-half percent of the state's
49 apportioned share of the qualifying expenditures for
50 increasing research activities. The state's

1 Amend the Committee amendment, S-4190, to House
 2 File 764, as amended, passed, and reprinted by the
 3 House, as follows:
 4 1. Page 1, by inserting after line 39 the
 5 following:
 6 "_____. Page 7, by inserting after line 34 the
 7 following:
 8 "Sec. _____. Section 421.7, subsection 2, Code 1985,
 9 is amended to read as follows:
 10 2. The rate of interest that shall be in effect
 11 during a calendar year shall be the rate which is two
 12 ~~percentage-points-less-than~~ the numerical average,
 13 rounded to the nearest one percent, of the respective
 14 prime rates for each of the months in the twelve-month
 15 period that ends September 30 of the previous calendar
 16 year. The rate of interest established by this
 17 subsection takes effect January 1, and applies to any
 18 amount which is due or becomes payable on or after
 19 that date."
 20 2. Page 2, by striking lines 24 and 25 and
 21 inserting the following:
 22 "_____. By striking page 8, line 30 through page 9,
 23 line 4."
 24 3. Page 3, by striking lines 39 and 40 and
 25 inserting the following:
 26 "_____. Page 14, line 1, by striking the words "ten
 27 twenty" and inserting the following: "ten."
 28 4. Page 3, by striking lines 48 and 49.

Adopted 5/2/85 (p 1902)

S-4195 Filed May 2, 1985

By BRUNER

S-4199

HOUSE FILE 764

1 Amend House File 764, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. By striking page 19, line 32 through page 20,
 4 line 6.

S-4199 Filed May 2, 1985

By WELSH

Adopted 5/3/85 (p 1945)

S-4204

HOUSE FILE 764

1 Amend House File 764, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 10, line 1, by inserting after the word
 4 "due" the following: "unless the return is amended
 5 by the taxpayer prior to the taxpayer's receiving
 6 notice of the deficiency from the department or the
 7 return is amended because of an internal revenue
 8 service audit."

S-4204 Filed May 2, 1985

By DOYLE

Adopted 5/3/85 (p 1945)

SENATE 5
MAY 3, 1985

S-4197

HOUSE FILE 764

Amend the Committee amendment, S-4190, to House
2 File 764, as amended, passed, and reprinted by the
3 House, as follows:
4 1. Page 1, by striking lines 3 through 39 and
5 inserting the following:
6 "_____. By striking page 2, line 19 through page 7,
7 line 34."
8 2. By striking page 2, line 24 through page 3,
9 line 1 and inserting the following:
10 "_____. By striking page 8, line 30 through page
11 10, line 34.
12 _____ . By striking page 11, line 29 through page
13 12, line 24, and inserting the following:
14 "b. A person sponsoring a flea market, or a craft,
15 antique, "."
16 3. By striking page 3, line 36 through page 4,
17 line 7 and inserting the following:
18 "_____. By striking page 13, line 1 through page
19 14, line 20.
20 _____ . By striking page 15, line 8 through page 19,
21 line 31 and inserting the following:
22 "Sec. _____. Section 423.4, Code 1985, is amended by
23 adding the following new subsection:
24 NEW SUBSECTION. 10. Vehicles registered under
25 chapter 326 and used exclusively in interstate
26 commerce. The provisions of this section
27 notwithstanding, a taxable moment for purposes of this
28 subsection occurs only when a subject vehicle picks up
29 and delivers a cargo between two points within this
30 state.""
31 4. Renumber sections and correct internal
32 references as are necessary in accordance with this
33 amendment.

S-4197 Filed May 2, 1985

By HOLDEN, HULTMAN & RODGERS

Done 5/2/85 (p 1962)

S-4210

HOUSE FILE 764

1 Amend House File 764 as amended, passed,
2 and reprinted by the House as follows:
3 1. Page 12, by striking lines 24 through 35.

S-4210 Filed May 2, 1985

By HUTCHINS

o/p 5/2 (p 1923)

S-4219

HOUSE FILE 764

1 Amend House File 764, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 15, by inserting after line 7 the
4 following new section:
5 "Sec. ____ . Section 423.4, Code 1985, is amended by
6 adding the following new subsection:
7 NEW SUBSECTION. 10. Vehicles registered under
8 chapter 326 and used exclusively in interstate
9 commerce. The provisions of this section
10 notwithstanding, a taxable moment for purposes of this
11 subsection occurs only when a subject vehicle picks up
12 and delivers a cargo between two points within this
13 state."
14 2. Renumber sections and correct internal
15 references as are necessary in accordance with this
16 amendment.

S-4219 Filed May 3, 1985

BY DRAKE

Bill not german 5/3/85 (p 19+7)

S-4223

1 Amend House File 764, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 6, line 10 through page 7,
4 line 7.

~~5 2. Page 7, by striking lines 8 through 16.~~

~~6 3. Page 7, by striking lines 17 through 34.~~

~~7 4. Page 9, by striking lines 5 through 23.~~

8 5. Page 9, by inserting after line 23 the

9 following:

10 "Sec. ____ . Section 422.16, subsection 10,

11 unnumbered paragraph 1, Code 1985, is amended to read

12 as follows:

13 In the case of willful failure to file a
14 semimonthly, monthly, or quarterly deposit form with
15 intent to evade tax or willful filing of a false
16 semimonthly, monthly, or quarterly deposit form with
17 intent to evade tax, in lieu of the penalty otherwise
18 provided in this paragraph, there is added to the
19 amount required to be shown as tax on the semimonthly,
20 monthly, or quarterly deposit form, fifty percent of
21 the amount of the tax. The taxpayer shall also pay
22 interest on the tax or additional tax at the rate in
23 effect under section 421.7, for each month counting
24 each fraction of a month as an entire month, computed
25 from the date the semimonthly, monthly, or quarterly
26 deposit form was required to be filed. The penalty
27 and interest become a part of the tax due from the
28 withholding agent. The penalty imposed under this
29 subsection is not subject to waiver."

~~30 6. Page 10, line 7, by striking the word "not"~~
~~31 and inserting the following: "not".~~

~~32 7. By striking page 11, line 29 through page 12,~~
~~33 line 23.~~

~~34 8. Page 13, by striking lines 14 through 25.~~

~~35 9. Page 14, line 19, by striking the word "not"~~
~~36 and inserting the following: "not".~~

~~37 10. Page 15, by striking lines 23 through 26 and~~
~~38 inserting the following: "other places of business in~~
~~39 this state. If the applicant".~~

~~40 11. By striking page 15, line 33 through page 16,~~
~~41 line 28.~~

~~42 12. Page 17, line 21, by striking the word "not"~~
~~43 and inserting the following: "not".~~

~~44 13. By striking page 17, line 23 through page 18,~~
~~45 line 17.~~

~~46 14. Page 18, line 31, by striking the word "not"~~
~~47 and inserting the following: "not".~~

~~48 15. Page 19, line 5, by striking the word "not"~~
~~and inserting the following: "not".~~

A. Low, B. D. B. w/d, 5/3 (p. 1945)

E. Low 3-w/d (p. 1945)

4. Reprinted & Adapted 5/3 (p. 1946)

1 of a tax".

A 2 13. Page 15, by striking lines 23 through 27 and
3 inserting the following: "other places of business in
4 this state. The department may deny the issuance of a
5 permit to a retailer who is substantially delinquent
6 in paying a tax due, or the interest or penalty on the
7 tax, administered by the department at the time of
8 application. If the applicant is a partnership, a
9 permit may be denied if a partner".

B 10 14. Page 16, line 2, by inserting after the word
11 "association" the following: "who has a substantial
12 financial interest in the corporation or association".

13 15. Page 16, line 4, by inserting after the word
14 "has" the following: "knowingly and".

C 15 16. Page 16, line 18, by inserting after the word
16 "goods" the following: "knowingly and".

17 17. Page 17, by striking line 30 and inserting
18 the following: "and adopted under this chapter, or is
19 substantially delinquent in the payment of a tax".

A - adopted, B - Law, C - w/c, B. w/d 5/3/85 (p 1945)

S-4224 Filed May 3, 1985

By BRUNER

S-4232

HOUSE FILE 764

1 Amend House File 764 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 8, by inserting after line 29 the
4 following:

5 " NEW SECTION. 421.26 LIABILITY FOR TAX DUE.

6 If a licensee or other person under section 324.65,
7 a retailer or purchaser under section 422.52, or a
8 retailer or purchaser under section 423.13 fails to
9 pay a tax under those sections when due, any officer
10 of a corporation or association, or any partner of a
11 partnership, having control or supervision of or the
12 authority for remitting the tax payments, who has
13 intentionally failed to pay the tax with the intent to
14 evade the tax is personally liable for the payment of
15 the tax, interest and penalty due and unpaid. There
16 shall be a presumption of an intent to evade the tax
17 if the delinquency for payment exceeds one month.
18 However, this section shall not apply to taxes on
19 accounts receivable. The dissolution of a
20 corporation, association or partnership shall not
21 discharge a person's liability for failure to remit
22 the tax due."

S-4232 Filed May 3, 1985

By MANN

*Adopted as amended by 4234 5/3/85
(p. 1957)*

1 Amend House File 764, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 2, line 31 through page 3,
4 line 1 and inserting the following:

5 "b. The department may deny the issuance of a
6 permit to a distributor, wholesaler, vendor or
7 retailer who is substantially delinquent in the
8 payment of a tax due, or the interest or penalty on
9 the tax, administered by the department at the time of
10 application. If the applicant is a partnership, a
11 permit may be denied if a partner is substantially
12 delinquent on".

13 2. Page 3, by striking line 15 and inserting the
14 following: "promulgated adopted under this division,
15 or is substantially delinquent in the payment of a".

16 3. Page 5, by striking lines 23 through 27 and
17 inserting the following: "The department may deny the
18 issuance of a license to an applicant who is
19 substantially delinquent in the payment of a tax due,
20 or the interest or penalty on the tax, administered by
21 the department of revenue. If the applicant is a
22 partnership, a license may be denied if a partner".

23 4. Page 6, line 14, by inserting after the word
24 "association" the following: "who has a substantial
25 financial interest in the corporation or association".

26 5. Page 6, line 16, by inserting after the word
27 "has" the following: "knowingly and".

28 6. Page 6, line 32, by inserting after the word
29 "goods" the following: "knowingly and".

30 7. Page 7, by striking line 23 and inserting the
31 following: "is substantially delinquent in paying a
32 tax due, owing and administered by the department of".

33 8. Page 11, line 30, by inserting after the word
34 "association" the following: "who has a substantial
35 financial interest in the corporation or association".

36 9. Page 11, line 32, by inserting after the word
37 "has" the following: "knowingly and".

38 10. Page 12, line 13, by inserting after the word
39 "goods" the following: "knowingly and".

40 11. Page 13, by striking lines 4 through 8 and
41 inserting the following: "business. The department
42 may deny a permit to an applicant who is substantially
43 delinquent in paying a tax due, or the interest or
44 penalty on the tax, administered by the department at
45 the time of application. If the applicant is a
46 partnership, a permit may be denied if the partner is
47 substantially delinquent in paying".

48 12. Page 13, by striking line 16 and inserting
49 the following: "department adopted under this
50 division or is substantially delinquent in the payment

1 Amend House File 764, as amended, passed and
2 reprinted by the House as follows:

3 1. Page 5, by inserting after line 17 the
4 following:

5 "Section 1. Section 321.1, subsection 71, Code
6 1985, is amended to read as follows:

7 71. A "special truck" means a motor truck or truck
8 tractor not used for hire with a gross weight
9 registration of six through twenty tons used by a
10 person engaged in farming to transport commodities
11 produced only by the owner, or to transport
12 commodities purchased by the owner for use in the
13 owner's own farming operation or occasional use for
14 charitable purposes. ~~"Special-truck"-also-means-a~~
15 ~~truck-tractor-which-is-modified-by-removal-of-a-fifth~~
16 ~~wheel-and-carries-the-full-load-on-the-motor-truck-and~~
17 ~~which-by-reason-of-its-conversion-becomes-a-motor~~
18 ~~truck-~~

19 Sec. 2. Section 321.121, Code 1985, is amended to
20 read as follows:

21 321.121 SPECIAL TRUCKS FOR FARM USE.

