

Sen. Ways Means 4/11 25. Pass 4/13 (p. 1526)

APR 6 1988

WAYS & MEANS CALENDAR

HOUSE FILE 2465
BY COMMITTEE ON WAYS AND MEANS

(Formerly House Study Bill 832)

Passed House, Date 4/9/88 (S. 1634) Passed Senate, Date 4/14/88 (S. 1578)

Vote: Ayes 67 Nays 25 Vote: Ayes 24 Nays 12

Approved May 10, 1988

A BILL FOR

1 An Act relating to taxation establishing an excise tax on motor
2 fuel used in aircraft, establishing an excise tax on special
3 fuel used in aircraft, eliminating the sales tax exemption for
4 casual sales of aircraft, adding a sales and use tax exemption
5 for the sale of certain aircraft, requiring a person first
6 registering an aircraft to show evidence that the sales tax or
7 use tax has been paid, prohibiting a motor fuel excise tax
8 refund for motor fuel or special fuel taken out of the state
9 in fuel supply tanks of aircraft or watercraft, prohibiting an
10 income tax credit on fuel tax paid on motor fuel used in
11 watercraft or aircraft, and providing an appropriation.

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

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HF 2465

1 Section 1. Section 312.2, subsection 16, paragraph a,
2 unnumbered paragraph 1, Code Supplement 1987, is amended to
3 read as follows:

4 From the excise tax on motor fuel and special fuel imposed
5 under the tax rate of section 324.3 except aviation gasoline:

6 Sec. 2. Section 324.2, Code 1987, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 12. "Aviation gasoline" means any
9 gasoline which is capable of being used for propelling
10 aircraft, which is invoiced as aviation gasoline or is
11 received, sold, stored, or withdrawn from storage by any
12 person for the purpose of propelling aircraft. Motor fuel
13 capable of being used for propelling motor vehicles is not
14 aviation gasoline.

15 Sec. 3. Section 324.3, unnumbered paragraph 1, Code 1987,
16 is amended to read as follows:

17 For the privilege of operating motor vehicles in this state
18 an excise tax of fifteen cents per gallon for the period
19 beginning July 1, 1985 and ending December 31, 1985, and
20 sixteen cents per gallon beginning January 1, 1986, is imposed
21 upon the use of all motor fuel used for any purpose except
22 aviation gasoline and except motor fuel containing at least
23 ten percent alcohol distilled from cereal grains grown in the
24 United States for the period beginning July 1, 1978 and ending
25 June 30, 1992 and except as otherwise provided in this
26 division. For the privilege of operating aircraft in this
27 state an excise tax of eight cents per gallon beginning July
28 1, 1988, is imposed on the use of all aviation gasoline.

29 Sec. 4. Section 324.16, unnumbered paragraph 1, Code 1987,
30 is amended to read as follows:

31 A distributor, dealer or user licensed under this chapter
32 who has received motor fuel or has paid the tax on motor fuel
33 or special fuel ~~shall be~~ is entitled to a memorandum of credit
34 or refund, when the fuel is used for any purpose other than as
35 fuel for propelling motor vehicles or in watercraft or

1 aircraft, or, while owned by the licensee, is lost or
2 destroyed through accountable leakage or to fire, accident,
3 lightning, flood, storm, act of war or public enemy or other
4 like cause. A memorandum of credit shall be allowed against
5 subsequent liability under this chapter upon application to
6 the department supported by such proof as the director
7 prescribes by rule. If the licensee is no longer engaged in
8 activity for which the license was issued, the department
9 shall refund the appropriate amount upon receipt of an
10 application for refund as provided by the department. Credits
11 and refunds ~~shall be~~ are subject to the following conditions:

12 Sec. 5. Section 324.17, unnumbered paragraph 1, Code 1987,
13 is amended to read as follows:

14 Any A person other than a distributor, dealer or user
15 licensed under this chapter who uses motor fuel or special
16 fuel for the purpose of operating or propelling farm tractors,
17 corn shellers, roller mills, truck-mounted feed grinders,
18 stationary gas engines, ~~aircraft~~, for producing denatured
19 alcohol within the state, for cleaning or dyeing or for any
20 purpose other than in watercraft or aircraft or for propelling
21 motor vehicles operated or intended to be operated upon the
22 public highways, and who has paid the motor fuel or special
23 fuel tax on the fuel either directly to the department or by
24 having the tax added to the price of the fuel, and who has a
25 refund permit, upon presentation to and approval by the
26 department of a claim for refund, shall be reimbursed and
27 repaid the amount of the tax which the claimant has paid on
28 the gallonage so used, except that the amount of any a refund
29 payable under this division may be applied by the department
30 against any tax liability outstanding on the books of the
31 department against the claimant. Every claim is subject to
32 the following conditions:

33 Sec. 6. Section 324.17, subsections 4, 5, 6, and 14, Code
34 1987, are amended to read as follows:

35 4. The claim shall state the gallonage of motor fuel or

1 special fuel that was used or will be used by the claimant
2 other than in watercraft or aircraft or to propel motor
3 vehicles, the manner in which the motor fuel or special fuel
4 was used or will be used and the equipment in which it was
5 used or will be used.

6 5. The claim shall also state whether or not the claimant
7 used fuel for watercraft or aircraft or to propel motor
8 vehicles from the same tanks or receptacles in which the
9 claimant kept the motor fuel on which the refund is claimed.

10 6. A refund ~~will~~ shall not be paid with respect to any
11 motor fuel or special fuel taken out of this state in fuel
12 supply tanks of watercraft, aircraft, or motor vehicles.

13 14. In lieu of the refund provided in this section, a
14 person may receive an income tax credit as provided in chapter
15 422, division IX, but only as to motor fuel or special fuel
16 not used in motor vehicles, aircraft, or watercraft.

17 Sec. 7. Section 324.18, Code 1987, is amended to read as
18 follows:

19 324.18 REFUND PERMIT.

20 A person shall not claim a refund under section 324.17 or
21 section 324.21 until the person has obtained a refund permit,
22 from the department. A special permit shall be obtained by
23 applicants claiming a refund under this chapter on account of
24 motor fuel used ~~for-the-purpose-of-operating-aircraft-or-used~~
25 to blend gasohol. Application for a refund permit shall be
26 made to the department on a form provided by the department,
27 shall be certified by the applicant under penalty for false
28 certificate and shall contain among other things, the name,
29 address, and occupation of the applicant, the nature of the
30 applicant's business, and a sufficient description for
31 identification of the machines and equipment in which is to be
32 used motor fuel for which refund may be claimed under the
33 permit. Each permit shall bear a separate number and each
34 claim for refund shall bear the number of the permit under
35 which it is made. The department shall keep a permanent

1 record of all permits issued and a cumulative record of the
2 amount of refund claimed and paid under each. A refund permit
3 shall continue in effect until it is revoked or becomes
4 invalid.

5 Sec. 8. Section 324.32, Code 1987, is amended to read as
6 follows:

7 324.32 PURPOSE.

8 The purpose of this division is to supplement division I of
9 this chapter, by imposing an excise tax upon the receipt,
10 delivery or placing into the fuel supply tanks of motor
11 vehicles or aircraft which are within this state and into
12 motor vehicle or aircraft special fuel holding tanks which are
13 within this state, of all fuels not taxed under division I.

14 Sec. 9. Section 324.33, subsections 1 through 5, Code
15 1987, are amended to read as follows:

16 1. "Special fuel" means and includes fuel oils and all
17 combustible gases and liquids suitable for the generation of
18 power for propulsion of motor vehicles or turbine-powered
19 aircraft also any substance used for that purpose, except that
20 it does not include motor fuel as defined in the motor fuel
21 tax law.

22 2. "Use" means the receipt, delivery or placing of special
23 fuels by a special fuel user into a supply fuel tank of a
24 motor vehicle or aircraft while the vehicle or aircraft is in
25 this state or delivered into a motor vehicle or aircraft
26 special fuel holding tank, except that with respect to natural
27 gas used as a special fuel "use" means the receipt, delivery
28 or placing of the natural gas into equipment for compressing
29 the gas for subsequent delivery into the fuel supply tank of a
30 motor vehicle.

31 3. "Special fuel dealer" means any person in the business
32 of handling special fuel who delivers any part thereof of the
33 special fuel into a fuel supply tank of any motor vehicle or
34 aircraft or delivers special fuel to a motor vehicle or
35 aircraft special fuel holding tank.

1 4. "Special fuel user" means the owner or other person
2 responsible for the operation of a motor vehicle or aircraft
3 at the time special fuel is placed in a fuel supply tank
4 ~~thereof~~ of the motor vehicle or aircraft while the motor
5 vehicle or aircraft is in this state or the owner of a motor
6 vehicle or aircraft special fuel holding tank into which
7 special fuel is delivered to be used for highway or aircraft
8 use ~~only~~ and upon which special fuel the special fuel tax is
9 paid upon receipt.

10 5. "Licensed special fuel user" means and includes any
11 person licensed by the department who dispenses special fuel,
12 upon which the special fuel tax has not been previously paid,
13 for highway or aircraft use from bulk sources owned and
14 controlled by the person into the fuel supply tank of a motor
15 vehicle, or commercial motor vehicle, or aircraft owned or
16 controlled by the person. A licensed special fuel user shall
17 make bulk purchases of special fuel for highway or aircraft
18 use only from a licensed special fuel distributor, except that
19 a licensed special fuel user may purchase natural gas for
20 highway use as a special fuel from the piped distribution
21 system of a public utility or a pipeline company. The sale of
22 natural gas by a public utility or a pipeline company is not a
23 sale of special fuel requiring a special fuel distributor's
24 license.

25 Sec. 10. Section 324.33, subsections 7 and 8, Code 1987,
26 are amended to read as follows:

27 7. "Motor vehicle or aircraft special fuel holding tank"
28 means a tank with a capacity of not more than one thousand
29 fifty gallons owned by or in the possession of a special fuel
30 user in which special fuel is contained for use by the special
31 fuel user only in a motor vehicle for highway use or for use
32 in aircraft.

33 8. "Special fuel distributor" means any person who sells
34 special fuel in this state in bulk for highway or aircraft
35 use. Delivery of special fuel into a motor vehicle or

1 aircraft special fuel holding tank shall not be considered a
2 bulk sale of special fuel.

3 Sec. 11. Section 324.34, Code 1987, is amended to read as
4 follows:

5 324.34 TAX IMPOSED.

6 For the privilege of operating motor vehicles or aircraft
7 in this state, there is imposed an excise tax on the use, as
8 defined in section 324.33, of special fuel in a motor vehicle
9 or aircraft. The tax rate on special fuel for diesel engines
10 of motor vehicles is sixteen and one-half cents per gallon for
11 the period beginning July 1, 1985 and ending December 31,
12 1985, is seventeen and one-half cents per gallon for the
13 period beginning January 1, 1986 and ending December 31, 1986,
14 and is eighteen and one-half cents per gallon beginning
15 January 1, 1987. The rate of tax on special fuel for aircraft
16 is three cents per gallon beginning July 1, 1988. On all
17 other special fuel the per gallon rate is the same as the
18 motor fuel tax.