22 The registration fee for a special truck ~~shall-be~~
23 is eighty dollars for a gross weight of six tons, one
24 hundred dollars for a gross weight of seven tons, one
25 hundred twenty dollars for a gross weight of eight
26 tons, and in addition, fifteen dollars for each ton
27 over eight tons and not exceeding eighteen tons. The
28 registration fee for a special truck with a gross
29 weight registration exceeding eighteen tons but not
30 exceeding nineteen tons ~~shall-be~~ is three hundred
31 twenty-five dollars and for a gross weight
32 registration exceeding nineteen tons but not exceeding
33 twenty tons the registration fee ~~shall-be~~ is three
34 hundred seventy-five dollars. Any A person convicted
35 of using a truck motor vehicle registered as a special
36 truck for any purpose other than permitted by section
37 321.1, subsection 71, shall, in addition to any other
38 penalty imposed by law, be required to pay regular
39 ~~motor-truck~~ registration fees ~~upon-such-truck~~ for the
40 motor vehicle.

41 Sec. 3. Section 321.122, subsection 1, unnumbered
42 paragraph 1, Code 1985, is amended to read as follows:

43 The Except for special trucks, the annual
44 registration fee for truck tractors, road tractors,
45 and motor trucks, ~~except-special-trucks,~~ ~~shall-be~~ is
46 based on the combined gross weight of the vehicle or
47 combination of vehicles. ~~All~~ The motor trucks, truck
48 tractors, or road tractors shall be registered for a
49 gross weight equal to or in excess of the unladen
50 weight of the vehicle or combination of vehicles. The

S-4227 page 2

1 annual registration fee for such the vehicles or
2 combination of vehicles ~~shall-be~~ is:"

S-4234

HOUSE FILE 764

1 Amend the amendment S-4232 to House File 764 as
2 amended, passed and reprinted by the House as
3 follows:
4 1. Page 1, by striking lines 15 through 17 and
5 inserting the following: "the tax, interest and
6 penalty due and unpaid."

S-4234 Filed May 3, 1985

By HOLDEN

Adopted 5/3/85 (p. 1956)

H-4256

Page Six

- 1 37. Page 18, line 25, by striking the words "five
2 ten" and inserting the following: "five".
3 38. Page 18, line 30, by inserting after the word
4 "return" the following: "fifty".
5 39. Page 19, line 4, by striking the words "five
6 ten" and inserting the following: "five".
7 40. By striking page 19, line 32 through page 20,
8 line 6.
9 41. Page 20, by inserting after line 6 the
10 following:
11 "Sec. ____ . Sections 40 and 41 of this Act are
12 retroactive to January 1, 1985 for tax years beginning
13 on or after that date."
14 42. By renumbering, relettering, or redesignating
15 and correcting internal references as necessary.

H-4256 FILED MAY 3, 1985

RECEIVED FROM THE SENATE

*House refused to concur 5/2/85 (p. 2298)
Senate initiated 5/4 (p. 1771)*

H-4256

Page Five

1 ~~is applicable for federal income tax purposes for~~
2 ~~taxable years beginning after December 31, 1985.~~"

3 24. By striking page 11, line 29 through page 12,
4 line 23.

5 25. Page 12, line 35, by inserting after the word
6 "sponsors." the following: "For purposes of this
7 paragraph a person sponsoring a flea market, or a
8 craft, antique, coin or stamp show or similar event
9 does not include a nonprofit organization which
10 sponsors an event less than three times a year or a
11 state, county or district agricultural fair."

12 26. Page 13, by striking lines 4 through 8 and
13 inserting the following: "business. The department
14 may deny a permit to an applicant who is substantially
15 delinquent in paying a tax due, or the interest or
16 penalty on the tax, administered by the department at
17 the time of application. If the applicant is a
18 partnership, a permit may be denied if the partner is
19 substantially delinquent in paying".

20 27. Page 13, by striking lines 9 through 13 and
21 inserting the following: "any delinquent tax, penalty
22 or interest."

23 28. Page 13, by striking line 16 and inserting
24 the following: "department adopted under this
25 division or is substantially delinquent in the payment
26 of a tax".

27 29. Page 14, line 1, by striking the words "ten
28 twenty" and inserting the following: "ten".

29 30. Page 14, line 9, by inserting after the word
30 "return" the following: "fifty".

31 31. Page 15, by striking lines 23 through 27 and
32 inserting the following: "other places of business in
33 this state. The department may deny the issuance of a
34 permit to a retailer who is substantially delinquent
35 in paying a tax due, or the interest or penalty on the
36 tax, administered by the department at the time of
37 application. If the applicant is a partnership, a
38 permit may be denied if a partner".

39 32. Page 15, by striking lines 28 through 32 and
40 inserting the following: "owes any delinquent tax,
41 penalty or interest."

42 33. By striking page 15, line 33 through page 16,
43 line 28.

44 34. Page 17, line 4, by striking the words "five
45 ten" and inserting the following: "five".

46 35. Page 17, line 12, by inserting after the word
47 "return" the following: "fifty".

48 36. Page 17, by striking line 30 and inserting
49 the following: "and adopted under this chapter, or is
50 substantially delinquent in the payment of a tax".

H-4256

Page Four

1 intent to evade tax or willful filing of a false
2 semimonthly, monthly, or quarterly deposit form with
3 intent to evade tax, in lieu of the penalty otherwise
4 provided in this paragraph, there is added to the
5 amount required to be shown as tax on the semimonthly,
6 monthly, or quarterly deposit form, fifty seventy-five
7 percent of the amount of the tax. The taxpayer shall
8 also pay interest on the tax or additional tax at the
9 rate in effect under section 421.7, for each month
10 counting each fraction of a month as an entire month,
11 computed from the date the semimonthly, monthly, or
12 quarterly deposit form was required to be filed. The
13 penalty and interest become a part of the tax due from
14 the withholding agent. The penalty imposed under this
15 subsection is not subject to waiver."

16 20. Page 9, line 35, by striking the words "five
17 ten" and inserting the following: "five".

18 21. Page 10, line 1, by inserting after the word
19 "due" the following: "unless the return is amended
20 by the taxpayer prior to the taxpayer's receiving
21 notice of the deficiency from the department or the
22 return is amended because of an internal revenue
23 service audit."

24 22. Page 10, line 5, by inserting after the word
25 "return" the following: "fifty".

26 23. Page 10, by inserting after line 34 the
27 following:

28 "Sec. 41. Section 422.33, subsection 5, unnumbered
29 paragraph 1, Code 1985, as amended by 1985 Iowa Acts,
30 Senate File 561, section 7, is amended to read as
31 follows:

32 The taxes imposed under this division shall be
33 reduced by a state tax credit for increasing research
34 activities in this state equal to six and one-half
35 percent of the state's apportioned share of the
36 qualifying expenditures for increasing research
37 activities. The state's apportioned share of the
38 qualifying expenditures for increasing research
39 activities is a percent equal to the ratio of
40 qualified research expenditures in this state to the
41 total qualified research expenditures. For purposes
42 of this subsection, "qualifying expenditures for
43 increasing research activities" means the qualifying
44 expenditures as defined for the federal credit for
45 increasing research activities computed which would be
46 allowable under section 30 of the Internal Revenue
47 Code of 1954, as amended to and including in effect on
48 January 1, 1983 1985. The research-activities-credit
49 is applicable for taxable years beginning after
50 December 31, 1985 to the same extent that the credit

H-4256

Page Three

1 evade the tax is personally liable for the payment of
2 the tax, interest and penalty due and unpaid.
3 However, this section shall not apply to taxes on
4 accounts receivable. The dissolution of a
5 corporation, association or partnership shall not
6 discharge a person's liability for failure to remit
7 the tax due."

8 17. Page 8, by inserting after line 29 the
9 following:

10 "Sec. 40. Section 422.10, unnumbered paragraph 1,
11 Code 1985, as amended by 1985 Iowa Acts, Senate File
12 561, section 5, is amended to read as follows:

13 The taxes imposed under this division shall be
14 reduced by a state tax credit for increasing research
15 activities in this state. For individuals, the credit
16 shall equal six and one-half percent of the state's
17 apportioned share of the qualifying expenditures for
18 increasing research activities. The state's
19 apportioned share of the qualifying expenditures for
20 increasing research activities is a percent equal to
21 the ratio of qualified research expenditures in this
22 state to total qualified research expenditures. For
23 purposes of this section, an individual may claim a
24 research credit for qualifying research expenditures
25 incurred by a partnership, subchapter S corporation,
26 and estate or trust electing to have the income taxed
27 directly to the individual. The amount claimed by the
28 individual shall be based upon the pro rata share of
29 the individual's earnings of a partnership, subchapter
30 S corporation, or estate or trust. For purposes of
31 this section, "qualifying expenditures for increasing
32 research activities" means the qualifying expenditures
33 as defined for the federal credit for increasing
34 research activities computed which would be allowable
35 under section 30 of the Internal Revenue Code of 1954,
36 as amended to and including in effect on January 1,
37 1983 1985. The research activities credit is
38 applicable for taxable years beginning after December
39 31, 1985 to the same extent that the credit is
40 applicable for federal income tax purposes for taxable
41 years beginning after December 31, 1985."

42 18. By striking page 8, line 30 through page 9,
43 line 4.

44 19. Page 9, by inserting after line 4 the
45 following:

46 "Sec. ____ . Section 422.16, subsection 10,
47 paragraph b, unnumbered paragraph 2, Code 1985, is
48 amended to read as follows:

49 In the case of willful failure to file a
50 semimonthly, monthly, or quarterly deposit form with

H-4256
Page Two

1 following:

2 "Sec. ____ . Section 324.65, unnumbered paragraph 2,
3 Code 1985, is amended to read as follows:

4 The appropriate state agency shall not remit any
5 part of a penalty for delinquent payment where the
6 delinquency results from the fact that a check given
7 in payment is not honored because of insufficient
8 funds in the account upon which the check was drawn.
9 However, if it appears as a result of an investigation
10 or from a preponderance of the evidence adduced at a
11 hearing that there has been a deliberate attempt on
12 the part of a licensee or other person to evade
13 payment of fuel taxes there shall be added to the
14 assessment against the offending person and collected
15 a penalty of ~~fifty~~ seventy-five percent of the tax
16 due. Any report required of licensees or persons
17 operating under divisions I, II and III, upon which no
18 tax may be due, is subject to a penalty of ten dollars
19 if the report is not timely filed with the appropriate
20 state agency."

21 13. By striking page 6, line 10 through page 7,
22 line 7.

23 14. Page 7, by striking line 23 and inserting the
24 following: "is substantially delinquent in paying a
25 tax due, owing and administered by the department of".

26 15. Page 7, by inserting after line 34 the
27 following:

28 "Sec. ____ . Section 421.7, subsection 2, Code 1985,
29 is amended to read as follows:

30 2. The rate of interest that shall be in effect
31 during a calendar year shall be the rate which is two
32 ~~percentage-points-less-than~~ the numerical average,
33 rounded to the nearest one percent, of the respective
34 prime rates for each of the months in the twelve-month
35 period that ends September 30 of the previous calendar
36 year. The rate of interest established by this
37 subsection takes effect January 1, and applies to any
38 amount which is due or becomes payable on or after
39 that date."

40 16. Page 8, by inserting after line 29 the
41 following:

42 " NEW SECTION. 421.26 LIABILITY FOR TAX DUE.
43 If a licensee or other person under section 324.65,
44 a retailer or purchaser under section 422.52, or a
45 retailer or purchaser under section 423.13 fails to
46 pay a tax under those sections when due, any officer
47 of a corporation or association, or any partner of a
48 partnership, having control or supervision of or the
49 authority for remitting the tax payments, who has
50 intentionally failed to pay the tax with the intent to

SENATE AMENDMENT TO HOUSE FILE 764

H-4256

- 1 Amend House File 764, as amended, passed, and
2 reprinted by the House, as follows:
- 3 1. Page 2, by inserting after line 15 the
4 following:
- 5 "6. Any rules or written pronouncements
6 interpreting the revenue laws that were made by the
7 director of revenue or by the director of any division
8 of the department of revenue prior to the effective
9 date of the Iowa Administrative Procedure Act shall be
10 deemed to have been and continue to be in full force
11 and effect until reversed, repealed or modified in
12 accordance with the provisions of the Iowa
13 Administrative Procedure Act or by law."
- 14 2. By striking page 2, line 31 through page 3,
15 line 1 and inserting the following:
- 16 "b. The department may deny the issuance of a
17 permit to a distributor, wholesaler, vendor or
18 retailer who is substantially delinquent in the
19 payment of a tax due, or the interest or penalty on
20 the tax, administered by the department at the time of
21 application. If the applicant is a partnership, a
22 permit may be denied if a partner is substantially
23 delinquent on".
- 24 3. Page 3, by striking lines 2 through 6 and
25 inserting the following: "any delinquent tax, penalty
26 or interest."
- 27 4. Page 3, by striking line 15 and inserting the
28 following: "promulgated adopted under this division,
29 or is substantially delinquent in the payment of a".
- 30 5. By striking page 3, line 29 through page 4,
31 line 16.
- 32 6. Page 5, line 8, by striking the words "five
33 ten" and inserting the following: "five".
- 34 7. Page 5, line 12, by striking the word "fifty"
35 and inserting the following: "fifty seventy-five".
- 36 8. Page 5, line 16, by striking the word "fifty"
37 and inserting the following: "fifty seventy-five".
- 38 9. Page 5, by striking lines 23 through 27 and
39 inserting the following: "The department may deny the
40 issuance of a license to an applicant who is
41 substantially delinquent in the payment of a tax due,
42 or the interest or penalty on the tax, administered by
43 the department of revenue. If the applicant is a
44 partnership, a license may be denied if a partner".
- 45 10. Page 5, by striking lines 28 through 32 and
46 inserting the following: "owes any delinquent tax,
47 penalty or interest."
- 48 11. By striking page 5, line 33 through page 6,
49 line 9.
- 50 12. Page 6, by inserting after line 9 the

HOUSE FILE 764 CONFERENCE COMMITTEE REPORT

FISCAL NOTE

REQUESTED BY REPRESENTATIVE ROSENBERG

In compliance with a written request received January 23, 1986, a fiscal note for HOUSE FILE 764 CONFERENCE COMMITTEE REPORT is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

The following represents an estimate of the fiscal effect of the conference committee report of House File 764, a bill for an act relating to unpaid taxes and enforcement of taxes administered by the Department of Revenue, making an appropriation, and providing civil and criminal penalties:

Amnesty provision (Sections 1-4 of the House bill; items 1-7 of the report):

These sections apply to persons, corporations or other entities subject to any tax imposed by law and payable to the state pursuant to chapters 98, 324, 324A, 422, 422A, 423, 450, 450A, 450B, and 451 of the Code.

FISCAL EFFECT: Department of Revenue estimates of the amnesty program alone are as follows:

Personnel	\$ 88,000
Mailing and Printing	24,000
Advertising, telephone	140,000
Total Expenditure	\$ 252,000

The conference committee report appropriates \$250,000 in FY 1986 (or so much thereof as necessary) to administer the entire Act. It is anticipated that the amnesty portion of the bill will increase General Fund receipts by \$3.5 to \$8 million in fiscal year 1987.

Penalty provisions (Sections 7, 9, 11, 17, 19, 24, 28, 30, and 31 of the House bill; items 24, 36, and 41 of the conference committee report):

Penalties are increased by 50 percent (from 5 to 7.5 percent or from 10 to 15 percent), and interest charges are increased from 2 percent below the prime rate to the prime rate. For willful failure to file a return or filing a false return, penalties are increased for all tax filings from 50 to 75 percent. The penalty provisions are made effective January 1, 1987.

FISCAL EFFECT: According to section 422.25(4) of the Code, all payments received, i.e., tax, penalty, and interest, must first be credited to the penalty and interest accrued, and then to the tax due. Thus, the Department cannot discern exactly what constitutes the penalty portion of payments received.

However, the Department's audit and collection efforts generated approximately \$54.6 million of tax, penalty, and interest across all state taxes administered by the Department in fiscal year 1985. Of this total, penalty is believed to account for 10 percent. Therefore, the increased penalties could increase General Fund receipts by \$1.38 million in FY 1987 and \$2.75 million in subsequent fiscal years, if all other factors are held constant.

Enforcement/Audit Program Expansion:

1. Revocation or denial of license--the Department may revoke or deny if substantial in payment of taxes exists; the Department may revoke or deny if officer or member of the board of directors of a corporation with a substantial financial interest owes sales, use,

or withholding taxes.

2. Corporate officer liability--officers and business partners with a substantial financial interest in the business and that have responsibility for sales and use tax remittances are made personally liable if they knowingly and intentionally fail to remit; an exception exists for accounts receivable.

3. Successor liability--immediate successors of the business are made liable for the delinquent business-related taxes of the previous owner. The Department may waive the successor's liability if the successor exercises due diligence in establishing any previous liability and fails to find that liability.

4. Sales tax collection responsibility for flea markets and fairs--the proprietor is exempted from this responsibility in the instance of county and district agricultural fairs and nonprofit activities taking place three or fewer times per year.

FISCAL EFFECT: The conference committee report appropriates \$1 million (or so much thereof as necessary) for FY 1986 to fund the increased auditing and enforcement provisions. According to Department estimates, the audit program expansion is expected to generate an additional \$3 million in fiscal 1987, and an additional \$5.8 million in fiscal 1988 and subsequent years. On the expenditure side, the Department has indicated that 44.62 FTE positions are needed in fiscal 1987 for a total cost to the state of \$1,080,400.

RECAP--House File 764 Conference Committee Report (dollars in thousands)

	F.Y. 1987			F.Y. 1988		
	Current Law	Proposed Law	Increase / (Decrease)	Current Law	Proposed Law	Increase / (Decrease)
REVENUE						
General Fund	\$ 0	\$ 9,380	\$ 9,380	\$ 0	\$ 8,550	\$ 8,550
Federal Funds	0	0	0	0	0	0
Fees	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	\$ 0	\$ 9,380	\$ 9,380	\$ 0	\$ 8,550	\$ 8,550
EXPENDITURES						
Salaries (FTE's)	\$ 0 (000.0)	\$ 1,080 (048.6)	\$ 1,080 (048.6)	\$ 0 (000.0)	\$ 1,080 (044.6)	\$ 1,080 (044.6)
Other			0			0
TOTAL	\$ 0	\$ 1,080	\$ 1,080	\$ 0	\$ 1,080	\$ 1,080
NET EFFECT	\$ 0	\$ 8,300	\$ 8,300	\$ 0	\$ 7,470	\$ 7,470

(NOTE: Revenues from the amnesty program are assumed to be \$5 million in FY 1987. No amnesty revenue will accrue to the General Fund in FY 1988 and subsequent fiscal years.)

SOURCE: Department of Revenue

(LSB 2880H.6, RJH)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 764

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to consider the difference between the House of Representatives on House File 764, a bill for an Act relating to unpaid taxes and enforcement of taxes administered by the department of revenue, making an appropriation, and providing civil and criminal penalties, respectfully submit the following report:

1. That the Senate recede from its amendment.
2. That House File 764, as amended, passed, and reprinted by the House be amended as follows:
 1. Page 1, line 15, by striking the figure "1984" and inserting the following: "1985".
 2. Page 1, line 17, by striking the figure "1984" and inserting the following: "1985".
 3. Page 1, line 18, by striking the figure "1984" and inserting the following: "1985".
 4. Page 1, by striking line 23 and inserting the following: "September 2, 1986 through October 31, 1986 for any tax".
 5. Page 1, line 24, by striking the figure "1984" and inserting the following: "1985".
 6. Page 1, line 30, by striking the figure "1984" and inserting the following: "1985".
 7. Page 1, line 35, by striking the figure "1984" and inserting the following: "1985".
 8. By striking page 2, line 31 through page 3, line 1 and inserting the following:

"b. The department may deny the issuance of a permit to a distributor, wholesaler, vendor or retailer who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department

at the time of application. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent on".

9. Page 3, by striking lines 3 and 4 and inserting the following: "a corporation, a permit may be denied if any officer having a substantial legal or".

10. Page 3, line 6, by inserting after the word "penalty" the following: "of the applicant corporation".

11. Page 3, by striking line 15 and inserting the following: "promulgated adopted under this division, or is substantially delinquent in the payment of a".

12. Page 3, line 17, by inserting after the word "tax," the following: "or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department,".

13. Page 4, line 5, by striking the word "ten" and inserting the following: "seven and one-half".

14. Page 4, line 5, by inserting after the word "tax" the following: ", except as provided in section 421.27".

15. Page 5, line 8, by striking the words "ten" and inserting the following: "seven and one-half".

16. Page 5, line 9, by inserting after the word "paid" the following: ", except as provided in section 421.27".

17. Page 5, line 12, by striking the word "fifty" and inserting the following: "fifty seventy-five".

18. Page 5, line 16, by striking the word "fifty" and inserting the following: "fifty seventy-five".

19. Page 5, by striking lines 23 through 27 and inserting the following: "The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department of revenue. If the applicant is a partnership, a license may be denied if a partner".

20. Page 5, by striking lines 29 and 30 and inserting the following: "applicant is a corporation, a license may be

denied if any officer having a".

21. Page 5, line 32, by inserting after the word "penalty" the following: "of the applicant corporation".

22. Page 6, line 4, by striking the word "ten" and inserting the following: "seven and one-half".

23. Page 6, line 5, by inserting after the word "due" the following: ", except as provided in section 421.27".

24. Page 6, by inserting after line 9 the following:

"Sec. 50. Section 324.65, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of fifty seventy-five percent of the tax due. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, is subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency."

25. Page 6, by striking lines 11 through 20 and inserting the following: "the following new unnumbered paragraph:".

26. Page 6, by striking lines 25 through 34 and inserting the following: "time required by law. The immediate successor to the licensee or other person, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of any delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold any amount due from the purchase price as provided in this paragraph, the immediate successor is".

27. Page 7, by striking lines 2 through 4 and inserting the following: "business by the immediate former licensee or

other person, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a".

28. Page 7, line 6, by striking the words "a "successor"" and inserting the following: "an "immediate successor"".

29. Page 7, line 7, by inserting after the word "paragraph" the following: "The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability."

30. Page 7, by striking line 23 and inserting the following: "is substantially delinquent in paying a tax due, owing and administered by the department of".

31. Page 7, line 24, by inserting after the word "appropriate," the following: "or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department,".

32. Page 7, by inserting after line 34 the following:

"Sec. ____ . Section 421.7, subsection 2, Code 1985, is amended to read as follows:

2. The rate of interest that shall be in effect during a calendar year shall be the rate which is ~~two-percentage-points less-than~~ the numerical average, rounded to the nearest one percent, of the respective prime rates for each of the months in the twelve-month period that ends September 30 of the previous calendar year. The rate of interest established by this subsection takes effect January 1, and applies to any amount which is due or becomes payable on or after that date."

33. Page 8, line 13, by inserting after the word "Code" the following: "Supplement".

34. Page 8, line 15, by striking the figure "26."

35. Page 8, by inserting after line 29 the following:

"Sec. ____ . NEW SECTION. 421.26 LIABILITY FOR TAX DUE.

If a licensee or other person under section 324.65, a retailer or purchaser under section 422.52, or a retailer or

purchaser under section 423.13 fails to pay a tax under those sections when due, any officer of a corporation or association, or any partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association or partnership shall not discharge a person's liability for failure to remit the tax due."

36. Page 8, by inserting after line 29 the following:

"Sec. 51. NEW SECTION. 421.27 EXCEPTIONS FROM PENALTY PROVISIONS.

The penalty provided for failure to remit at least ninety percent of the tax due or of the tax due with the filing of the deposit form or return or to pay at least ninety percent of the tax required to be shown on the return under section 98.28, 98.46, 324.65, 422.16, 422.25, 422.58, 422.66, 423.18, 435.5, 450.63, 450A.12, or 451.12 shall not be assessed by the department under any of the following conditions:

1. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department.
2. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return within sixty days of the final disposition of the federal government's audit.
3. The return is timely, but erroneously, mailed with adequate postage to the internal revenue service or another state agency and the taxpayer provides proof of timely mailing with adequate postage.
4. The return is timely mailed with adequate postage to the department of revenue and the taxpayer provides proof of timely mailing with adequate postage.
5. The taxpayer presents proof that the taxpayer relied

upon documented written erroneous advice from the department, county treasurer, or federal internal revenue service, whichever is appropriate."