19 The tax, with respect to all special fuel delivered by a
20 special fuel dealer for use in this state as defined by
21 section 324.33, shall attach at the time of the delivery and
22 shall be collected by the dealer from the special fuel user
23 and paid over to the department as provided in this chapter.
24 The tax, with respect to special fuel acquired by a special
25 fuel user in any manner other than by delivery by a special
26 fuel dealer into a fuel supply tank of a motor vehicle or
27 aircraft or delivery into a motor vehicle or aircraft special
28 fuel holding tank by a special fuel dealer or distributor,
29 attaches at the time of the use, as defined in section 324.33,
30 of the fuel and shall be paid over to the department by the
31 user as provided in this chapter.

32 All deliveries by distributors of special fuel to be used
33 for highway use or used in aircraft, except deliveries into a
34 motor vehicle or aircraft special fuel holding tank, must be
35 made into storage connected to a sealed meter pump as licensed

1 ~~in-said~~ under this section. Special fuel delivered to a motor
2 vehicle or aircraft special fuel holding tank of a special
3 fuel user by a distributor shall be metered upon delivery and
4 the special fuel tax shall be collected by the distributor and
5 paid over to the department.

6 The department shall make reasonable rules governing the
7 dispensing of special fuel by distributors, special fuel
8 dealers and licensed special fuel users. The department shall
9 require that all pumps located at special fuel dealer
10 locations and licensed special fuel user locations through
11 which fuel oil or liquefied petroleum gas can be dispensed, be
12 metered, inspected, tested for accuracy, sealed and licensed
13 by the state department of agriculture and land stewardship,
14 and that special fuel delivered into the fuel supply tank of
15 any motor vehicle or aircraft or into a motor vehicle or
16 aircraft special fuel holding tank shall be dispensed only
17 through tested metered pumps and may be sold without
18 temperature correction or corrected to a temperature of sixty
19 degrees. If the metered gallonage is to be temperature
20 corrected, only a temperature compensated meter shall be used.

21 The deliberate heating of ~~read~~ taxable motor fuel or
22 special fuel by dealers prior to consumer sale is a simple
23 misdemeanor.

24 All gallonage which is not for nonhighway highway or
25 aircraft use, dispensed through metered pumps as licensed
26 above under this section, on which special fuel tax is not
27 collected, must be substantiated by nonhighway exemption
28 certificates as provided by the department, signed by the
29 purchaser, and retained by the dealer.

30 For the privilege of purchasing special fuel, dispensed
31 through metered pumps as licensed above, on a basis exempt
32 from the special fuel tax, the purchaser shall sign nonhighway
33 exemption certificates for the gallonage claimed which is not
34 for nonhighway highway or aircraft use.

35 The department will disallow all sales said of gallonage

1 which is not to be for ~~non~~highway highway or aircraft use
2 unless proof is established by the retention of said the
3 certificate. ~~Certificates-for-nonhighway-use-sales-must~~
4 Exemption certificates shall be retained by the dealer for a
5 period of three years.

6 For natural gas used as a special fuel the rate of tax that
7 is equivalent to the motor fuel tax shall be thirteen cents
8 per hundred cubic feet adjusted to a base temperature of sixty
9 degrees Fahrenheit and a pressure of fourteen and seventy-
10 three hundredths pounds per square inch absolute. The tax on
11 natural gas shall attach at the time of delivery into
12 equipment for compressing the gas for subsequent delivery into
13 the fuel supply tank of a motor vehicle and shall be paid over
14 to the department by the person operating the compressing
15 equipment under the applicable provisions for users or
16 dealers. Natural gas used as a special fuel shall be
17 delivered into compressing equipment through sealed meters
18 certified for accuracy by the department of agriculture and
19 land stewardship.

20 A person shall not deliver any special fuel into the fuel
21 supply tank of a motor vehicle registered in Iowa on or after
22 March 15, 1983 unless there is a special fuel user
23 identification sticker affixed in a prominent place on the
24 vehicle adjacent to the place where the special fuel is
25 delivered into the tank or unless the motor vehicle is
26 registered under chapter 326.

27 Except for deliveries to a licensed special fuel dealer or
28 licensed special fuel user or deliveries on which the special
29 fuel tax is paid at the time of delivery it is unlawful to
30 deliver liquefied petroleum gas into any tank which has a
31 valve or other outlet capable of transferring the liquefied
32 petroleum gas into the fuel supply tank of a motor vehicle
33 unless the person making the delivery receives a written
34 statement from the recipient of the fuel which states that the
35 recipient knows that the use of liquefied petroleum gas for

1 highway purposes for which the special fuel tax has not been
2 paid is unlawful.

3 Sec. 12. Section 324.36, subsections 1 and 2, Code 1987,
4 are amended to read as follows:

5 1. REQUIRED. It is unlawful for a person to act as a
6 special fuel dealer in this state unless the person holds a
7 special fuel dealer's license issued to the person by the
8 department, except as provided in this section. A person who
9 holds a special fuel distributor's license may dispense
10 special fuel into a motor vehicle or aircraft special fuel
11 holding tank without obtaining a special fuel dealer's
12 license. Except for special fuel which is delivered by a
13 special fuel dealer into a fuel supply tank of a motor vehicle
14 or aircraft or into a motor vehicle or aircraft special fuel
15 holding tank in this state or delivered by a special fuel
16 distributor into a motor vehicle or aircraft special fuel
17 holding tank, the use of special fuel in this state by a
18 person is unlawful unless the person holds a special fuel
19 user's license issued to the person by the department. It is
20 unlawful for a person to sell special fuel in this state in
21 bulk for highway or aircraft use without first obtaining a
22 special fuel distributor's license. The license shall be
23 issued under the same procedure and subject to the same
24 requirements and limitations as provided in section 324.4.