37. Page 8, by inserting after line 29 the following:

"Sec. ____ . NEW SECTION. 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under section 324.65, 422.52, or 423.13 is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that no tax liens were filed, that the department had informed the immediate successor that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee or retailer that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 324.63, 422.20, or 422.72."

38. Page 8, by inserting after line 29 the following:

"Sec. 40. Section 422.10, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the

ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed which would be allowable under section 30 of the Internal Revenue Code of 1954, as amended to and including in effect on January 1, 1983 1985. The research activities credit is applicable for taxable years beginning after December 31, 1985 to the same extent that the credit is applicable for federal income tax purposes for taxable years beginning after December 31, 1985."

39. Page 9, line 4, by striking the word "twenty" and inserting the following: "fifteen".

40. Page 9, line 4, by inserting after the word "due" the following: ", except as provided in section 421.27".

41. Page 9, by inserting after line 4 the following:

"Sec. 52. Section 422.16, subsection 10, paragraph b, unnumbered paragraph 2, Code 1985, is amended to read as follows:

In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty seventy-five percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of

a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent. The penalty imposed under this subsection is not subject to waiver."

42. Page 9, line 35, by striking the word "ten" and inserting the following: "seven and one-half".

43. Page 10, line 1, by inserting after the word "due" the following: ", except as provided in section 421.27".

44. Page 10, line 5, by inserting after the word "return" the following: "fifty".

45. Page 10, by inserting after line 34 the following:

"Sec. 41. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed which would be allowable under section 30 of the Internal Revenue Code of 1954, as amended to and including in effect on January 1, 1983 1985. The research activities credit is applicable for taxable years beginning after December 31, 1985 to the same extent that the credit is applicable for federal income tax purposes for taxable years beginning after December 31, 1985."

46. By striking page 11, line 29 through page 12, line 2.

47. Page 12, by striking lines 6 through 20 and inserting the following: "within the time required by law. The immediate successor to the retailer, if any, shall withhold

sufficient of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of the delinquent taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid".

48. Page 12, line 22, by striking the words "a "successor"" and inserting the following: "an "immediate successor"".

49. Page 12, line 23, by inserting after the word "paragraph." the following: "The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability."

50. Page 12, line 35, by inserting after the word "sponsors." the following: "For purposes of this paragraph a person sponsoring a flea market, or a craft, antique, coin or stamp show or similar event does not include an organization which sponsors an event less than three times a year or a state, county or district agricultural fair."

51. Page 13, by striking lines 4 through 8 and inserting the following: "business. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if the partner is substantially delinquent in paying".

52. Page 13, by striking lines 10 and 11 and inserting the following "a corporation, a permit may be denied if any officer having a substantial legal or".

53. Page 13, line 13, by inserting after the word "interest" the following: "of the applicant corporation".

54. Page 13, by striking line 16 and inserting the following: "department adopted under this division or is substantially delinquent in the payment of a tax".

55. Page 13, line 18, by inserting after the word "tax" the following: ", or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department".

56. Page 14, line 1, by striking the word "twenty" and inserting the following: "fifteen".

57. Page 14, line 2, by inserting after the word "due" the following: ", except as provided in section 421.27".

58. Page 14, line 9, by inserting after the word "return" the following: "fifty".

59. Page 15, by striking lines 23 through 27 and inserting the following: "other places of business in this state. The department may deny the issuance of a permit to a retailer who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if a partner".

60. Page 15, by striking lines 29 and 30 and inserting the following: "applicant is a corporation, a permit may be denied if any officer having a".

61. Page 15, line 32, by inserting after the word "interest" the following: "of the applicant corporation".

62. By striking page 15, line 34 through page 16, line 7 and inserting the following: "the following new unnumbered paragraph:".

63. Page 16, by striking lines 11 through 25 and inserting the following: "within the time required by law. The immediate successor to the retailer, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the

amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of delinquent taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid".

64. Page 16, line 27, by striking the words "a successor" and inserting "an immediate successor".

65. Page 16, line 28, by inserting after the word "paragraph." the following: "The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability."

66. Page 17, line 4, by striking the word "ten" and inserting the following: "seven and one-half".

67. Page 17, line 4, by inserting after the word "due" the following: ", except as provided in section 421.27".

68. Page 17, line 12, by inserting after the word "return" the following: "fifty".

69. Page 17, by striking line 30 and inserting the following: "and adopted under this chapter, or is substantially delinquent in the payment of a tax".

70. Page 17, line 32, by inserting after the word "tax," the following: "or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department,".

71. Page 18, line 25, by striking the word "ten" and inserting the following: "seven and one-half".

72. Page 18, line 25, by inserting after the word "due" the following: ", except as provided in section 421.27".

73. Page 18, line 30, by inserting after the word "return" the following: "fifty".

74. Page 19, line 4, by striking the words "ten" and inserting the following: "seven and one-half".

75. Page 19, line 4, by inserting after the word "due" the following: ", except as provided in section 421.27".

76. By striking page 19, line 32 through page 20, line 6.

77. Page 20, by inserting after line 6 the following:

"Sec. ____ . Section 805.8, subsection 2, paragraph p, Code Supplement 1985, is amended by striking the paragraph.

Sec. ____ . There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of two hundred fifty thousand (250,000) dollars or so much thereof as necessary, to be used to administer this Act. There is also appropriated for the purpose of increasing the auditing and enforcement activities of the department, not to exceed an additional thirty-six full-time equivalent positions, the sum of one million (1,000,000) dollars, or so much thereof as is necessary. The department shall report the gross revenue collected under each tax pursuant to the amnesty program as soon as practicable after the close of the amnesty period but prior to February 1, 1987. The department shall also report its estimates of the additional revenue collected as a result of any increase in auditing and enforcement activities provided for under this appropriation. Notwithstanding section 8.33, moneys remaining of the appropriation under this section on June 30, 1986 shall not revert to the general fund.

Sec. ____ . It is the intent of the general assembly in enacting the Iowa tax amnesty Act that the general assembly and the state shall not conduct another tax amnesty program prior to January 1, 2000.

Sec. ____ . Sections 40 and 41 of this Act are retroactive to January 1, 1986 for tax years beginning on or after that date.

Sec. ____ . Sections 5, 6, 7, 9, 10, 11, 13, 14, 15, 17, 18, 19, 21, 23, 24, 26, 28, 29, 30, 31, 50, 51, and 52 are effective January 1, 1987 for taxes due and payable on or after that date.

Sec. ____ . Sections 8, 16, 20, and 32 are effective January 1, 1987 for assessments made on or after that date.

Sec. ____ . This Act, except for sections 5 through 11, 13 through 21, 23, 24, 26, 28 through 32, 40, 41, and 50 through 52, being deemed of immediate importance, takes effect from and after its publication in The Nevada Evening Journal, a newspaper published in Nevada, Iowa, and in The Toledo Chronicle, a newspaper published in Toledo, Iowa."

78. Amend the title, line 1, by inserting after the words "unpaid taxes" the following: ", tax credits".

79. By renumbering, relettering, or redesignating and correcting internal references as necessary.

ON THE PART OF THE HOUSE:

RALPH ROSENBERG, CHAIR
JAMES D. O'KANE
DAVID TABOR
DARRELL R. HANSON
HUGO SCHNEKLOTH

FILED JANUARY 23, 1986

ON THE PART OF THE SENATE:

CHARLES BRUNER, CHAIR
EMIL J. HUSAK
THOMAS MANN, JR.

BY THE CONFERENCE COMMITTEE

House adopted 1/24 (p. 172)

Senate adopted 1/21 (p. 151)

New
LE 764

HSB 398

WAYS AND MEANS

SENATE HOUSE FILE 764

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL)

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

A BILL FOR

1 An Act relating to unpaid taxes and enforcement of taxes
2 administered by the department of revenue, making an
3 appropriation, and providing civil and criminal
4 penalties.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Sections 1 through 4 of this Act may be cited
2 as the "Iowa Tax Amnesty Act".

3 Sec. 2. DEFINITIONS. When used in sections 1 through 4 of
4 this Act, unless the context otherwise requires:

5 1. "Department" means the department of revenue.

6 2. "Taxpayer" means a person, corporation or other entity
7 subject to any tax imposed by a law of this state, payable to
8 this state, and administered by the department pursuant to
9 chapter 98, 324, 324A, 422, 422A, 423, 450, 450A, 450B, or
10 451.

11 3. "Director" means the director of the department.

12 Sec. 3. AMNESTY PROGRAM.

13 1. The director shall establish a tax amnesty program.
14 The amnesty program shall apply to tax liabilities delinquent
15 as of December 31, 1984, including tax on returns not filed,
16 tax liabilities on the books of the department as of December
17 31, 1984, or tax liabilities not reported nor established but
18 delinquent as of December 31, 1984. For a taxpayer who has a
19 tax liability, the director shall accept cash, certified
20 check, cashier's check or money order for the full amount of
21 the tax liability.

22 2. The amnesty program shall be for a period from
23 September 3, 1985 through October 31, 1985 for any tax
24 liabilities which are delinquent as of December 31, 1984.

25 3. The amnesty program shall provide that upon written
26 application by a taxpayer and payment by the taxpayer of
27 amounts due from the taxpayer to this state for a tax covered
28 by the amnesty program plus interest equal to fifty percent of
29 the interest that would have been owed through December 31,
30 1984, the department shall not seek to collect any other
31 interest or penalties which may be applicable and the
32 department shall not seek civil or criminal prosecution for a
33 taxpayer for the period of time for which amnesty has been
34 granted to the taxpayer. Failure to pay all taxes delinquent
35 as of December 31, 1984 and due to this state except those

1 adjustments made pursuant to a federal audit completed after
2 the effective date of this Act shall invalidate any amnesty
3 granted pursuant to this Act. Amnesty shall be granted for
4 only the taxable periods specified in the application and only
5 if all amnesty conditions are satisfied by the taxpayer.

6 4. Amnesty shall not be granted to a taxpayer who is a
7 party to an active criminal investigation or to a criminal
8 litigation which is pending in a district court, the court of
9 appeals, or the supreme court of this state for nonpayment or
10 fraud in relation to any state tax imposed by a law of this
11 state.

12 5. The director shall prepare and make available amnesty
13 application forms which contain requirements for approval of
14 an application. The director may deny any application
15 inconsistent with sections 1 through 4 of this Act.

16 Sec. 4. Sections 1 through 3 of this Act are exempt from
17 the rulemaking process of the Iowa administrative procedure
18 Act.

19 Sec. 5.: Section 98.13, subsection 2, Code 1985, is amended
20 to read as follows:

21 2. ISSUANCE.

22 a. The department shall issue state permits to
23 distributors, wholesalers, and cigarette vendors subject to
24 the conditions provided in this division. Cities may issue
25 retail permits to dealers within their respective limits.
26 County boards of supervisors may issue retail permits to
27 dealers in their respective counties, outside of the corporate
28 limits of cities. Upon issuance of a retail permit by a city
29 council or board of supervisors, the council or board shall
30 forthwith certify to the department the action taken.

31 b. A permit shall not be issued by the department to any
32 distributor, wholesaler, vendor or retailer having any
33 obligation due and owing at the time of application to pay any
34 delinquent tax, or the interest or penalty on the tax,
35 administered by the department. If the applicant is a

1 partnership, a permit shall not be issued if any partner owes
2 any delinquent tax, penalty or interest. If the applicant is
3 a corporation, a permit shall not be issued if any officer,
4 member of the board of directors or any person having a legal
5 or equitable interest in the ownership of the corporation owes
6 any delinquent tax, interest or penalty.

7 Sec. 6. Section 98.22, subsection 1, Code 1985, is amended
8 to read as follows:

9 1. If any a person holding a permit issued by the
10 department under this division, including a retailer permit
11 for railway car, has willfully violated ~~the-provisions-of~~
12 section 98.2, the department shall revoke the permit issued
13 ~~the-person~~ upon notice and hearing. If the person violates
14 any other provision of this division, or any a rule
15 promulgated adopted under this division, or fails to pay any
16 tax administered by the department or the interest or penalty
17 on the tax, the department may revoke the permit issued to the
18 person, after giving the permit holder an opportunity to be
19 heard upon ten days' written notice stating the reason for the
20 contemplated revocation and the time and place at which the
21 person may appear and be heard. The hearing shall be held in
22 the county of the permit holder's place of business, or in a
23 county in or through which it transacts business. The notice
24 shall be given by mailing a copy by certified mail to the
25 permit holder's place of business as ~~the-same~~ it appears on
26 the application for a permit. If, upon hearing, the
27 department finds that the violation has occurred, the
28 department may revoke the permit.

29 Sec. 7. Section 98.29, Code 1985, is amended to read as
30 follows:

31 98.29 NOTICE AND APPEAL.

32 The department shall notify any person assessed pursuant to
33 section 98.28 by sending a written notice of such the
34 determination and assessment by certified mail to the
35 principal place of business of such the person as shown on the

1 person's application for permit, if any, and in case no such
2 application was filed by ~~such~~ the person, to the person's last
3 known address. A determination by the department of the
4 amount of tax, penalty, and interest due, or the amount of
5 refund for excess tax paid, is final unless the person
6 aggrieved by the determination appeals to the director for a
7 revision of the determination within thirty days from the
8 postmark date of the notice of determination of tax, penalty,
9 and interest or refund owing. The director shall grant a
10 hearing and upon the hearing, the director shall determine the
11 correct tax, penalty, and interest or refund due and notify
12 the appellant of the decision by certified mail. Judicial
13 review of action of the department director may be sought in
14 accordance with the terms of the Iowa administrative procedure
15 Act and section 422.29.

16 Sec. 8. Section 324.4, unnumbered paragraph 2, Code 1985,
17 is amended to read as follows:

18 A license shall not be issued if the applicant is a foreign
19 corporation, unless it is at the time properly qualified under
20 the laws of this state to do business therein in this state.
21 A license shall not be issued to an applicant having any
22 obligation, due and owing at the time of application, to pay
23 any delinquent tax, or the interest or penalty on the tax,
24 administered by the department of revenue. If the applicant
25 is a partnership, a license shall not be issued if any partner
26 owes any delinquent tax, penalty or interest. If the
27 applicant is a corporation, a license shall not be issued if
28 any officer, member of the board of directors or person having
29 a substantial legal or equitable interest in the ownership of
30 the corporation owes any delinquent tax, interest or penalty.

31 Sec. 9. Section 324.65, Code 1985, is amended by adding
32 the following new unnumbered paragraphs:

33 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
34 fails to pay fuel taxes when due, any officer of a corporation
35 or association, or any partner of a partnership, having

1 control or supervision of or the authority for remitting the
2 fuel tax payments, who has intentionally failed to pay the tax
3 is personally liable for the payment of the fuel taxes,
4 interest and penalty due and unpaid. The dissolution of a
5 corporation, association or partnership shall not discharge a
6 person's liability for failure to remit the tax due.

7 NEW UNNUMBERED PARAGRAPH. If a licensee or other person
8 sells the licensee's or other person's business or stock of
9 goods or quits the business, the licensee or other person
10 shall prepare a final return and pay all tax due within the
11 time required by law. All successors to the licensee or other
12 person, if any, shall withhold sufficient of their purchase
13 price, in money or money's worth, to pay the amount of any
14 tax, interest or penalty due and unpaid until the former
15 licensee or other person, or a predecessor, whether immediate
16 or not, produces a valid receipt from the department showing
17 that tax is paid, or a valid certificate stating that no taxes
18 are due. If successors of the business or stock of goods
19 intentionally fail to withhold any amount due from the
20 purchase price as provided in this paragraph, they are
21 personally liable for the payment of the taxes, interest and
22 penalty accrued and unpaid on account of the operation of the
23 business by the former licensee or other person. A successor
24 shall secure a valid receipt or certificate from any former
25 licensee or other person. However, a person foreclosing on a
26 valid security interest or retaking possession of premises
27 under a valid lease is not a "successor" for purposes of this
28 paragraph.

29 Sec. 10. Section 324.66, unnumbered paragraph 1, Code
30 1985, is amended to read as follows:

31 The appropriate state agency shall administer the taxes
32 imposed by this chapter in the same manner as and subject to
33 ~~all the provisions of~~ section 422.25, subsection 4 and section
34 422.52, subsection 3. Notwithstanding section 422.52,
35 subsection 3, all special fuel licensees are required to file

1 a bond with the director in an amount as established by the
2 director.

3 Sec. 11. Section 324.68, unnumbered paragraph 1, Code
4 1985, is amended to read as follows:

5 If a licensee files a false report of the data or
6 information required by this chapter, or fails, refuses, or
7 neglects to file a report required by this chapter, or to pay
8 the full amount of fuel tax as required by this chapter, or
9 any tax due, owing and administered by the department of
10 revenue, and interest and penalty if appropriate, then after
11 ten days' written notice by registered mail directed to the
12 last known address of the licensee setting a time and place at
13 which the licensee may appear and show cause why the license
14 should not be canceled, and if the licensee fails to appear or
15 if upon the hearing it is shown by a preponderance of the
16 evidence that the failure to correctly report or pay was with
17 intent to evade the tax, the appropriate state agency may
18 cancel the license and shall notify the licensee of the
19 cancellation by registered mail to the licensee's last known
20 address.

21 Sec. 12. Section 324.74, unnumbered paragraph 2, Code
22 1985, is amended to read as follows:

23 A person found guilty of an offense specified in this
24 section is guilty of ~~a-fraudulent-practice~~ an aggravated
25 misdemeanor, the penalty for which is imprisonment for not
26 more than two years, or a fine of not more than ten thousand
27 dollars, or both imprisonment and fine. For purposes of
28 determining the place of trial, the situs of an offense
29 specified in this section is in the county of the residence of
30 the person charged with the offense. However, if the person
31 is a nonresident or the person's residence cannot be
32 determined, the situs of the offense is in Polk county.
33 Prosecution for an offense specified in this section shall be
34 commenced within six years following its commission.

35 Sec. 13. Section 421.7, Code 1985, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 7. If a person files a purported return
3 of tax which does not contain information on which the
4 substantial correctness of the self-assessment may be judged
5 or which contains information that on its face indicates that
6 the self-assessment is substantially incorrect and the conduct
7 previously referred to in this paragraph is due to a position
8 which is frivolous or a desire which appears on the purported
9 return to delay or impede the administration of the tax laws
10 of this state, then the person shall pay a penalty of five
11 hundred dollars. This penalty shall be in addition to any
12 other penalty provided by law.

13 Sec. 14. Section 421.17, Code 1985, is amended by adding
14 the following new subsections:

15 NEW SUBSECTION. 26. For any contested case, as defined in
16 section 17A.2, commenced on or after the effective date of
17 this Act, the person disputing the assessment must pay all
18 tax, interest and penalty pertaining to the disputed
19 assessment prior to the commencement of the contested case.
20 Upon a showing of good cause, the hearing officer may allow
21 the person to post a bond in lieu of paying all tax, interest
22 and penalty.

23 NEW SUBSECTION. 27. When it appears that any administra-
24 tive or judicial proceedings have been instituted or
25 maintained by the taxpayer primarily for delay or that the
26 taxpayer's position in such proceedings is frivolous or
27 groundless, damages in an amount not in excess of five
28 thousand dollars may be awarded to this state by the
29 administrative agency or applicable court. Damages so awarded
30 shall be deemed assessed at the same time as the assessment
31 and shall be collected as a part of the tax.

32 Sec. 15. Section 422.16, subsection 14, Code 1985, is
33 amended to read as follows:

34 14. The director may, when necessary and advisable in
35 order to secure the collection of the tax required to be

1 deducted and withheld or the amount actually deducted,
2 whichever is greater, require a-nonresident an employer or
3 withholding agent to file with the director a bond, issued by
4 a surety company authorized to conduct business in this state
5 and approved by the insurance commissioner as to solvency and
6 responsibility, in such an amount as the director may fix, to
7 secure the payment of the tax and penalty due or which may
8 become due. In lieu of the bond, securities shall be kept in
9 the custody of the department and may be sold by the director
10 at public or private sale, without notice to the depositor, if
11 it becomes necessary to do so in order to recover any tax and
12 penalty due. Upon any-such a sale, any surplus above the
13 amounts due under this section shall be returned to the
14 nonresident employer or withholding agent who deposited the
15 securities.

16 Sec. 16. Section 422.25, subsection 5, Code 1985, is
17 amended to read as follows:

18 5. A person or withholding agent required to supply
19 information, to pay tax, or to make, sign, or file a
20 semimonthly, monthly, or quarterly deposit form or return or
21 supplemental return, who willfully makes a false or fraudulent
22 semimonthly, monthly, or quarterly deposit form or return, or
23 willfully fails to pay the tax, supply the information, or
24 make, sign, or file the semimonthly, monthly, or quarterly
25 deposit form or return, at the time or times required by law,
26 is guilty of ~~a-fraudulent-practice~~ an aggravated misdemeanor,
27 the penalty for which is imprisonment for not more than two
28 years or a fine of not more than ten thousand dollars or both
29 the imprisonment and the fine.

30 Sec. 17. Section 422.28, Code 1985, is amended to read as
31 follows:

32 422.28 REVISION OF TAX.

33 A taxpayer may appeal to the director for revision of the
34 tax, interest or penalties assessed at any time within ninety
35 thirty days from the date of the notice of the assessment of

1 tax, additional tax, interest or penalties. The director
2 shall grant a hearing and if, upon the hearing, the director
3 determines that the tax, interest or penalties are excessive
4 or incorrect, the director shall revise them according to the
5 law and the facts and adjust the computation of the tax,
6 interest or penalties accordingly. The director shall notify
7 the taxpayer by registered mail of the result of the hearing
8 and shall refund to the taxpayer the amount, if any, paid in
9 excess of the tax, interest or penalties found by the director
10 to be due, with interest after sixty days from the date of
11 payment by the taxpayer at the rate in effect under section
12 421.7 for each month or a fraction of a month. The director
13 may, on the director's own motion at any time, abate any
14 portion of tax, interest or penalties which the director
15 determines is excessive in amount, or erroneously or illegally
16 assessed. The director shall prepare quarterly reports, which
17 shall be included in the annual statistical reports required
18 under section 422.75, summarizing each case in which an
19 abatement of tax, interest or penalties was made under this
20 section, but a report shall not disclose the identity of the
21 taxpayer.

22 Sec. 18. Section 422.40, subsection 4, Code 1985, is
23 amended to read as follows:

24 4. A person, officer or employee of a corporation, or
25 member or employee of a partnership, who, with intent to evade
26 a requirement of this division or a lawful requirement of the
27 director, fails to pay tax or fails to make, sign, or verify a
28 return or fails to supply information required under this
29 division, is guilty of a-fraudulent-practice an aggravated
30 misdemeanor, the penalty for which is imprisonment for not
31 more than two years or a fine of not more than ten thousand
32 dollars or both the imprisonment and the fine. A person,
33 corporation, officer or employee of a corporation, or member
34 or employee of a partnership, who, with intent to evade any of
35 the requirements of this division, or any lawful requirements

1 of the director, makes, renders, signs, or verifies a false or
2 fraudulent return or statement, or supplies false or
3 fraudulent information, or who aids, abets, directs, causes,
4 or procures anyone so to do, is guilty of a class "D" felony.
5 The penalty is in addition to all other penalties in this
6 division.

7 Sec. 19. Section 422.47, subsection 3, paragraph b, Code
8 1985, is amended to read as follows:

9 b. The sales tax liability for all sales of tangible
10 personal property and all sales of services ~~shall be~~ is upon
11 the seller and the purchaser unless the seller takes in good
12 faith from the purchaser a valid exemption certificate stating
13 under penalties for perjury that the purchase is for resale or
14 for processing and is not a retail sale as defined in section
15 422.42, subsection 3. ~~Where~~ If the tangible personal property
16 or services are purchased tax free pursuant to a valid
17 exemption certificate which is taken in good faith by the
18 seller, and the tangible personal property or services are
19 used or disposed of by the purchaser in a nonexempt manner,
20 the purchaser ~~shall be~~ is solely liable for the taxes and
21 shall remit ~~said~~ the taxes directly to the department and
22 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
23 422.57, 422.58, and 422.59 shall apply to such the purchaser.