25 2. APPLICATION. Application for a special fuel dealer's
26 license or a special fuel user's license shall be made to the
27 department. A special fuel dealer's license or a special fuel
28 user's license, whichever is applicable, shall be required for
29 each separate place of business or location where special
30 fuels are regularly delivered or placed into the fuel supply
31 tank of a motor vehicle or aircraft. ~~Provided, that~~ However,
32 if a special fuel dealer also operates one or more bulk plants
33 from which the distribution of a special fuel is primarily by
34 tank vehicle, the special fuel dealer need not obtain a
35 separate license for any of these plants not provided with

1 fixed equipment designed for fueling vehicles or aircraft.

2 Upon written application and at the discretion of the
3 director, a special fuel user whose business operations
4 require mobile special fuel storage may obtain a single
5 special fuel user's license to be issued to the user's
6 permanent principal place of business.

7 Sec. 13. Section 324.37, subsection 2, Code 1987, is
8 amended to read as follows:

9 2. For each location where special fuel is delivered or
10 placed into the fuel supply tank of a motor vehicle or
11 aircraft, the special fuel dealer or user making the delivery
12 shall prepare and maintain for a period of three years such
13 records as the department may reasonably require with respect
14 to all these deliveries, and with respect to inventories,
15 receipts, purchases, and sales or other dispositions of
16 special fuel.

17 Sec. 14. Section 324.38, subsections 1, 2, 3, and 4, Code
18 1987, are amended to read as follows:

19 1. RETURNS FOR LICENSED DEALERS AND USERS. For the
20 purpose of determining the amount of liability for special
21 fuel tax each special fuel dealer and each special fuel user
22 shall file with the department not later than the last day of
23 the month next following the month in which this division
24 becomes effective and not later than the last day of each
25 calendar month thereafter a monthly tax return certified under
26 penalties for false certificate. The return shall show, with
27 reference to each location at which special fuel is delivered
28 or placed by the dealer or user into a fuel supply tank of any
29 motor vehicle or aircraft during the next preceding calendar
30 month, such information as the department may reasonably
31 require for the proper administration and enforcement of this
32 division. However, if a special fuel dealer or user is also a
33 wholesale distributor of special fuel at a location where
34 special fuel is delivered into the supply tank of a motor
35 vehicle or aircraft, the monthly return to the department

1 covering the location need not include inventory control data
2 covering bulk storage from which wholesale distribution of
3 special fuel is made.

4 2. COMPUTATION. The amount of tax due shall be computed
5 by multiplying the appropriate tax rate per gallon by the
6 number of gallons of special fuel delivered or placed by the
7 special fuel dealer or user into supply tanks of motor
8 vehicles and aircraft.

9 3. PAYMENTS. The return shall be accompanied by
10 remittance in the amount of the tax due for the month in which
11 the special fuel was placed in the fuel tanks of motor
12 vehicles and aircraft.

13 4. QUARTERLY RETURNS AND TAX PAYMENT BY SPECIAL FUEL
14 DISTRIBUTORS. For the purpose of determining the amount of
15 the tax liability for special fuel tax, each special fuel
16 distributor licensed under this chapter shall file with the
17 department, not later than the last day of the month next
18 following each calendar quarter, a quarterly tax return
19 certified under penalties for false certificate. The return
20 shall show the total amount of special fuel sold during the
21 quarter, the amount of special fuel sold which was not for
22 nonhighway highway or aircraft use, the amount of fuel sold to
23 licensed special fuel dealers and users, the amount of special
24 fuel delivered into motor vehicle or aircraft special fuel
25 holding tanks, the amount of tax due, and such other pertinent
26 information required by the department. The amount of tax due
27 shall be computed by multiplying the appropriate tax rate per
28 gallon by the number of gallons of special fuel delivered or
29 placed by the special fuel distributor into the motor vehicle
30 or aircraft special fuel holding tanks. The return shall be
31 accompanied by a remittance in the amount of the tax due for
32 the quarter.

33 Sec. 15. Section 324.38, subsection 5, paragraphs a
34 through c, Code 1987, are amended to read as follows:

35 a. Special fuels purchased tax paid and delivered into the

1 fuel supply tank of the user's motor vehicles or aircraft by
2 licensed special fuel dealers.

3 b. Special fuels purchased tax paid and delivered into the
4 user's motor vehicle or aircraft special fuel holding tanks by
5 licensed special fuel dealers.

6 c. Special fuels purchased tax paid and delivered into the
7 user's motor vehicle or aircraft special fuel holding tanks by
8 licensed special fuel distributors.

9 Sec. 16. Section 324.38, subsection 6, Code 1987, is
10 amended to read as follows:

11 6. PRESUMPTION. For purposes of this section there shall
12 be a prima-facie presumption that all special fuel received by
13 a special dealer or special fuel user into storage and
14 dispensing equipment designed to fuel motor vehicles or
15 aircraft is to be delivered by the special fuel dealer or
16 special fuel user into the fuel supply tanks of motor vehicles
17 or aircraft.

18 Sec. 17. Section 324.82, Code 1987, is amended to read as
19 follows:

20 324.82 AVIATION GAS FUEL TAX FUND.

21 The portion of the moneys collected under ~~the provisions of~~
22 this chapter received on account of aviation gasoline and
23 special fuel used in aircraft shall be deposited in a separate
24 fund to be maintained by the treasurer. All moneys ~~reimbursed~~
25 ~~and repaid pursuant to section 324.17 or transferred pursuant~~
26 ~~to section 422.112 on account of motor fuel used for the~~
27 ~~purpose of operating aircraft shall be paid from said separate~~
28 ~~fund and all moneys~~ remaining in said the separate fund after
29 ~~all claims for refund and~~ the cost of administering said the
30 fund have been paid shall be credited to the state aviation
31 fund.

32 Sec. 18. Section 328.26, Code 1987, is amended by adding
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. When an aircraft is registered
35 to a person for the first time the application for

1 registration shall be accompanied by evidence that the tax
2 imposed by section 422.43 or section 423.2 has been paid or
3 evidence of the exemption of the aircraft from the tax imposed
4 under section 422.43 or 423.2.

5 Sec. 19. Section 328.36, Code 1987, is amended by adding
6 the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7,
8 subsection 2, interest or earnings on investments or time
9 deposits of the moneys in the state aviation fund shall be
10 credited to the state aviation fund.

11 Sec. 20. Section 422.45, subsections 6 and 11, Code
12 Supplement 1987, are amended to read as follows:

13 6. The gross receipts from "casual sales". However, this
14 exemption does not apply to aircraft.

15 11. The gross receipts from the sale of motor fuel and
16 special fuel consumed for highway use or in watercraft or
17 aircraft where the fuel tax has been imposed and paid and no
18 refund has been or will be allowed and the gross receipts from
19 the sales of gasohol, as defined in section 324.2.

20 Sec. 21. Section 422.45, Code Supplement 1987, is amended
21 by adding the following new subsection:

22 NEW SUBSECTION. 36. The gross receipts from the sale of
23 aircraft for use in a scheduled interstate federal aviation
24 administration certificated air carrier operation.

25 Sec. 22. Section 422.110, subsection 1, Code 1987, is
26 amended to read as follows:

27 1. Motor fuel as defined in section 324.2, subsection 1,
28 used for the purpose of operating or propelling farm tractors,
29 corn shellers, roller mills, truck-mounted feed grinders,
30 stationary engines, ~~aircraft~~, for producing denatured alcohol
31 within the state, for cleaning or dyeing, or for any purpose
32 other than in watercraft or aircraft or in motor vehicles
33 operated or intended to be operated upon the public highways.

34 Sec. 23. Section 422.110, unnumbered paragraph 2, Code
35 1987, is amended to read as follows:

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

12 Sec. 24. Section 422.111, unnumbered paragraph 1, Code
13 1987, is amended to read as follows:

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

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

19 The department shall provide forms for claiming the fuel tax
20 credit. If the fuel tax credit would result in an overpayment
21 of income tax, the person or corporation may apply for a
22 refund of the amount of overpayment or may have the
23 overpayment credited to income tax due in subsequent years.

24 Each person or corporation that claims a fuel tax credit shall
25 maintain the original invoices showing the purchase of the
26 fuel on which a credit is claimed. No invoice is acceptable
27 in support of a claim for credit unless it is a separate
28 serially numbered invoice covering no more than one purchase
29 of motor fuel or special fuel, prepared by the seller on a
30 form approved by the department, nor unless it is legibly
31 written with no corrections or erasures and shows the date of
32 sale, the name and address of the seller and of the purchaser,
33 the kind of fuel, the gallonage in figures, the per gallon
34 price of the fuel, the total purchase price including the Iowa
35 fuel tax, and that the total purchase price has been paid.

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

10 Sec. 25. The excise tax imposed under this Act is
11 effective for fuel purchased on or after July 1, 1988.

12 EXPLANATION

13 This bill establishes an excise tax of eight cents per
14 gallon on the use of aviation gasoline and an excise tax of
15 three cents per gallon on special fuel used for the propulsion
16 of turbine-powered aircraft beginning July 1, 1988.

17 Section 18 of the bill requires a person first registering
18 an aircraft to show evidence that the sales tax or use tax has
19 been paid or evidence that the aircraft is exempt from the
20 sales and use tax.

21 Section 20 of the bill eliminates the sales tax and use tax
22 exemptions for casual sales of aircraft. Section 21 adds a
23 sales tax and use tax exemption for sales of aircraft which
24 are used in scheduled interstate federal aviation
25 administration certificated air carrier operations.

26 In addition to the prohibition of fuel tax refunds and
27 income tax credits for fuels used in aircraft, section 6
28 prohibits a motor fuel excise tax refund for motor fuel or
29 special fuel taken out of the state in fuel supply tanks of
30 watercraft, and section 23 prohibits an income tax credit on
31 fuel tax paid on motor fuel used in watercraft or aircraft.

32 The excise tax imposed under the bill is effective for fuel
33 purchased on or after July 1, 1988.

34 SIMILAR TO LSB 8465HC

35

LSB 8465HV 72

HOUSE FILE 2465
FISCAL NOTE

In compliance with a written request received April 5, 1988, a fiscal note for HOUSE FILE 2465 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.

House File 2465 has a fiscal impact by changing the taxes charged on aviation gas and jet fuel and eliminating the current system for refunds or credits. The bill also eliminates the sales and use tax exemptions on casual sales of aircraft, and credits moneys to the Aviation Fund which currently credit to other funds.

1. Section 1 removes aviation gasoline from the calculation of the RISE appropriation. The money currently deposited in the RUTF for RISE will be deposited in the Aviation Fund.
2. Section 3 establishes an excise tax of eight cents per gallon on aviation gasoline. Aviation gasoline is presently taxed at the motor fuel rate but the tax is refunded upon application (less four percent which is deposited in the General Fund) or may be used as a credit against income taxes. Sections 4 through 7 eliminate the refund/credit of taxes paid on aviation gasoline. In FY 1987, approximately \$322,000 was collected and deposited in the Aviation Fund, \$175,000 was refunded/credited, and \$48,000 was deposited in the General Fund.
3. Section 11 establishes an excise tax of three cents per gallon on special fuel used for aircraft (jet fuel). Currently jet fuel is tax at four percent of the sales price and in FY 1987 about \$400,000 was deposited in the General Fund. Section 17 provides for the receipts from the excise tax, after certain deductions, to be deposited into the Aviation Fund.
4. Section 19 credits interests and earnings on moneys in the State Aviation Fund to that fund, instead of the general fund.
5. Section 20 eliminates the sales and use tax exemptions for casual sales of aircraft. Presently sales of aircraft between individuals are not taxed. The revenue from the sales will be deposited in the General Fund.

Summary of Estimated Financial Changes

	Current Law		Proposed Law	
	Aviation Fund	General Fund	Aviation Fund	General Fund
RISE Fund Change	\$ 0	\$ 0	\$ 80,000	0
Aviation Gas Tax	322,000	48,000	320,000	\$ 0
Jet Fuel Tax	0	400,000	600,000	0
Interest & Earnings	0	70,000	70,000	0
Casual Sales	0	0	0	265,000
Total	\$322,000	\$518,000	\$1,070,000	\$265,000

Source: Department of Transportation.

(LSB 8465h, DER)

FILED APRIL 8, 1988

BY DENNIS PROFFY, FISCAL DIRECTOR

Sec. 2. Section 324.2, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 12. "Aviation gasoline" means any gasoline which is capable of being used for propelling aircraft, which is invoiced as aviation gasoline or is received, sold, stored, or withdrawn from storage by any person for the purpose of propelling aircraft. Motor fuel capable of being used for propelling motor vehicles is not aviation gasoline.

Sec. 3. Section 324.3, unnumbered paragraph 1, Code 1987, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of fifteen cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, and sixteen cents per gallon beginning January 1, 1986, is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period beginning July 1, 1978 and ending June 30, 1992 and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon beginning July 1, 1988, is imposed on the use of all aviation gasoline.

Sec. 4. Section 324.16, unnumbered paragraph 1, Code 1987, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel ~~shall be~~ is entitled to a memorandum of credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or ~~aircraft~~, or, while owned by the licensee, is lost or destroyed through accountable leakage or to fire, accident, lightning, flood, storm, act of war or public enemy or other like cause. A memorandum of credit shall be allowed against subsequent liability under this chapter upon application to

HOUSE FILE 2465

AN ACT

RELATING TO TAXATION ESTABLISHING AN EXCISE TAX ON MOTOR FUEL USED IN AIRCRAFT, ESTABLISHING AN EXCISE TAX ON SPECIAL FUEL USED IN AIRCRAFT, ELIMINATING THE SALES TAX EXEMPTION FOR CASUAL SALES OF AIRCRAFT, ADDING A SALES AND USE TAX EXEMPTION FOR THE SALE OF CERTAIN AIRCRAFT, REQUIRING A PERSON FIRST REGISTERING AN AIRCRAFT TO SHOW EVIDENCE THAT THE SALES TAX OR USE TAX HAS BEEN PAID, PROHIBITING A MOTOR FUEL EXCISE TAX REFUND FOR MOTOR FUEL OR SPECIAL FUEL TAKEN OUT OF THE STATE IN FUEL SUPPLY TANKS OF AIRCRAFT OR WATERCRAFT, PROHIBITING AN INCOME TAX CREDIT ON FUEL TAX PAID ON MOTOR FUEL USED IN WATERCRAFT OR AIRCRAFT, AND PROVIDING AN APPROPRIATION.

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

Section 1. Section 312.2, subsection 16, paragraph a, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3 except aviation gasoline:

the department supported by such proof as the director prescribes by rule. If the licensee is no longer engaged in activity for which the license was issued, the department shall refund the appropriate amount upon receipt of an application for refund as provided by the department. Credits and refunds shall be are subject to the following conditions:

Sec. 5. Section 324.17, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Any a person other than a distributor, dealer or user licensed under this chapter who uses motor fuel or special fuel for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary gas engines, aircraft; for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or aircraft or for propelling motor vehicles operated or intended to be operated upon the public highways, and who has paid the motor fuel or special fuel tax on the fuel either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of any a refund payable under this division may be applied by the department against any tax liability outstanding on the books of the department against the claimant. Every claim is subject to the following conditions:

Sec. 6. Section 324.17, subsections 4, 5, 6, and 14, Code 1987, are amended to read as follows:

4. The claim shall state the gallonage of motor fuel or special fuel that was used or will be used by the claimant other than in watercraft or aircraft or to propel motor vehicles, the manner in which the motor fuel or special fuel was used or will be used and the equipment in which it was used or will be used.

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

6. A refund ~~will~~ shall not be paid with respect to any motor fuel or special fuel taken out of this state in fuel supply tanks of watercraft, aircraft, or motor vehicles.

14. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel or special fuel not used in motor vehicles, aircraft, or watercraft.

Sec. 7. Section 324.18, Code 1987, is amended to read as follows:

324.18 REFUND PERMIT.

A person shall not claim a refund under section 324.17 or section 324.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by applicants claiming a refund under this chapter on account of motor fuel used ~~for-the-purpose-of-operating-aircraft-or-used~~ to blend gasohol. Application for a refund permit shall be made to the department on a form provided by the department, shall be certified by the applicant under penalty for false certificate and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and a sufficient description for identification of the machines and equipment in which is to be used motor fuel for which refund may be claimed under the permit. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 8. Section 324.32, Code 1987, is amended to read as follows:

324.32 PURPOSE.

The purpose of this division is to supplement division I of this chapter, by imposing an excise tax upon the receipt, delivery or placing into the fuel supply tanks of motor vehicles or aircraft which are within this state and into motor vehicle or aircraft special fuel holding tanks which are within this state, of all fuels not taxed under division I.

Sec. 9. Section 324.33, subsections 1 through 5, Code 1987, are amended to read as follows:

1. "Special fuel" means and includes fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft also any substance used for that purpose, except that it does not include motor fuel as defined in the motor fuel tax law.

2. "Use" means the receipt, delivery or placing of special fuels by a special fuel user into a supply fuel tank of a motor vehicle or aircraft while the vehicle or aircraft is in this state or delivered into a motor vehicle or aircraft special fuel holding tank, except that with respect to natural gas used as a special fuel "use" means the receipt, delivery or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

3. "Special fuel dealer" means any person in the business of handling special fuel who delivers any part thereof of the special fuel into a fuel supply tank of any motor vehicle or aircraft or delivers special fuel to a motor vehicle or aircraft special fuel holding tank.

4. "Special fuel user" means the owner or other person responsible for the operation of a motor vehicle or aircraft at the time special fuel is placed in a fuel supply tank thereof of the motor vehicle or aircraft while the motor

vehicle or aircraft is in this state or the owner of a motor vehicle or aircraft special fuel holding tank into which special fuel is delivered to be used for highway or aircraft use only and upon which special fuel the special fuel tax is paid upon receipt.

5. "Licensed special fuel user" means and includes any person licensed by the department who dispenses special fuel, upon which the special fuel tax has not been previously paid, for highway or aircraft use from bulk sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial motor vehicle, or aircraft owned or controlled by the person. A licensed special fuel user shall make bulk purchases of special fuel for highway or aircraft use only from a licensed special fuel distributor, except that a licensed special fuel user may purchase natural gas for highway use as a special fuel from the piped distribution system of a public utility or a pipeline company. The sale of natural gas by a public utility or a pipeline company is not a sale of special fuel requiring a special fuel distributor's license.

Sec. 10. Section 324.33, subsections 7 and 8, Code 1987, are amended to read as follows:

7. "Motor vehicle or aircraft special fuel holding tank" means a tank with a capacity of not more than one thousand fifty gallons owned by or in the possession of a special fuel user in which special fuel is contained for use by the special fuel user only in a motor vehicle for highway use or for use in aircraft.

8. "Special fuel distributor" means any person who sells special fuel in this state in bulk for highway or aircraft use. Delivery of special fuel into a motor vehicle or aircraft special fuel holding tank shall not be considered a bulk sale of special fuel.

Sec. 11. Section 324.34, Code 1987, is amended to read as follows:

324.34 TAX IMPOSED.

For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use, as defined in section 324.33, of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is sixteen and one-half cents per gallon for the period beginning July 1, 1985 and ending December 31, 1985, is seventeen and one-half cents per gallon for the period beginning January 1, 1986 and ending December 31, 1986, and is eighteen and one-half cents per gallon beginning January 1, 1987. The rate of tax on special fuel for aircraft is three cents per gallon beginning July 1, 1988. On all other special fuel the per gallon rate is the same as the motor fuel tax.

The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and paid over to the department as provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or delivery into a motor vehicle or aircraft special fuel holding tank by a special fuel dealer or distributor, attaches at the time of the use, as defined in section 324.33, of the fuel and shall be paid over to the department by the user as provided in this chapter.

All deliveries by distributors of special fuel to be used for highway use or used in aircraft, except deliveries into a motor vehicle or aircraft special fuel holding tank, must be made into storage connected to a sealed meter pump as licensed ~~in-said~~ under this section. Special fuel delivered to a motor vehicle or aircraft special fuel holding tank of a special fuel user by a distributor shall be metered upon delivery and the special fuel tax shall be collected by the distributor and paid over to the department.

The department shall make reasonable rules governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at special fuel dealer locations and licensed special fuel user locations through which fuel oil or liquefied petroleum gas can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture and land stewardship, and that special fuel delivered into the fuel supply tank of any motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

The deliberate heating of road taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

All gallonage which is not for nonhighway highway or aircraft use, dispensed through metered pumps as licensed above under this section, on which special fuel tax is not collected, must be substantiated by nonhighway exemption certificates as provided by the department, signed by the purchaser, and retained by the dealer.

For the privilege of purchasing special fuel, dispensed through metered pumps as licensed above, on a basis exempt from the special fuel tax, the purchaser shall sign nonhighway exemption certificates for the gallonage claimed ~~which is not~~ for nonhighway highway or aircraft use.

The department will disallow all sales ~~of~~ gallonage which is not to be for nonhighway highway or aircraft use unless proof is established by the retention of said ~~the~~ certificate. ~~Certificates for nonhighway use taxes must~~ Exemption certificates shall be retained by the dealer for a period of three years.

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be thirteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department by the person operating the compressing equipment under the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

A person shall not deliver any special fuel into the fuel supply tank of a motor vehicle registered in Iowa on or after March 15, 1983 unless there is a special fuel user identification sticker affixed in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the tank or unless the motor vehicle is registered under chapter 326.

Except for deliveries to a licensed special fuel dealer or licensed special fuel user or deliveries on which the special fuel tax is paid at the time of delivery it is unlawful to deliver liquefied petroleum gas into any tank which has a valve or other outlet capable of transferring the liquefied petroleum gas into the fuel supply tank of a motor vehicle unless the person making the delivery receives a written statement from the recipient of the fuel which states that the recipient knows that the use of liquefied petroleum gas for highway purposes for which the special fuel tax has not been paid is unlawful.

Sec. 12. Section 324.36, subsections 1 and 2, Code 1987, are amended to read as follows:

1. REQUIRED. It is unlawful for a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department, except as provided in this section. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle or aircraft special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of a motor vehicle or aircraft or into a motor vehicle or aircraft special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle or aircraft special fuel holding tank, the use of special fuel in this state by a person is unlawful unless the person holds a special fuel user's license issued to the person by the department. It is unlawful for a person to sell special fuel in this state in bulk for highway or aircraft use without first obtaining a special fuel distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

2. APPLICATION. Application for a special fuel dealer's license or a special fuel user's license shall be made to the department. A special fuel dealer's license or a special fuel user's license, whichever is applicable, shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle or aircraft. ~~Provided that~~ However, if a special fuel dealer also operates one or more bulk plants from which the distribution of a special fuel is primarily by tank vehicle, the special fuel dealer need not obtain a separate license for any of these plants not provided with fixed equipment designed for fueling vehicles or aircraft. Upon written application and at the discretion of the director, a special fuel user whose business operations require mobile special fuel storage may obtain a single

special fuel user's license to be issued to the user's permanent principal place of business.

Sec. 13. Section 324.37, subsection 2, Code 1987, is amended to read as follows:

2. For each location where special fuel is delivered or placed into the fuel supply tank of a motor vehicle or aircraft, the special fuel dealer or user making the delivery shall prepare and maintain for a period of three years such records as the department may reasonably require with respect to all these deliveries, and with respect to inventories, receipts, purchases, and sales or other dispositions of special fuel.

Sec. 14. Section 324.38, subsections 1, 2, 3, and 4, Code 1987, are amended to read as follows:

1. RETURNS FOR LICENSED DEALERS AND USERS. For the purpose of determining the amount of liability for special fuel tax each special fuel dealer and each special fuel user shall file with the department not later than the last day of the month next following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certificate. The return shall show, with reference to each location at which special fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle or aircraft during the next preceding calendar month, such information as the department may reasonably require for the proper administration and enforcement of this division. However, if a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle or aircraft, the monthly return to the department covering the location need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made.

2. COMPUTATION. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel dealer or user into supply tanks of motor vehicles and aircraft.

3. PAYMENTS. The return shall be accompanied by remittance in the amount of the tax due for the month in which the special fuel was placed in the fuel tanks of motor vehicles and aircraft.

4. QUARTERLY RETURNS AND TAX PAYMENT BY SPECIAL FUEL DISTRIBUTORS. For the purpose of determining the amount of the tax liability for special fuel tax, each special fuel distributor licensed under this chapter shall file with the department, not later than the last day of the month next following each calendar quarter, a quarterly tax return certified under penalties for false certificate. The return shall show the total amount of special fuel sold during the quarter, the amount of special fuel sold which was not for nonhighway highway or aircraft use, the amount of fuel sold to licensed special fuel dealers and users, the amount of special fuel delivered into motor vehicle or aircraft special fuel holding tanks, the amount of tax due, and such other pertinent information required by the department. The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of special fuel delivered or placed by the special fuel distributor into the motor vehicle or aircraft special fuel holding tanks. The return shall be accompanied by a remittance in the amount of the tax due for the quarter.

Sec. 15. Section 324.38, subsection 5, paragraphs a through c, Code 1987, are amended to read as follows:

a. Special fuels purchased tax paid and delivered into the fuel supply tank of the user's motor vehicles or aircraft by licensed special fuel dealers.

b. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel dealers.

c. Special fuels purchased tax paid and delivered into the user's motor vehicle or aircraft special fuel holding tanks by licensed special fuel distributors.

Sec. 16. Section 324.38, subsection 6, Code 1987, is amended to read as follows:

6. PRESUMPTION. For purposes of this section there shall be a prima-facie presumption that all special fuel received by a special dealer or special fuel user into storage and dispensing equipment designed to fuel motor vehicles or aircraft is to be delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor vehicles or aircraft.

Sec. 17. Section 324.82, Code 1987, is amended to read as follows:

324.82 AVIATION GAS FUEL TAX FUND.

The portion of the moneys collected under the provisions of this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys reimbursed ~~and repaid pursuant to section 324.17 or transferred pursuant to section 422.112 on account of motor fuel used for the purpose of operating aircraft shall be paid from said separate fund and all moneys~~ remaining in said the separate fund after ~~all claims for refund and~~ the cost of administering said the fund have been paid shall be credited to the state aviation fund.

Sec. 18. Section 328.26, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When an aircraft is registered to a person for the first time the application for registration shall be accompanied by evidence that the tax imposed by section 422.41 or section 423.2 has been paid or

evidence of the exemption of the aircraft from the tax imposed under section 422.43 or 423.2.

Sec. 19. Section 328.36, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the state aviation fund shall be credited to the state aviation fund.

Sec. 20. Section 422.45, subsections 6 and 11, Code Supplement 1987, are amended to read as follows:

6. The gross receipts from "casual sales". However, this exemption does not apply to aircraft.

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the gross receipts from the sales of gasohol, as defined in section 324.2.

Sec. 21. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale of aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

Sec. 22. Section 422.110, subsection 1, Code 1987, is amended to read as follows:

1. Motor fuel as defined in section 324.2, subsection 1, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary engines, ~~aircraft~~ for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or aircraft or in motor vehicles operated or intended to be operated upon the public highways.

Sec. 23. Section 422.110, unnumbered paragraph 2, Code 1987, is amended to read as follows:

~~However, no credit shall be given with respect to motor fuel taken out of the state in fuel supply tanks of motor~~

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

Sec. 24. Section 422.111, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. ~~The fuel tax credit for tax paid on motor fuel used for the purpose of operating aircraft must be itemized separately.~~ The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. No invoice is acceptable in support of a claim for credit unless it is a separate serially numbered invoice covering no more than one purchase of motor fuel or special fuel, prepared by the seller on a form approved by the department, nor unless it is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine the department may waive these requirements. If an original

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

Sec. 25. The excise tax imposed under this Act is effective for fuel purchased on or after July 1, 1988.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2465, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 10, 1988

TERRY E. BRANSTAD
Governor