24 Sec. 20. Section 422.52, Code 1985, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 6. a. If a purchaser fails to pay tax
27 imposed by this division to the retailer required to collect
28 the tax, then in addition to all of the rights, obligations
29 and remedies provided, the tax is payable by the purchaser
30 directly to the department, and sections 422.50, 422.51,
31 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59
32 apply to the purchaser. For failure, the retailer and
33 purchaser are liable, unless the circumstances described in
34 subsections 422.47, subsection 3, paragraphs "b" and "e" are
35 applicable.

1 b. If a retailer or a purchaser fails to pay the tax when
2 due, any officer of a corporation or association, or any
3 partner of a partnership, having control or supervision of, or
4 the authority for remitting the tax payments who has
5 intentionally failed to pay the tax is personally liable for
6 the payment of the taxes, interest and penalty due and unpaid.
7 The dissolution of a corporation, association or partnership
8 does not discharge a person's liability for failure to remit
9 the tax due.

10 c. If any retailer subject to this division sells the
11 retailer's business or stock of goods or quits the business,
12 the retailer shall prepare a final return and pay all tax due
13 within the time required by law. All successors to the
14 retailer, if any, shall withhold sufficient of their purchase
15 price, in money or money's worth, to pay the amount of tax,
16 interest or penalty due and unpaid until the former retailer
17 or a predecessor, whether immediate or not, produces a valid
18 receipt from the department showing that tax is paid, or a
19 valid certificate stating that no taxes are due. If
20 successors of the business or stock of goods intentionally
21 fail to withhold the amount due from the purchase price as
22 provided in this paragraph, they are personally liable for the
23 payment of the taxes, interest and penalty accrued and unpaid
24 on account of the operation of the business by the former
25 retailer or predecessor. A successor shall secure a valid
26 receipt or certificate from the former retailer or
27 predecessor. However, a person foreclosing on a valid
28 security interest or retaking possession of premises under a
29 valid lease is not a "successor" for purposes of this
30 paragraph.

31 d. A person sponsoring a flea market, or a craft, antique,
32 coin, or stamp show or similar event shall obtain from every
33 retailer selling tangible personal property or taxable
34 services at the event proof that the retailer possesses a
35 valid sales tax permit or secure from the retailer a

1 statement, taken in good faith, that property or services
2 offered for sale are not subject to sales tax. Failure to do
3 so renders a sponsor of the event liable for payment of any
4 sales tax, interest and penalty due and owing from any
5 retailer selling property or services at the event. Sections
6 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58
7 and 422.59 apply to the sponsors.

8 Sec. 21. Section 422.53, subsections 2 and 5, Code 1985,
9 are amended to read as follows:

10 2. The applicant must have a permit for each place of
11 business. A permit shall not be issued to an applicant having
12 any obligations due and owing at the time of application, to
13 pay any delinquent tax, or the interest and penalty on the
14 tax, administered by the department. If the applicant is a
15 partnership, a permit shall not be issued if any partner owes
16 any delinquent tax, penalty or interest. If the applicant is
17 a corporation, a permit shall not be issued if any officer,
18 member of the board of directors or any person having a sub-
19 stantial legal or equitable interest in the ownership of the
20 corporation owes any delinquent tax, penalty or interest.

21 5. If the holder of a permit fails to comply with any of
22 the provisions of this division or any orders or rules of the
23 department adopted under this division or fails to pay any tax
24 administered by the department or the interest or penalty on
25 the tax, the director upon hearing after giving ten days'
26 notice of the time and place of the hearing to show cause why
27 the permit should not be revoked, may revoke the permit. The
28 director may restore permits after revocation. The director
29 shall adopt rules setting forth the period of time a retailer
30 must wait before a permit may be restored or a new permit may
31 be issued. The waiting period shall not exceed ninety days
32 from the date of the revocation of the permit.

33 Sec. 22. Section 422.58, subsections 2 and 5, Code 1985,
34 are amended to read as follows:

35 2. a. Any person who ~~shall~~ knowingly ~~sell~~ sells tangible

1 personal property, tickets or admissions to places of
2 amusement and athletic events, or gas, water, electricity, and
3 communication service at retail, or ~~engage~~ engages in the
4 rendering, furnishing, or performing of services enumerated in
5 section 422.43, in this state without procuring a permit, as
6 provided in section 422.53, or who ~~shall-violate-the~~
7 ~~provisions-of~~ violates section 422.49, and the officers of any
8 corporation who ~~shall~~ so act, ~~shall-be~~ acts is guilty of a
9 simple serious misdemeanor.

10 b. Any A person who ~~shall~~ knowingly ~~sell~~ sells tangible
11 personal property, tickets or admissions to places of
12 amusement and athletic events, or gas, water, electricity, and
13 communication service at retail, or ~~engage~~ engages in the
14 rendering, furnishing, or performing of services enumerated in
15 section 422.43, in this state after the person's license ~~shall~~
16 have has been revoked and before it has been restored as
17 provided in section 422.53, subsection 5 and the officers of
18 any corporation who ~~shall~~ so act ~~shall-be~~ are guilty of a
19 serious an aggravated misdemeanor.

20 5. A person required to pay a tax, or to make, sign, or
21 file a semimonthly or monthly tax deposit form or return or
22 supplemental return, who willfully makes a false or fraudulent
23 semimonthly or monthly tax deposit form or return, or
24 willfully fails to pay at least ninety percent of the tax or
25 willfully fails to make, sign, or file the semimonthly or
26 monthly tax deposit form or return, at the time required by
27 law, is guilty of ~~a-fraudulent-practice~~ an aggravated
28 misdemeanor, the penalty for which is imprisonment for not
29 more than two years or a fine of not more than ten thousand
30 dollars, or both the imprisonment and the fine.

31 Sec. 23. Section 423.9, unnumbered paragraph 1, Code 1985,
32 is amended to read as follows:

33 Every retailer maintaining a place of business in this
34 state and making sales of tangible personal property for use
35 in this state, not exempted under ~~the-provisions-of~~ section

1 423.4 nor collectible under ~~the provisions of~~ section 423.7,
2 shall at the time of making such the sales, whether within or
3 without the state, collect the tax imposed by this chapter
4 from the purchaser, and give to the purchaser a receipt
5 therefor for the tax in the manner and form prescribed by the
6 director, if the director ~~shall, by regulation, require such~~
7 rules requires a receipt. Each such retailer shall list with
8 the department the name and address of all the retailer's
9 agents operating in this state, and the location of ~~any and~~
10 all the retailer's distribution or sales houses or offices or
11 other places of business in this state. A permit shall not be
12 issued to a retailer having any obligation due and owing at
13 the time of application, to pay any delinquent tax, interest
14 or penalty administered by the department. If the applicant
15 is a partnership, a permit shall not be issued if any partner
16 owes any delinquent tax, penalty or interest. If the
17 applicant is a corporation, a permit shall not be issued if
18 any officer, member of the board of directors or any person
19 having a substantial legal or equitable interest in the
20 ownership of the corporation owes any delinquent tax, penalty
21 or interest.

22 Sec. 24. Section 423.13, Code 1985, is amended by adding
23 the following new unnumbered paragraphs:

24 NEW UNNUMBERED PARAGRAPH. If a retailer or a purchaser
25 fails to pay the tax due, any officer of a corporation or
26 association, or any partner of a partnership, having control
27 or supervision of or the authority for remitting the tax
28 payments, who has intentionally failed to pay the tax is
29 personally liable for the failure. The dissolution of a
30 corporation, association or partnership does not discharge the
31 individual's liability for failure to remit the tax due.

32 NEW UNNUMBERED PARAGRAPH. If a retailer sells the
33 retailer's business or stock of goods or quits the business,
34 the retailer shall prepare a final return and pay all tax due
35 within the time required by law. All successors to the

1 retailer, if any, shall withhold sufficient of their purchase
2 price, in money or money's worth, to pay the amount of tax,
3 interest or penalty due and unpaid until the former retailer
4 or a predecessor, whether immediate or not, produces a valid
5 receipt from the department showing that tax is paid, or a
6 valid certificate stating that no taxes are due. If
7 successors of the business or stock of goods intentionally
8 fail to withhold the amount due from the purchase price as
9 provided in this paragraph, they are personally liable for the
10 payment of the taxes, interest and penalty accrued and unpaid
11 on account of the operation of the business by the former
12 retailer or predecessor. A successor shall secure a valid
13 receipt or certificate from the former retailer or
14 predecessor. However, a person foreclosing on a valid
15 security interest or retaking possession of premises under a
16 valid lease is not a "successor" for purposes of this
17 paragraph.

18 Sec. 25. Section 423.18, subsection 3, Code 1985, is
19 amended to read as follows:

20 3. A person required to pay tax, or to make, sign or file
21 a monthly deposit form or return, who willfully makes a false
22 or fraudulent monthly deposit form or return, or who willfully
23 fails at the time required by law to pay the tax or fails to
24 make, sign or file the monthly deposit form or return, is
25 guilty of ~~a-fraudulent-practice~~ an aggravated misdemeanor, the
26 penalty for which is imprisonment for not more than two years
27 or a fine of not more than ten thousand dollars, or both
28 imprisonment and a fine.

29 Sec. 26. Section 423.22, Code 1985, is amended to read as
30 follows:

31 423.22 REVOKING PERMITS.

32 ~~Whenever-any~~ If a retailer maintaining a place of business
33 in this state, or authorized to collect the tax herein imposed
34 pursuant to section 423.10, fails to comply with any of the
35 provisions of this chapter or any orders or rules prescribed

1 and adopted under this chapter, or fails to pay any tax
2 administered by the department or the interest or penalty on
3 the tax, the director may, upon notice and hearing as
4 hereinafter provided, by order revoke the permit, if any,
5 issued to such the retailer under section 422.53, or if such
6 the retailer is a corporation authorized to do business in
7 this state under chapter 494, may certify to the secretary of
8 state a copy of an order finding that such the retailer has
9 failed to comply with certain specified provisions, orders or
10 rules. The secretary of state shall, upon receipt of such the
11 certified copy, revoke the permit authorizing said the
12 corporation to do business in this state, and shall issue a
13 new permit only when such the corporation ~~shall~~-have has
14 obtained from the director an order finding that such the
15 corporation has complied with its obligations under this
16 chapter. No order authorized in this section shall be made
17 until the retailer is given an opportunity to be heard and to
18 show cause why such the order should not be made, and the
19 retailer shall be given ten days' notice of the time, place,
20 and purpose of such the hearing. The director may issue a new
21 permit pursuant to section 422.53 after such revocation. The
22 preceding provision ~~shall~~-apply applies to users and persons
23 supplying services enumerated in section 422.43.

24 Sec. 27. Section 450.94, subsection 3, Code 1985, is
25 amended to read as follows:

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

1 tax, penalty and interest due, or the amount of refund for
2 excess tax paid, is final unless the person aggrieved by the
3 determination appeals to the director for a revision of the
4 determination within ninety thirty days from the postmark date
5 of the notice of determination of tax, penalty and interest
6 due or refund owing. The director shall grant a hearing, and
7 upon the hearing the director shall determine the correct tax,
8 penalty and interest or refund due, and notify the appellant
9 of the decision by certified mail. The decision of the
10 director is final unless the appellant seeks judicial review
11 of the director's decision under section 450.59 within sixty
12 days after the postmark date of the notice of the director's
13 decision.

14 Sec. 28. There is appropriated from the general fund of
15 the state to the department of revenue for the fiscal year
16 beginning July 1, 1985 and ending June 30, 1986 the sum of two
17 hundred fifty thousand (250,000) dollars or so much thereof as
18 necessary, to be used to administer this Act.

19 EXPLANATION

20 This bill provides for a state tax amnesty program to be
21 administered by the department of revenue from September 3,
22 1985 through October 31, 1985. The program covers tax
23 liabilities delinquent as of December 31, 1984 and authorizes
24 a taxpayer to pay this delinquent tax with one half of the
25 interest which would ordinarily be due during the period of
26 the amnesty program without being subject to further civil and
27 criminal prosecution.

28 The bill also amends chapters 98, 324, 421, 422, 423, and
29 450 to provide additional authority to the department of
30 revenue relating to the issuance of permits and licenses, the
31 revocation of permits and licenses, the placement of re-
32 sponsibility for payment of taxes of partnerships and corpora-
33 tions, the filing of fidelity bonds by permittees and li-
34 censees, increasing penalties for failure to pay taxes as re-
35 quired and for filing fraudulent tax returns, and reducing the

1 time for filing an appeal of the director's determination of
2 tax due from 90 to 30 days.

3 The bill also appropriates \$250,000 to the department of
4 revenue to administer the state tax amnesty program and other
5 provisions of the bill.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319
515 281-5211

February 14, 1986

The Honorable Donald Avenson
Speaker
House of Representatives
State Capitol Building
L O C A L

Dear Mr. Speaker:

I hereby transmit House File 764, an act relating to unpaid taxes, tax credits and enforcement of taxes administered by the department of revenue, making an appropriation, and providing civil and criminal penalties.

House File 764 is approved February 14, 1986, with the following exception which I hereby disapprove.

I am unable to approve the item designated in Section 42, which reads as follows:

There is also appropriated for the purpose of increasing the auditing and enforcement activities of the department, not to exceed an additional thirty-six full-time equivalent positions, the sum of one million (1,000,000) dollars, or so much thereof as is necessary.

House File 764 establishes a tax amnesty program. The tax amnesty program will run from September 2, through October 31 of this year. The bill also provides for stiffer penalties for tax evaders following the amnesty period. An appropriation of \$250,000 is provided to the Department of Revenue to administer the program and an additional \$1,000,000 is appropriated in this fiscal year to hire up to an additional 36 tax collection agents.

The tax amnesty program is projected to provide the state with up to \$5,000,000 in additional revenue which was projected in the FY '87 budget. In addition, the tax evasion penalties and the \$250,000 appropriation are provided in order to successfully implement the amnesty program.

The Honorable Donald Avenson
February 14, 1986
Page 2

However, the \$1,000,000 appropriated by the General Assembly this fiscal year is untimely, unnecessary and excessive spending. Although appropriated this year, the funds could not be spent until after the amnesty period -- that is next fiscal year. Although a carryover of the funds is provided for, this appropriation would needlessly threaten to place the state's budget in the red this year.

Moreover, the budgets for both FY '86 and '87 fiscal years are extremely tight, with little discretionary funds available for additional expenditures. I question the need for an additional 36 revenue agents at a time when the state is working to reduce its payroll by over 960 positions.

I understand that other states have put in place additional revenue collection capabilities following an amnesty period. The stiffer tax evasion penalties in the bill should help with the enforcement effort. Reallocation may also be necessary to provide needed assistance to the Department. And I have indicated to legislators that I am willing to consider a modest appropriation to the Department in FY '87, if it can be done without putting the budget in the red.

For the above reasons, I hereby respectfully disapprove of this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 764 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad
Governor

TEB/jrb

cc: Secretary of the Senate
Chief Clerk of the House
Secretary of the State

HOUSE FILE 764

AN ACT

RELATING TO UNPAID TAXES, TAX CREDITS AND ENFORCEMENT OF TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE, MAKING AN APPROPRIATION, AND PROVIDING CIVIL AND CRIMINAL PENALTIES.

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

Section 1. Sections 1 through 4 of this Act may be cited as the "Iowa Tax Amnesty Act".

Sec. 2. DEFINITIONS. When used in sections 1 through 4 of this Act, unless the context otherwise requires:

- 1. "Department" means the department of revenue.
- 2. "Taxpayer" means a person, corporation or other entity subject to any tax imposed by a law of this state, payable to this state, and administered by the department pursuant to chapter 98, 324, 324A, 422, 422A, 423, 450, 450A, 450B, or 451.
- 3. "Director" means the director of the department.

Sec. 3. AMNESTY PROGRAM.

- 1. The director shall establish a tax amnesty program. The amnesty program shall apply to tax liabilities delinquent as of December 31, 1985, including tax on returns not filed, tax liabilities on the books of the department as of December 31, 1985, or tax liabilities not reported nor established but delinquent as of December 31, 1985. For a taxpayer who has a tax liability, the director shall accept cash, certified check, cashier's check or money order for the full amount of the tax liability.
- 2. The amnesty program shall be for a period from September 2, 1986 through October 31, 1986 for any tax liabilities which are delinquent as of December 31, 1985.

3. The amnesty program shall provide that upon written application by a taxpayer and payment by the taxpayer of amounts due from the taxpayer to this state for a tax covered by the amnesty program plus interest equal to fifty percent of the interest that would have been owed through December 31, 1985, the department shall not seek to collect any other interest or penalties which may be applicable and the department shall not seek civil or criminal prosecution for a taxpayer for the period of time for which amnesty has been granted to the taxpayer. Failure to pay all taxes delinquent as of December 31, 1985 and due to this state except those adjustments made pursuant to a federal audit completed after the effective date of this Act shall invalidate any amnesty granted pursuant to this Act. Amnesty shall be granted for only the taxable periods specified in the application and only if all amnesty conditions are satisfied by the taxpayer.

4. Amnesty shall not be granted to a taxpayer who is a party to an active criminal investigation or to a criminal litigation which is pending in a district court, the court of appeals, or the supreme court of this state for nonpayment or fraud in relation to any state tax imposed by a law of this state.

5. The director shall prepare and make available amnesty application forms which contain requirements for approval of an application. The director may deny any application inconsistent with sections 1 through 4 of this Act.

Sec. 4. Sections 1 through 3 of this Act are exempt from the rulemaking process of the Iowa administrative procedure Act.

Sec. 5. Section 98.13, subsection 2, Code 1985, is amended to read as follows:

2. ISSUANCE.

a. The department shall issue state permits to distributors, wholesalers, and cigarette vendors subject to the conditions provided in this division. Cities may issue

House File 764 is approved February 14, 1986, with the following exception which I hereby disapprove.

I am unable to approve the item designated in Section 42, which reads as follows

There is also appropriated for the purpose of increasing the auditing and enforcement activities of the department, not to exceed an additional thirty six full time equivalent positions, the sum of one million (1,000,000) dollars, or so much thereof as is necessary

H.F. 764

retail permits to dealers within their respective limits. County boards of supervisors may issue retail permits to dealers in their respective counties, outside of the corporate limits of cities. Upon issuance of a retail permit by a city council or board of supervisors, the council or board shall forthwith certify to the department the action taken.

b. The department may deny the issuance of a permit to a distributor, wholesaler, vendor or retailer who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent on any delinquent tax, penalty or interest. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest or penalty of the applicant corporation.

Sec. 6. Section 98.22, subsection 1, Code 1985, is amended to read as follows:

1. If any a person holding a permit issued by the department under this division, including a retailer permit for railway car, has willfully violated the provisions of section 98.2, the department shall revoke the permit issued the person upon notice and hearing. If the person violates any other provision of this division, or any a rule promulgated adopted under this division, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the department may revoke the permit issued to the person, after giving the permit holder an opportunity

to be heard upon ten days' written notice stating the reason for the contemplated revocation and the time and place at which the person may appear and be heard. The hearing shall be held in the county of the permit holder's place of business, or in a county in or through which it transacts business. The notice shall be given by mailing a copy by certified mail to the permit holder's place of business as the same it appears on the application for a permit. If, upon hearing, the department finds that the violation has occurred, the department may revoke the permit.

Sec. 7. Section 98.28, Code 1985, is amended to read as follows:

98.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST -- PENALTY.

If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed thereto as required by this division or that any person has failed to pay at least ninety percent of any tax imposed upon the person, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty of five seven and one-half percent of the amount of the tax, except as provided in section 421.27. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed thereto. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine it and determine the correct amount of tax.

Sec. 8. Section 98.29, Code 1985, is amended to read as follows:

98.29 NOTICE AND APPEAL.

The department shall notify any person assessed pursuant to section 98.28 by sending a written notice of such the determination and assessment by certified mail to the principal place of business of such the person as shown on the person's application for permit, if any, and in case no such application was filed by such the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within thirty days from the postmark date of the notice of determination of tax, penalty, and interest or refund owing. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by certified mail. Judicial review of action of the department director may be sought in accordance with the terms of the Iowa administrative procedure Act and section 422.29.

Sec. 9. Section 98.46, subsection 6, Code 1985, is amended to read as follows:

6. The director in issuing the final assessment pursuant to subsection 3 shall add to the amount of tax found due and unpaid a penalty of five seven and one-half percent of the tax if less than ninety percent of the tax has been paid, except as provided in section 421.27, except that, if the director finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this division, the penalty shall be fifty seventy-five percent of the entire tax as shown by the return as corrected. The director in assessing a tax on the basis of a return made pursuant to subsection 4 shall add to the amount of tax found due and

unpaid a penalty of fifty seventy-five percent of the tax. The penalty imposed under this subsection is not subject to waiver.

Sec. 10. Section 324.4, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A license shall not be issued if the applicant is a foreign corporation, unless it is at the time properly qualified under the laws of this state to do business therein in this state. The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department of revenue. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, penalty or interest. If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest or penalty of the applicant corporation.

Sec. 11. Section 324.65, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If a licensee or other person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of five seven and one-half percent of the amount of the tax due, except as provided in section 421.27. The penalty imposed under this section is not subject to waiver. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed.

Sec. 12. Section 324.65, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results

from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes, there shall be added to the assessment against the offending person and collected a penalty of fifty seventy-five percent of the tax due. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, is subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency.

Sec. 13. Section 324.65, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a licensee or other person sells the licensee's or other person's business or stock of goods or quits the business, the licensee or other person shall prepare a final return and pay all tax due within the time required by law. The immediate successor to the licensee or other person, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of any delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold any amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of the taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former licensee or other person, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this paragraph. The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability.

Sec. 14. Section 324.66, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The appropriate state agency shall administer the taxes imposed by this chapter in the same manner as and subject to ~~all the provisions of~~ section 422.25, subsection 4 and section 422.52, subsection 3. Notwithstanding section 422.52, subsection 3, all special fuel licensees are required to file a bond with the director in an amount as established by the director.

Sec. 15. Section 324.68, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If a licensee files a false report of the data or information required by this chapter, or fails, refuses, or neglects to file a report required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing and administered by the department of revenue, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by registered mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown by a preponderance of the evidence that the failure to correctly report or pay was with intent to evade the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by registered mail to the licensee's last known address.

Sec. 16. Section 421.7, subsection 2, Code 1985, is amended to read as follows:

2. The rate of interest that shall be in effect during a calendar year shall be the rate which is two-percentage-points less than the numerical average, rounded to the nearest one percent, of the respective prime rates for each of the months in the twelve-month period that ends September 30 of the previous calendar year. The rate of interest established by this subsection takes effect January 1, and applies to any amount which is due or becomes payable on or after that date.

Sec. 17. Section 421.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a person files a purported return of tax which does not contain information on which the substantial correctness of the self-assessment may be judged or which contains information that on its face indicates that the self-assessment is substantially incorrect and the conduct previously referred to in this paragraph is due to a position which is frivolous or a desire which appears on the purported return to delay or impede the administration of the tax laws of this state, then the person shall pay a penalty of five hundred dollars. This penalty shall be in addition to any other penalty provided by law.

Sec. 18. Section 421.17, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. For any contested case, as defined in section 17A.2, commenced on or after the effective date of this Act, the person disputing the assessment must pay all tax, interest and penalty pertaining to the disputed assessment prior to the commencement of the contested case. Upon a showing of good cause, the hearing officer shall allow the person to post a bond in an amount established by the hearing officer, but not in excess of all tax, interest, and penalty, in lieu of paying all tax, interest and penalty.

The director shall adopt rules establishing procedures for payment of taxes under protest. If it is finally determined that the tax is not due in whole or in part, the department

shall refund the part of the tax payment which is determined not to be due together with interest on the amount of the refund at the rate as determined under section 421.7.

Sec. 19. **NEW SECTION.** 421.26 LIABILITY FOR TAX DUE.

If a licensee or other person under section 324.65, a retailer or purchaser under section 422.52, or a retailer or purchaser under section 423.13 fails to pay a tax under those sections when due, any officer of a corporation or association, or any partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 20. **NEW SECTION.** 421.27 EXCEPTIONS FROM PENALTY PROVISIONS.

The penalty provided for failure to remit at least ninety percent of the tax due or of the tax due with the filing of the deposit form or return or to pay at least ninety percent of the tax required to be shown on the return under section 98.28, 98.46, 324.65, 422.16, 422.25, 422.58, 422.66, 423.18, 435.5, 450.63, 450A.12, or 451.12 shall not be assessed by the department under any of the following conditions:

1. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department.

2. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return within sixty days of the final disposition of the federal government's audit.

3. The return is timely, but erroneously, mailed with adequate postage to the internal revenue service or another state agency and the taxpayer provides proof of timely mailing with adequate postage.

4. The return is timely mailed with adequate postage to the department of revenue and the taxpayer provides proof of timely mailing with adequate postage.

5. The taxpayer presents proof that the taxpayer relied upon documented written erroneous advice from the department, county treasurer, or federal internal revenue service, whichever is appropriate.

Sec. 21. NEW SECTION. 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under section 324.65, 422.52, or 423.13 is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that no tax liens were filed, that the department had informed the immediate successor that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee or retailer that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 324.63, 422.20, or 422.72.

Sec. 22. Section 422.10, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed which would be allowable under section 30 of the Internal Revenue Code of 1954, as-amended-to-and-including in effect on January 1, 1983 1985. ~~The-research-activities-credit-is applicable-for-taxable-years-beginning-after-December-31-1985 to-the-same-extent-that-the-credit-is-applicable-for-federal income-tax-purposes-for-taxable-years-beginning-after-December 31-1985-~~

Sec. 23. Section 422.16, subsection 10, paragraph b, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax

required to be shown on the semimonthly, monthly, or quarterly deposit form, there shall be added to the tax a penalty of ten fifteen percent of the amount of the tax due, except as provided in section 421.27.

Sec. 24. Section 422.16, subsection 10, paragraph b, unnumbered paragraph 2, Code 1985, is amended to read as follows:

In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty ~~seventy-five~~ percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent. The penalty imposed under this subsection is not subject to waiver.

Sec. 25. Section 422.16, subsection 14, Code 1985, is amended to read as follows:

14. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require a nonresident an employer or withholding agent to file with the director a bond, issued by a surety company authorized to conduct business in this state and approved by the insurance commissioner as to solvency and responsibility, in such an amount as the director may fix, to secure the payment of the tax and penalty due or which may become due. In lieu of the bond, securities shall be kept in the custody of the department and may be sold by the director

at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax and penalty due. Upon any-such a sale, any surplus above the amounts due under this section shall be returned to the nonresident employer or withholding agent who deposited the securities.

Sec. 26. Section 422.25, subsection 2, Code 1985, is amended to read as follows:

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of five ~~seven and one-half~~ percent of the tax due, except as provided in section 421.27. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty ~~seventy-five~~ percent of the amount of the tax. The penalty imposed under this subsection is not subject to waiver.

Sec. 27. Section 422.28, Code 1985, is amended to read as follows:

422.28 REVISION OF TAX.

A taxpayer may appeal to the director for revision of the tax, interest or penalties assessed at any time within thirty days from the date of the notice of the assessment of tax, additional tax, interest or penalties. The director shall grant a hearing and if, upon the hearing, the director determines that the tax, interest or penalties are excessive

or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest or penalties accordingly. The director shall notify the taxpayer by registered mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest or penalties found by the director to be due, with interest after sixty days from the date of payment by the taxpayer at the rate in effect under section 421.7 for each month or a fraction of a month. The director may, on the director's own motion at any time, abate any portion of tax, interest or penalties which the director determines is excessive in amount, or erroneously or illegally assessed. The director shall prepare quarterly reports, which shall be included in the annual statistical reports required under section 422.75, summarizing each case in which an abatement of tax, interest or penalties was made under this section, but a report shall not disclose the identity of the taxpayer.

Sec. 28. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed which would be allowable under section 30 of the Internal Revenue Code of 1954, as amended to and including in effect on January 1, 1983

~~1985. The research activities credit is applicable for taxable years beginning after December 31, 1985 to the same extent that the credit is applicable for federal income tax purposes for taxable years beginning after December 31, 1985.~~

Sec. 29. Section 422.47, subsection 3, paragraph b, Code 1985, is amended to read as follows:

b. The sales tax liability for all sales of tangible personal property and all sales of services shall be is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section 422.42, subsection 3. Where if the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser ~~shall be~~ is solely liable for the taxes and shall remit said the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to such the purchaser.

Sec. 30. Section 422.52, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. If a purchaser fails to pay tax imposed by this division to the retailer required to collect the tax, then in addition to all of the rights, obligations and remedies provided, the tax is payable by the purchaser directly to the department, and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in subsections 422.47, subsection 3, paragraphs "b" and "e" are applicable.

b. If any retailer subject to this division sells the retailer's business or stock of goods or quits the business,

the retailer shall prepare a final return and pay all tax due within the time required by law. The immediate successor to the retailer, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of the delinquent taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this paragraph. The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability.

c. A person sponsoring a flea market, or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that property or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest and penalty due and owing from any retailer selling property or services at the event. Sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the sponsors. For purposes of this paragraph a person sponsoring a flea market, or a craft, antique, coin or stamp show or similar event does not include an organization which sponsors an event less than three times a year or a state, county or district agricultural fair.

Sec. 31. Section 422.53, subsections 2 and 5, Code 1985, are amended to read as follows:

2. The applicant must have a permit for each place of business. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if the partner is substantially delinquent in paying any delinquent tax, penalty or interest. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty or interest of the applicant corporation.

5. If the holder of a permit fails to comply with any of the provisions of this division or any orders or rules of the department adopted under this division or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director upon hearing after giving ten days' notice of the time and place of the hearing to show cause why the permit should not be revoked, may revoke the permit. The director may restore permits after revocation. The director shall adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

Sec. 32. Section 422.58, subsection 1, Code 1985, is amended to read as follows:

1. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the

semimonthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of ten fifteen percent of the amount of the tax due, except as provided in section 421.27. In case of willful failure to file a semimonthly or monthly tax deposit form or return, willful filing of a false semimonthly or monthly tax deposit form or return or willful filing of a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return fifty seventy-five percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division. The penalty imposed under this subsection is not subject to waiver.

Sec. 33. Section 422.58, subsection 2, Code 1985, is amended to read as follows:

2. a. Any person who shall knowingly sell sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage engages in the rendering, furnishing, or performing of services enumerated in section 422.43, in this state without procuring a permit, as

provided in section 422.53, or who shall ~~violate~~ violates the provisions of violates section 422.49, and the officers of any corporation who shall so act ~~shall be~~ acts is guilty of a simple serious misdemeanor.

b. Any A person who shall knowingly sell sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage engages in the rendering, furnishing, or performing of services enumerated in section 422.43, in this state after the person's license shall ~~have~~ has been revoked and before it has been restored as provided in section 422.53, subsection 5 and the officers of any corporation who shall so act ~~shall be~~ are guilty of a serious an aggravated misdemeanor.

Sec. 34. Section 423.9, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the ~~provisions of~~ section 423.4 nor collectible under the ~~provisions of~~ section 423.7, shall at the time of making such the sales, whether within or without the state, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor for the tax in the manner and form prescribed by the director, if the director shall, by ~~regulation, require such~~ rules requires a receipt. Each such retailer shall list with the department the name and address of all the retailer's agents operating in this state, and the location of ~~any and~~ all the retailer's distribution or sales houses or offices or other places of business in this state. The department may deny the issuance of a permit to a retailer who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if a partner owes any delinquent tax,

penalty or interest. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty or interest of the applicant corporation.

Sec. 35. Section 423.13, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a retailer sells the retailer's business or stock of goods or quits the business, the retailer shall prepare a final return and pay all tax due within the time required by law. The immediate successor to the retailer, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of delinquent taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this paragraph. The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability.

Sec. 36. Section 423.18, subsection 1, Code 1985, is amended to read as follows:

1. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between

the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five seven and one-half percent of the tax due, except as provided in section 421.27. For tax due under section 423.9, the penalty shall be ten percent. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return fifty ~~seventy-five~~ percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter. The penalty imposed under this subsection is not subject to waiver.

Sec. 37. Section 423.22, Code 1985, is amended to read as follows:

423.22 REVOKING PERMITS.

Whenever any If a retailer maintaining a place of business in this state, or authorized to collect the tax herein imposed pursuant to section 423.10, fails to comply with any of the provisions of this chapter or any orders or rules prescribed and adopted under this chapter, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes

any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director may, upon notice and hearing as hereinafter provided, by order revoke the permit, if any, issued to such the retailer under section 422.53, or if such the retailer is a corporation authorized to do business in this state under chapter 494, may certify to the secretary of state a copy of an order finding that such the retailer has failed to comply with certain specified provisions, orders or rules. The secretary of state shall, upon receipt of such the certified copy, revoke the permit authorizing said the corporation to do business in this state, and shall issue a new permit only when such the corporation ~~shall have~~ has obtained from the director an order finding that such the corporation has complied with its obligations under this chapter. No order authorized in this section shall be made until the retailer is given an opportunity to be heard and to show cause why such the order should not be made, and the retailer shall be given ten days' notice of the time, place, and purpose of such the hearing. The director may issue a new permit pursuant to section 422.53 after such revocation. The preceding provision ~~shall apply~~ applies to users and persons supplying services enumerated in section 422.43.

Sec. 38. Section 435.5, Code 1985, is amended to read as follows:

435.5 PENALTY.

If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or pays less than ninety percent of the total amount of the tax due as shown on the return, there shall be added to the tax a penalty of five seven and one-half percent of the tax due, except as provided in section 421.27. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall

be added to the amount required to be shown as tax on the return ffty seventy-five percent of the amount of the tax. The penalty imposed under this section is not subject to waiver.

Sec. 39. Section 450.63, subsection 2, Code 1985, is amended to read as follows:

2. If a person liable for the payment of tax as stated in section 450.5 fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of five seven and one-half percent of the amount of the tax due, except as provided in section 421.27. The penalty imposed under this subsection is not subject to waiver.

Sec. 40. Section 450.94, subsection 3, Code 1985, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, under the rules prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ninety thirty days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant

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

Sec. 41. Section 805.8, subsection 2, paragraph p, Code Supplement 1985, is amended by striking the paragraph.

Sec. 42. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of two hundred fifty thousand (250,000) dollars or so much thereof as necessary, to be used to administer this Act. There is also appropriated for the purpose of increasing the auditing and enforcement activities of the department, not to exceed an additional thirty-six full-time equivalent positions, the sum of one million (1,000,000) dollars, or so much thereof as is necessary. The department shall report the gross revenue collected under each tax pursuant to the amnesty program as soon as practicable after the close of the amnesty period but prior to February 1, 1987. The department shall also report its estimates of the additional revenue collected as a result of any increase in auditing and enforcement activities provided for under this appropriation. Notwithstanding section 8.33, moneys remaining of the appropriation under this section on June 30, 1986 shall not revert to the general fund.

Sec. 43. It is the intent of the general assembly in enacting the Iowa tax amnesty Act that the general assembly and the state shall not conduct another tax amnesty program prior to January 1, 2000.

Sec. 44. Sections 22 and 28 of this Act are retroactive to January 1, 1986 for tax years beginning on or after that date.

Sec. 45. Sections 5, 6, 7, 9, 10, 11, 12, 14, 15, 17, 20, 23, 24, 25, 26, 29, 31, 32, 34, 36, 37, 38, and 39 are effective January 1, 1987 for taxes due and payable on or after that date.

Sec. 46. Sections 8, 18, 27, and 40 are effective January 1, 1987 for assessments made on or after that date.

Sec. 47. This Act, except for sections 5 through 12, 14, 15, 17, 18, 20, 22, 23 through 29, 31, 32, 34, and 36 through 40, being deemed of immediate importance, takes effect from and after its publication in The Nevada Evening Journal, a newspaper published in Nevada, Iowa, and in The Toledo Chronicle, a newspaper published in Toledo, Iowa.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 764, Seventy-first General Assembly.

John Uto
Approved March 13, 1986

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor