

Reprinted

MAR 12 1990
WAYS & MEANS CALENDAR

HOUSE FILE 2551
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 654)

Passed House, Date 3/21/90 (p.1295) Passed Senate, Date 4/2/90 (P.1469)
Vote: Ayes 83 Nays 14 Vote: Ayes 46 Nays 0
Approved May 2, 1990

A BILL FOR

1 An Act relating to taxes administered and fees collected by the
2 department of revenue and finance including technical
3 corrections, payment and liability for certain sales and use
4 taxes, special fuel taxes, income tax, franchise tax,
5 inheritance tax, and providing for certain retroactive
6 applicability and effective dates.

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

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HF 2551

1 Section 1. Section 98.44, subsection 4, Code Supplement
2 1989, is amended to read as follows:

3 4. Each application for a distributor's license shall be
4 accompanied by a fee of twenty-five one hundred dollars,
5 except that ~~no~~ an applicant holding a permit pursuant to
6 division I of this chapter shall not be required to pay an
7 additional fee. The application shall ~~also~~ be accompanied by
8 a corporate surety bond issued by a surety licensed to do
9 business in this state, in the sum of one thousand dollars,
10 conditioned upon the true and faithful compliance by the
11 distributor with all the provisions of this division and the
12 payment when due of all taxes, penalties and accrued interest
13 arising in the ordinary course of business or by reason of any
14 delinquent money which may be due the state of Iowa. This
15 bond shall be in a form to be fixed by the director and
16 approved by the attorney general. Whenever it is the opinion
17 of the director that the bond given by a licensee is
18 inadequate in amount to fully protect the state, the director
19 shall require either an increase in the amount of said bond or
20 additional bond, in such amount as the director deems
21 sufficient. Any bond required by this subdivision, or a
22 reissue thereof, or a substitute therefor, shall be kept in
23 full force and effect during the entire period covered by the
24 license.

25 A separate application for license shall be made for each
26 place of business ~~at which~~ where a distributor proposes to
27 engage in business as such under this division.

28 Sec. 2. Section 324.34, unnumbered paragraph 6, Code 1989,
29 is amended to read as follows:

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

1 A "valid exemption certificate provided by a dealer" is an
2 exemption certificate which is in the form prescribed by the
3 director to assist dealers in properly accounting for fuel
4 dispensed for which special fuel tax is not collected and
5 which is complete and correct according to the requirements of
6 the director.

7 Sec. 3. Section 421.9, Code 1989, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 3. The director may make application to
10 the district court or judicial magistrate in the county where
11 the books, records, or assets are located for an
12 administrative search warrant as authorized by section 808.14,
13 to ensure equitable administration of state tax law, if any of
14 the following occurs:

15 a. A person refuses to allow the director or the
16 director's authorized representative to audit the person's
17 books or records or to inspect or value the person's assets.

18 b. The director has good and sufficient reason to believe
19 that a person will not allow the department to audit books or
20 records or inspect or value assets or to believe that the
21 person will destroy books or records or secrete or transfer
22 assets.

23 The director may make application to the district court or
24 judicial magistrate for an administrative search warrant as
25 authorized by section 808.14 to execute a distress warrant
26 authorized by section 422.26.

27 Sec. 4. Section 421.17, Code Supplement 1989, is amended
28 by adding the following new subsection:

29 NEW SUBSECTION. 31. At the director's discretion, accept
30 payment of taxes, penalties, interest, and fees, or any
31 portion thereof, by credit card. The director may adjust the
32 payable amount to reflect the costs of processing the payment
33 as determined by the treasurer of state and the payment by
34 credit card shall include, in addition to all other charges,
35 any discount charged by the credit card issuer.

1 Sec. 5. Section 421.26, Code 1989, is amended to read as
2 follows:

3 421.26 PERSONAL LIABILITY FOR TAX DUE.

4 If a licensee or other person under section 324.65, a
5 retailer or purchaser under chapter 422A or 422B, or section
6 422.52, or a retailer or purchaser under section 423.13 or a
7 user under section 423.14 fails to pay a tax under those
8 sections when due, any an officer of a corporation or
9 association, or any a partner of a partnership, having control
10 or supervision of or the authority for remitting the tax
11 payments and having a substantial legal or equitable interest
12 in the ownership of the corporation or partnership, who has
13 intentionally failed to pay the tax is personally liable for
14 the payment of the tax, interest, and penalty due and unpaid.
15 However, this section shall not apply to taxes on accounts
16 receivable. The dissolution of a corporation, association, or
17 partnership shall not discharge a person's liability for
18 failure to remit the tax due.

19 Sec. 6. Section 421.28, Code 1989, is amended to read as
20 follows:

21 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

22 The immediate successor to a licensee's or retailer's
23 business or stock of goods under chapter 422A or 422B, or
24 section 324.65, 422.52, or 423.13, or 423.14 is not personally
25 liable for the amount of delinquent tax, interest, or penalty
26 due and unpaid if the immediate successor shows that the
27 purchase of the business or stock of goods was made in good
28 faith that no delinquent tax, interest, or penalty was due and
29 unpaid. For purposes of this section the immediate successor
30 shows good faith by evidence that no tax liens were filed,
31 that the department had informed the immediate successor that
32 no delinquent tax, interest, or penalty is unpaid, or that the
33 immediate successor had taken in good faith a certified
34 statement from the licensee or retailer that no delinquent
35 tax, interest, or penalty is unpaid. When requested to do so

1 by a person with whom the licensee or retailer is negotiating
2 the sale of the business or stock of goods, the director of
3 revenue and finance shall, upon being satisfied that such a
4 situation exists, inform that person as to the amount of
5 unpaid delinquent tax, interest, or penalty due by the
6 licensee or the retailer. The giving of the information under
7 this circumstance is not a violation of section 324.63,
8 422.20, or 422.72.

9 Sec. 7. Section 422.26, unnumbered paragraph 2, Code 1989,
10 is amended to read as follows:

11 The lien ~~aforesaid~~ shall attach at the time the tax becomes
12 due and payable and shall continue for ten years from the time
13 ~~the-lien-attaches~~ date an assessment is issued unless sooner
14 released or otherwise discharged. The lien may, within ten
15 years from the date ~~the-lien-attaches~~ an assessment is issued,
16 be extended by filing for record a notice with the appropriate
17 county official of any county and from the time of such
18 filing, the lien shall be extended to the property in such
19 county for ten years, unless sooner released or otherwise
20 discharged, with no limit on the number of extensions. Liens
21 having attached prior to January 1, 1969, will expire on
22 January 1, 1979, unless extended by the director. The
23 director shall charge off any account whose lien is allowed to
24 lapse and may charge off any account and release the
25 corresponding lien before the lien has lapsed if the director
26 determines under uniform rules prescribed by the director that
27 the account is uncollectible or collection costs involved
28 would not warrant collection of the amount due.

29 Sec. 8. Section 422.26, Code 1989, is amended by adding
30 the following new subsection and renumbering the subsequent
31 subsection:

32 NEW SUBSECTION. 6. Date of assessment.

33 Sec. 9. Section 422.26, Code 1989, is amended by adding
34 the following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. For purposes of this section,

1 "assessment issued" means the most recent assessment against
2 the taxpayer for the tax type and tax period.

3 Sec. 10. Section 422.27, subsection 1, Code 1989, is
4 amended to read as follows:

5 1. A final account of a personal representative, as
6 defined in section 450.1, shall not be allowed by any court
7 unless the account shows, and the judge of the court finds,
8 that all taxes imposed by this division upon the personal
9 representative, which have become payable, have been paid, and
10 that all taxes which may become due are secured by bond, or
11 deposit, or are otherwise secured. The certificate of
12 acquittances of the department of revenue and finance is
13 conclusive as to the payment of the tax to the extent of the
14 acquittance. This subsection does not apply if all property
15 in the estate of a decedent is held in joint tenancy with
16 right of survivorship by husband and wife alone.

17 Sec. 11. Section 422.42, Code 1989, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 12A. "Property purchased for resale in
20 connection with the performance of a service" means property
21 which is purchased for resale in connection with the
22 performance of a service by a person who renders, furnishes,
23 or performs the service if all of the following occur:

24 a. The provider and user of the service intend that a sale
25 of the property will occur.

26 b. The property is transferred to the user of the service
27 in connection with the performance of the service in a form or
28 quantity capable of a fixed or definite price value.

29 c. The sale is evidenced by a separate charge for the
30 identifiable piece of property.

31 Sec. 12. Section 422.72, subsection 1, unnumbered
32 paragraph 1, Code 1989, is amended to read as follows:

33 It is unlawful for the director, or any person having an
34 administrative duty under this chapter, or any present or
35 former officer or other employee of the state authorized by

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1 the director to examine returns, to divulge in any manner
2 whatever, the business affairs, operations, or information
3 obtained by an investigation under this chapter of records and
4 equipment of any person visited or examined in the discharge
5 of official duty, or the amount or source of income, profits,
6 losses, expenditures or any particular thereof, set forth or
7 disclosed in any return, or to permit any return or copy of a
8 return or any book containing any abstract or particulars
9 thereof to be seen or examined by any person except as
10 provided by law. However, the director may authorize
11 examination of such state returns and other state information
12 which is confidential under this section, if a reciprocal
13 arrangement exists, by tax officers of another state or the
14 federal government. The director may, by rules adopted
15 pursuant to chapter 17A, authorize examination of state
16 information and returns by other officers or employees of this
17 state to the extent required by their official duties and
18 responsibilities. Disclosure of state information to tax
19 officers of another state is limited to disclosures which have
20 a tax administrative purpose and only to officers of those
21 states which ~~have laws that are as strict~~ by agreement with
22 this state limit the disclosure of the information as strictly
23 as the laws of this state protecting the confidentiality of
24 returns and information. The director shall place upon the
25 state tax form a notice to the taxpayer that state tax
26 information may be disclosed to tax officials of another state
27 or of the United States for tax administrative purposes.

28 PARAGRAPH DIVIDED. The department shall not authorize the
29 examination of tax information by officers and employees of
30 this state, another state, or of the United States if the
31 officers or employees would otherwise be required to obtain a
32 judicial order to examine the information if it were to be
33 obtained from another source, and if the purpose of the
34 examination is other than for tax administration. However,
35 the director may provide sample individual income tax

1 information to be used for statistical purposes to the
2 legislative fiscal bureau. The information shall not include
3 the name or mailing address of the taxpayer or the taxpayer's
4 social security number. Any information contained in an
5 individual income tax return which is provided by the director
6 shall only be used as a part of a data base which contains
7 similar information from a number of returns. The legislative
8 fiscal bureau shall not have access to the income tax returns
9 of individuals. Each request for individual income tax
10 information shall contain a statement by the director of the
11 legislative fiscal bureau that the individual income tax
12 information received by the bureau shall be used solely for
13 statistical purposes. This subsection does not prevent the
14 department from authorizing the examination of state returns
15 and state information under the provisions of section 252B.9.
16 This subsection prevails over any general law of this state
17 relating to public records.

18 Sec. 13. Section 450.5, Code 1989, is amended to read as
19 follows:

20 450.5 LIABILITY FOR TAX.

21 Any person becoming beneficially entitled to any property
22 or interest in property by any method of transfer as specified
23 in this chapter, and all personal representatives and referees
24 of estates or transfers taxable under this chapter, are
25 respectively personally liable for all taxes to be paid by
26 them respectively.

27 Sec. 14. Section 450.7, subsection 1, unnumbered paragraph
28 1, Code 1989, is amended to read as follows:

29 The Except for the share of the estate passing to the
30 surviving spouse, the tax is a charge against and a lien upon
31 the estate subject to tax under this chapter, and all property
32 of the estate or owned by the decedent from the death of the
33 decedent until paid, subject to the following limitations:

34 Sec. 15. Section 450.7, Code 1989, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 4. This section does not apply and the
2 lien created under this section does not attach to intangible
3 personal property included in the gross estate.

4 Sec. 16. Section 422.64, Code 1989, is repealed.

5 Sec. 17. Section 4 of this Act is applicable to payments
6 of taxes, penalties, interest, or fees made on or after July
7 1, 1990.

5768 8 Sec. 18. Section 7 of this Act is applicable retroactively
9 to January 1, 1990, for taxes due and payable before January
10 1, 1990, and unpaid on that date and for all taxes due on or
11 after January 1, 1990.

12 Sec. 19. Sections 10 and 14 of this Act are retroactively
13 applicable to January 1, 1988, for decedents dying on or after
14 that date.

15 Sec. 20. Sections 13 and 15 of this Act are applicable to
16 estates of decedents dying on or after July 1, 1990.

17 EXPLANATION

18 The bill amends a number of provisions of Iowa tax law
19 relating to taxes administered by the department.

20 Concerning tobacco taxes, the bill raises the \$25 license
21 fee to \$100 required of tobacco product distributors.

22 Concerning special fuel taxes, the bill allows dealers to
23 provide consumers who are exempt with exemption certificates
24 if the form is as prescribed by the director.

25 Concerning auditing, valuation of assets, and collection of
26 delinquent taxes, the bill provides the director of revenue
27 and finance with the authority to apply to the district court
28 or judicial magistrate for administrative search warrants if
29 necessary to audit a person's books and records, inspect and
30 value assets, or to enforce collection of taxes through
31 distress warrants.

32 Concerning the payment of taxes, penalties, interest, and
33 fees, the bill authorizes the director of revenue and finance
34 to accept payment by credit card, providing that all charges
35 in connection with the use of the card for such payments are

1 borne by the taxpayer. The director is authorized to enter
2 into an agreement with the treasurer of state to implement
3 this payment plan.

4 Concerning hotel and motel and local option, and consumer
5 use tax, the bill provides that corporate officers' and
6 partners' personal liability applies to hotel and motel and
7 local option taxes, and to consumer use tax. The bill also
8 extends the exemption to successor liability to hotel and
9 motel and local option taxes, and consumer use tax.

10 Concerning the collection of delinquent taxes, the bill
11 extends the period that a lien is valid from ten years after
12 the due date to ten years after an assessment is issued.
13 There are three distinct situations where the liability may be
14 discovered or perfected after the lien would have expired
15 under the current code: (1) If a taxpayer has not filed
16 returns for many years, the department may not discover a
17 liability for taxes within ten years after the date the taxes
18 became due and payable; (2) Many large corporations because of
19 the time involved in litigation do not resolve their
20 controversies with the Internal Revenue Service within ten
21 years after the taxes became due and payable; and (3) Often a
22 taxpayer has protested an assessment where an identical issue
23 is being litigated and action on the protest is held in
24 abeyance pending the outcome of the litigation which may take
25 many years. Without providing for these exceptions, a tax
26 liability may not be discovered or perfected until after ten
27 years, and there would be no statutory authority to collect
28 the unpaid tax.

29 Concerning income tax, the bill specifically provides that
30 an income tax certificate of acquittance from the department
31 is not required if all of the property of the estate is held
32 in joint tenancy by husband and wife alone because the income
33 from this joint property is chargeable to the surviving spouse
34 individually and not to the estate. The bill also allows the
35 department to make disclosure of confidential tax information

1 to other states if those states limit the disclosure of such
2 information as strictly as Iowa does.

3 Concerning sales tax, the bill creates a definition of the
4 "property purchased for resale in connection with the
5 performance of a service."

6 Concerning inheritance tax, the bill removes the
7 inheritance tax lien from intangible personal property
8 included in the gross estate of the decedent. Also, the bill
9 amends the inheritance tax lien section to specifically
10 provide that there is no lien on the surviving spouse's share
11 of the estate. Present section 450.7 of the Code provides
12 that the inheritance tax lien is on the entire estate. The
13 share of the surviving spouse has been tax-exempt since
14 January 1, 1988. Further, the bill provides that the personal
15 representatives of the decedent's estate as well as the
16 beneficiary is personally liable for payment of the
17 inheritance tax.

18 Concerning franchise tax, the bill removes the requirement
19 that franchise tax payments must accompany franchise tax
20 returns at the time of filing.

21 Concerning applicability dates, the bill is applicable to
22 payments by credit card of taxes, penalties, interest, and
23 fees made on or after July 1, 1990. The lien provisions are
24 retroactive to January 1, 1990, for taxes due but not paid on
25 that date and for taxes due on or after that date.

26 The bill is retroactive to January 1, 1988, for
27 clarification that a certificate of acquittance is not
28 required if all property of the decedent is held in joint
29 tenancy with right of survivorship by husband and wife alone.
30 The bill is retroactively applicable to January 1, 1988, for
31 decedents dying on or after that date in regard to liens on
32 the share of the estate passing to a surviving spouse. The
33 bill is effective July 1, 1990, for estates of decedents dying
34 on or after that date for the clarification of the liability
35 of the personal representative of the estate for taxes and the

1 removal of the lien on intangible personal property.

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HOUSE FILE 2551

H-5723

1 Amend House File 2551 as follows:

2 1. Page 7, by inserting after line 17 the
3 following:

4 "Sec. ____ Section 422B.1, subsections 4 and 5,
5 Code Supplement 1989, are amended to read as follows:

6 4. The county commissioner of elections shall
7 submit the question of imposition of a local option
8 tax at a state general election or at a special
9 election held at any time other than the time of a
10 city regular election ~~which may~~. The election shall
11 not be held sooner than sixty days after publication
12 of notice of the ballot proposition. The ballot
13 proposition shall specify the type and rate of tax and
14 in the case of a vehicle tax the classes that will be
15 exempt and in the case of a local sales and services
16 tax the date it will be imposed. The ballot
17 proposition shall also specify the approximate amount
18 of local option tax revenues that will be used for
19 property tax relief and shall contain a statement as
20 to the specific purpose or purposes for which the
21 revenues shall otherwise be expended. If the county
22 board of supervisors decides under subsection 5 to
23 specify a date on which the local option sales and
24 services tax shall automatically be repealed, the date
25 of the repeal shall also be specified on the ballot.
26 The rate of the vehicle tax shall be in increments of
27 one dollar per vehicle as set by the petition seeking
28 to impose the tax. The rate of a local sales and
29 services tax shall not be more than one percent as set
30 by the governing body. The state commissioner of
31 elections shall establish by rule the form for the
32 ballot proposition which form shall be uniform
33 throughout the state.

34 5. a. If a majority of those voting on the
35 question of imposition of a local option tax favor
36 imposition of a local option tax, the governing body
37 of that county shall impose the tax at the rate
38 specified for an unlimited period. However, in the
39 case of a local sales and services tax, the county
40 shall not impose the tax in any incorporated area or
41 the unincorporated area if the majority of those
42 voting on the tax in that area did not favor its
43 imposition. For purposes of the local sales and
44 services tax, all cities contiguous to each other
45 shall be treated as part of one incorporated area and
46 the tax ~~would~~ shall be imposed in each of those
47 contiguous cities only if the majority of those voting
48 on the tax in the total area covered by the contiguous
49 cities favor favored its imposition. The local option
50 tax may be repealed or the rate increased or decreased

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Page 2

1 only after an election at which a majority of those
2 voting on the question of repeal or rate change favor
3 favored the repeal or rate change. The election at
4 which the question of repeal or rate change is offered
5 shall be called and held in the same manner and under
6 the same conditions as provided in subsections 3 and 4
7 for the election on the imposition of the local option
8 tax. However, in the case of a local sales and
9 services tax where the tax has not been imposed
10 countywide, the question of repeal or imposition shall
11 be voted on only by the qualified electors of the
12 areas of the county where the tax has been imposed or
13 has not been imposed, as appropriate.

14 When submitting the question of the imposition of a
15 local sales and services tax, the county board of
16 supervisors may direct that the question contain a
17 provision for the repeal, without election, of the
18 local sales and services tax on a specific date, which
19 date shall be the end of a calendar quarter.

20 b. Within ten days of the election at which a
21 majority of those voting on the question favors the
22 imposition, repeal, or change in the rate of a local
23 option tax, the governing body shall give written
24 notice to the director of revenue and finance or, in
25 the case of a local vehicle tax, to the director of
26 the department of transportation, of the result of the
27 election."

28 2. Title page, line 5, by inserting after the
29 word "tax," the following: "and local sales and
30 services tax,".

By DIEMER of Black Hawk
SHOULTZ of Black Hawk

HARPER of Black Hawk
TEAFORD of Black Hawk

H-5723 FILED MARCH 15, 1990

Ruled not germane 3/21 (p. 1294)

HOUSE FILE 2551

H-5768

1 Amend House File 2551 as follows:

2 1. Page 5, by inserting after line 30 the
3 following:

4 "Sec. 50. Section 422.45, subsection 5, Code
5 Supplement 1989, is amended to read as follows:

6 5. The gross receipts or from services rendered,
7 furnished, or performed and of all sales of goods,
8 wares or merchandise used for public purposes to any
9 tax-certifying or tax-levying body of the state of
10 Iowa or governmental subdivision thereof of the state,
11 including regional transit systems, as defined in
12 section 601J.1, the state board of regents, state
13 department of human services, state department of
14 transportation, any municipally owned solid waste
15 facility which sells all or part of its processed
16 waste as fuel to a municipally owned public utility
17 and all divisions, boards, commissions, agencies or
18 instrumentalities of state, federal, county or
19 municipal government which have no earnings going to
20 the benefit of an equity investor or stockholder
21 except sales of goods, wares or merchandise or from
22 services rendered, furnished, or performed and used by
23 or in connection with the operation of any municipally
24 owned public utility engaged in selling gas,
25 electricity or heat to the general public.

26 The exemption provided by this subsection shall
27 also apply to all such sales of goods, wares or
28 merchandise or from services rendered, furnished, or
29 performed and subject to use tax under the provisions
30 of chapter 423."

31 2. Page 8, by inserting after line 7 the
32 following:

33 "Sec. ____ . Section 50 of this Act is retroactively
34 applicable to July 1, 1985."

By DAGGETT of Adams
BEAMAN of Carver

H-5768 FILED MARCH 20, 1990

Adopted 3/21 (p. 1292)

HOUSE FILE 2551
AMENDMENT H-5768 TO HOUSE FILE 2551
FISCAL NOTE

A fiscal note for H-5768 to House File 2551 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

H-5768 to House File 2551 exempts regional transit systems, as defined in Section 601J.1, Code of Iowa, from payment of the use tax on vehicles. The exemption is retroactive to July 1, 1985.

Fiscal Effect

This amendment would clear a warrant for back-taxes, penalties and interest in an amount of \$5,555.

Source: Air and Transit Division, Department of Transportation
(LSB 7285hv, PDD)

FILED MARCH 21, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2551

H-5792

1 Amend House File 2551 as follows:

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

4 "Sec. _____. Section 450.12, subsection 1, paragraph
5 b, Code 1989, is amended to read as follows:

6 b. A liability shall not be deducted unless the
7 personal representative or other person filing the
8 inheritance tax return as provided in section 450.22
9 certifies that it has been paid or, if not paid, the
10 director of revenue and finance is satisfied that it
11 will be paid. If the amount of liabilities deductible
12 under this section exceed the amount of property
13 subject to the payment of the liabilities, the excess
14 shall be deducted from other property included in the
15 gross estate on a prorated basis that the gross value
16 of each item of other property bears to the total
17 gross value of all the other property."

18 2. Page 8, by inserting after line 4, the fol-
19 lowing:

20 "Sec. 300. Section 421.8A, Code 1989, is re-
21 pealed."

22 3. Page 8, by inserting after line 16 the fol-
23 lowing:

24 "Sec. _____.

25 Section 300 of this Act takes effect January 1,
26 1991, for assessments made on or after that date."

By ROSENBERG of Story
KREMER of Buchanan

H-5792 FILED MARCH 21, 1990

ADOPTED (p. 1375)

HOUSE FILE 2551

H-5788

- 1 Amend House File 2551 as follows:
2 1. Page 3, by inserting after line 18, the
3 following:
4 "Sec. 100. Section 421.27, Code Supplement 1989,
5 is amended by adding the following new subsection:
6 NEW SUBSECTION. 6. The taxpayer was subject to
7 the penalty provision of section 422.25, subsection 2,
8 and was eligible to compute taxable income under the
9 cash receipts and disbursements method of accounting
10 under section 448(b)(3) of the Internal Revenue Code.
11 The waiver provision in this paragraph applies only
12 for tax years beginning in the 1985 and 1986 calendar
13 years and only to the extent that the taxpayer failed
14 to include in its net income for state tax purposes
15 interest payable on short-term obligations as it
16 accrued during those tax years as provided in section
17 1281 of the Internal Revenue Code and provided that an
18 amended return is filed by July 1, 1990."
19 2. Page 8, by inserting after line 4 the fol-
20 lowing:
21 "Sec. 200. Section 422.63A, Code Supplement 1989,
22 is repealed."
23 3. Page 8, by inserting after line 14 the
24 following:
25 "Sec. ____.
26 Section 100 of this Act applies retroactively to
27 tax years beginning in the 1985 and 1986 calendar
28 years."
29 4. Page 8, by inserting after line 16 the fol-
30 lowing:
31 "Sec. ____.
32 Section 200 of this Act applies retroactively to
33 January 1, 1990, for tax years beginning on or after
34 that date."

By TABOR of Jackson

H-5788 FILED MARCH 21, 1990

ADOPTED (p. 1292)

HOUSE FILE 2551

H-5791

- 1 Amend House File 2551 as follows:
2 1. Page 7, by striking lines 18 through 26.
3 2. By striking page 7, line 34 through page 8,
4 line 3.
5 3. Page 8, by striking lines 15 and 16.

By ROSENBERG of Story

H-5791 FILED MARCH 21, 1990

ADOPTED (p. 1294)

Gen. Ways. Means 2/23 Amend (5778) & Sen 3/29 (p. 1401)

HOUSE FILE 2551
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 654)

(As Amended and Passed by the House March 21, 1990)

<sup>div
6046</sup>
Passed House, Date 4/5/90 (p. 2073) Passed Senate, Date 4/2/90 (p. 1469)
Vote: Ayes 71 Nays 23 Vote: Ayes 46 Nays 0
Approved May 2, 1990

A BILL FOR

1 An Act relating to taxes administered and fees collected by the
2 department of revenue and finance including technical
3 corrections, payment and liability for certain sales and use
4 taxes, special fuel taxes, income tax, franchise tax,
5 inheritance tax, and providing for certain retroactive
6 applicability and effective dates.

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

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House Amendments _____
Deleted Language *

1 Section 98.44, subsection 4, Code Supplement
2 1989, is amended to read as follows:

3 4. Each application for a distributor's license shall be
4 accompanied by a fee of ~~twenty-five~~ one hundred dollars,
5 except that ~~no~~ an applicant holding a permit pursuant to
6 division I of this chapter shall not be required to pay an
7 additional fee. The application shall ~~also~~ be accompanied by
8 a corporate surety bond issued by a surety licensed to do
9 business in this state, in the sum of one thousand dollars,
10 conditioned upon the true and faithful compliance by the
11 distributor with all the provisions of this division and the
12 payment when due of all taxes, penalties and accrued interest
13 arising in the ordinary course of business or by reason of any
14 delinquent money which may be due the state of Iowa. This
15 bond shall be in a form to be fixed by the director and
16 approved by the attorney general. Whenever it is the opinion
17 of the director that the bond given by a licensee is
18 inadequate in amount to fully protect the state, the director
19 shall require either an increase in the amount of said bond or
20 additional bond, in such amount as the director deems
21 sufficient. Any bond required by this subdivision, or a
22 reissue thereof, or a substitute therefor, shall be kept in
23 full force and effect during the entire period covered by the
24 license.

25 A separate application for license shall be made for each
26 place of business ~~at which~~ where a distributor proposes to
27 engage in business as such under this division.

28 Sec. 2. Section 324.34, unnumbered paragraph 6, Code 1989,
29 is amended to read as follows:

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

1 A "valid exemption certificate provided by a dealer" is an
2 exemption certificate which is in the form prescribed by the
3 director to assist dealers in properly accounting for fuel
4 dispensed for which special fuel tax is not collected and
5 which is complete and correct according to the requirements of
6 the director.

7 Sec. 3. Section 421.9, Code 1989, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 3. The director may make application to
10 the district court or judicial magistrate in the county where
11 the books, records, or assets are located for an
12 administrative search warrant as authorized by section 808.14,
13 to ensure equitable administration of state tax law, if any of
14 the following occurs:

15 a. A person refuses to allow the director or the
16 director's authorized representative to audit the person's
17 books or records or to inspect or value the person's assets.

18 b. The director has good and sufficient reason to believe
19 that a person will not allow the department to audit books or
20 records or inspect or value assets or to believe that the
21 person will destroy books or records or secrete or transfer
22 assets.

23 The director may make application to the district court or
24 judicial magistrate for an administrative search warrant as
25 authorized by section 808.14 to execute a distress warrant
26 authorized by section 422.26.

27 Sec. 4. Section 421.17, Code Supplement 1989, is amended
28 by adding the following new subsection:

29 NEW SUBSECTION. 31. At the director's discretion, accept
30 payment of taxes, penalties, interest, and fees, or any
31 portion thereof, by credit card. The director may adjust the
32 payable amount to reflect the costs of processing the payment
33 as determined by the treasurer of state and the payment by
34 credit card shall include, in addition to all other charges,
35 any discount charged by the credit card issuer.

1 Sec. 5. Section 421.26, Code 1989, is amended to read as
2 follows:

3 421.26 PERSONAL LIABILITY FOR TAX DUE.

4 If a licensee or other person under section 324.65, a
5 retailer or purchaser under chapter 422A or 422B, or section
6 422.52, or a retailer or purchaser under section 423.13 or a
7 user under section 423.14 fails to pay a tax under those
8 sections when due, any an officer of a corporation or
9 association, or any a partner of a partnership, having control
10 or supervision of or the authority for remitting the tax
11 payments and having a substantial legal or equitable interest
12 in the ownership of the corporation or partnership, who has
13 intentionally failed to pay the tax is personally liable for
14 the payment of the tax, interest, and penalty due and unpaid.
15 However, this section shall not apply to taxes on accounts
16 receivable. The dissolution of a corporation, association, or
17 partnership shall not discharge a person's liability for
18 failure to remit the tax due.

19 Sec. 6. Section 421.27, Code Supplement 1989, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 6. The taxpayer was subject to the
22 penalty provision of section 422.25, subsection 2, and was
23 eligible to compute taxable income under the cash receipts and
24 disbursements method of accounting under section 448(b)(3) of
25 the Internal Revenue Code. The waiver provision in this
26 paragraph applies only for tax years beginning in the 1985 and
27 1986 calendar years and only to the extent that the taxpayer
28 failed to include in its net income for state tax purposes
29 interest payable on short-term obligations as it accrued
30 during those tax years as provided in section 1281 of the
31 Internal Revenue Code and provided that an amended return is
32 filed by July 1, 1990.

33 Sec. 7. Section 421.28, Code 1989, is amended to read as
34 follows:

35 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

1 The immediate successor to a licensee's or retailer's
2 business or stock of goods under chapter 422A or 422B, or
3 section 324.65, 422.52, or 423.13, or 423.14 is not personally
4 liable for the amount of delinquent tax, interest, or penalty
5 due and unpaid if the immediate successor shows that the
6 purchase of the business or stock of goods was made in good
7 faith that no delinquent tax, interest, or penalty was due and
8 unpaid. For purposes of this section the immediate successor
9 shows good faith by evidence that no tax liens were filed,
10 that the department had informed the immediate successor that
11 no delinquent tax, interest, or penalty is unpaid, or that the
12 immediate successor had taken in good faith a certified
13 statement from the licensee or retailer that no delinquent
14 tax, interest, or penalty is unpaid. When requested to do so
15 by a person with whom the licensee or retailer is negotiating
16 the sale of the business or stock of goods, the director of
17 revenue and finance shall, upon being satisfied that such a
18 situation exists, inform that person as to the amount of
19 unpaid delinquent tax, interest, or penalty due by the
20 licensee or the retailer. The giving of the information under
21 this circumstance is not a violation of section 324.63,
22 422.20, or 422.72.

23 Sec. 8. Section 422.26, unnumbered paragraph 2, Code 1989,
24 is amended to read as follows:

25 The lien ~~aforsaid~~ shall attach at the time the tax becomes
26 due and payable and shall continue for ten years from the time
27 ~~the-lien-attaches~~ date an assessment is issued unless sooner
28 released or otherwise discharged. The lien may, within ten
29 years from the date ~~the-lien-attaches~~ an assessment is issued,
30 be extended by filing for record a notice with the appropriate
31 county official of any county and from the time of such
32 filing, the lien shall be extended to the property in such
33 county for ten years, unless sooner released or otherwise
34 discharged, with no limit on the number of extensions. Liens
35 having attached prior to January 1, 1989, will expire on

1 January 1, 1979, unless extended by the director. The
2 director shall charge off any account whose lien is allowed to
3 lapse and may charge off any account and release the
4 corresponding lien before the lien has lapsed if the director
5 determines under uniform rules prescribed by the director that
6 the account is uncollectible or collection costs involved
7 would not warrant collection of the amount due.

8 Sec. 9. Section 422.26, Code 1989, is amended by adding
9 the following new subsection and renumbering the subsequent
10 subsection:

11 NEW SUBSECTION. 6. Date of assessment.

12 Sec. 10. Section 422.26, Code 1989, is amended by adding
13 the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. For purposes of this section,
15 "assessment issued" means the most recent assessment against
16 the taxpayer for the tax type and tax period.

17 Sec. 11. Section 422.27, subsection 1, Code 1989, is
18 amended to read as follows:

19 1. A final account of a personal representative, as
20 defined in section 450.1, shall not be allowed by any court
21 unless the account shows, and the judge of the court finds,
22 that all taxes imposed by this division upon the personal
23 representative, which have become payable, have been paid, and
24 that all taxes which may become due are secured by bond, or
25 deposit, or are otherwise secured. The certificate of
26 acquittances of the department of revenue and finance is
27 conclusive as to the payment of the tax to the extent of the
28 acquittance. This subsection does not apply if all property
29 in the estate of a decedent is held in joint tenancy with
30 right of survivorship by husband and wife alone.

31 Sec. 12. Section 422.42, Code 1989, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 12A. "Property purchased for resale in
34 connection with the performance of a service" means property
35 which is purchased for resale in connection with the

1 performance of a service by a person who renders, furnishes,
2 or performs the service if all of the following occur:

3 a. The provider and user of the service intend that a sale
4 of the property will occur.

5 b. The property is transferred to the user of the service
6 in connection with the performance of the service in a form or
7 quantity capable of a fixed or definite price value.

8 c. The sale is evidenced by a separate charge for the
9 identifiable piece of property.

10 Sec. 13. Section 422.45, subsection 5, Code Supplement
11 1989, is amended to read as follows:

12 5. The gross receipts or from services rendered,
13 furnished, or performed and of all sales of goods, wares or
14 merchandise used for public purposes to any tax-certifying or
15 tax-levying body of the state of Iowa or governmental
16 subdivision thereof of the state, including regional transit
17 systems, as defined in section 601J.1, the state board of
18 regents, state department of human services, state department
19 of transportation, any municipally owned solid waste facility
20 which sells all or part of its processed waste as fuel to a
21 municipally owned public utility and all divisions, boards,
22 commissions, agencies or instrumentalities of state, federal,
23 county or municipal government which have no earnings going to
24 the benefit of an equity investor or stockholder except sales
25 of goods, wares or merchandise or from services rendered,
26 furnished, or performed and used by or in connection with the
27 operation of any municipally owned public utility engaged in
28 selling gas, electricity or heat to the general public.

29 The exemption provided by this subsection shall also apply
30 to all such sales of goods, wares or merchandise or from
31 services rendered, furnished, or performed and subject to use
32 tax under the provisions of chapter 423.

33 Sec. 14. Section 422.72, subsection 1, unnumbered
34 paragraph 1, Code 1989, is amended to read as follows:

35 It is unlawful for the director, or any person having an

1 administrative duty under this chapter, or any present or
2 former officer or other employee of the state authorized by
3 the director to examine returns, to divulge in any manner
4 whatever, the business affairs, operations, or information
5 obtained by an investigation under this chapter of records and
6 equipment of any person visited or examined in the discharge
7 of official duty, or the amount or source of income, profits,
8 losses, expenditures or any particular thereof, set forth or
9 disclosed in any return, or to permit any return or copy of a
10 return or any book containing any abstract or particulars
11 thereof to be seen or examined by any person except as
12 provided by law. However, the director may authorize
13 examination of such state returns and other state information
14 which is confidential under this section, if a reciprocal
15 arrangement exists, by tax officers of another state or the
16 federal government. The director may, by rules adopted
17 pursuant to chapter 17A, authorize examination of state
18 information and returns by other officers or employees of this
19 state to the extent required by their official duties and
20 responsibilities. Disclosure of state information to tax
21 officers of another state is limited to disclosures which have
22 a tax administrative purpose and only to officers of those
23 states which ~~have laws that are as strict~~ by agreement with
24 this state limit the disclosure of the information as strictly
25 as the laws of this state protecting the confidentiality of
26 returns and information. The director shall place upon the
27 state tax form a notice to the taxpayer that state tax
28 information may be disclosed to tax officials of another state
29 or of the United States for tax administrative purposes.

30 PARAGRAPH DIVIDED. The department shall not authorize the
31 examination of tax information by officers and employees of
32 this state, another state, or of the United States if the
33 officers or employees would otherwise be required to obtain a
34 judicial order to examine the information if it were to be
35 obtained from another source, and if the purpose of the

1 examination is other than for tax administration. However,
2 the director may provide sample individual income tax
3 information to be used for statistical purposes to the
4 legislative fiscal bureau. The information shall not include
5 the name or mailing address of the taxpayer or the taxpayer's
6 social security number. Any information contained in an
7 individual income tax return which is provided by the director
8 shall only be used as a part of a data base which contains
9 similar information from a number of returns. The legislative
10 fiscal bureau shall not have access to the income tax returns
11 of individuals. Each request for individual income tax
12 information shall contain a statement by the director of the
13 legislative fiscal bureau that the individual income tax
14 information received by the bureau shall be used solely for
15 statistical purposes. This subsection does not prevent the
16 department from authorizing the examination of state returns
17 and state information under the provisions of section 252B.9.
18 This subsection prevails over any general law of this state
19 relating to public records.

* 20 Sec. 15. Section 450.7, subsection 1, unnumbered paragraph
21 1, Code 1989, is amended to read as follows:

22 The Except for the share of the estate passing to the
23 surviving spouse, the tax is a charge against and a lien upon
24 the estate subject to tax under this chapter, and all property
25 of the estate or owned by the decedent from the death of the
26 decedent until paid, subject to the following limitations:

* 27 Sec. 16. Section 450.12, subsection 1, paragraph b, Code
28 1989, is amended to read as follows:

29 b. A liability shall not be deducted unless the personal
30 representative or other person filing the inheritance tax
31 return as provided in section 450.22 certifies that it has
32 been paid or, if not paid, the director of revenue and finance
33 is satisfied that it will be paid. If the amount of
34 liabilities deductible under this section exceed the amount of
35 property subject to the payment of the liabilities, the excess

1 shall be deducted from other property included in the gross
2 estate on a prorated basis that the gross value of each item
3 of other property bears to the total gross value of all the
4 other property.

5 Sec. 17. Section 421.8A, Code 1989, is repealed.

6 Sec. 18. Section 422.64, Code 1989, is repealed.

7 Sec. 19. Section 422.63A, Code Supplement 1989, is
8 repealed.

9 Sec. 20. Section 4 of this Act is applicable to payments
10 of taxes, penalties, interest, or fees made on or after July
11 1, 1990.

12 Sec. 21. Section 13 of this Act is retroactively
13 applicable to July 1, 1985.

14 Sec. 22. Section 8 of this Act is applicable retroactively
15 to January 1, 1990, for taxes due and payable before January
16 1, 1990, and unpaid on that date and for all taxes due on or
17 after January 1, 1990.

18 Sec. 23. Sections 11 and 15 of this Act are retroactively
19 applicable to January 1, 1988, for decedents dying on or after
20 that date.

* 21 Sec. 24.

22 Section 6 of this Act applies retroactively to tax years
23 beginning in the 1985 and 1986 calendar years.

24 Sec. 25.

25 Section 19 of this Act applies retroactively to January 1,
26 1990, for tax years beginning on or after that date.

27 Sec. 26.

28 Section 17 of this Act takes effect January 1, 1991, for
29 assessments made on or after that date.

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S-5778

- 1 Amend House File 2551, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 6, by inserting after line 9 the
 4 following:
 5 "Sec. ____ . Section 422.43, subsection 11,
 6 unnumbered paragraph 1, Code 1989, is amended to read
 7 as follows:
 8 The following enumerated services are subject to
 9 the tax imposed on gross taxable services: Alteration
 10 and garment repair; armored car; automobile repair;
 11 battery, tire and allied; investment counseling;
 12 service charges of all financial institutions; barber
 13 and beauty; boat repair; car wash and wax; carpentry;
 14 roof, shingle, and glass repair; dance schools and
 15 dance studios; dry cleaning, pressing, dyeing, and
 16 laundering; electrical and electronic repair and
 17 installation; rental of tangible personal property,
 18 except mobile homes which are tangible personal
 19 property; excavating and grading; farm implement
 20 repair of all kinds; flying service; furniture, rug,
 21 upholstery repair and cleaning; fur storage and
 22 repair; golf and country clubs and all commercial
 23 recreation; house and building moving; household
 24 appliance, television, and radio repair; jewelry and
 25 watch repair; machine operator; machine repair of all
 26 kinds; motor repair; motorcycle, scooter, and bicycle
 27 repair; oilers and lubricators; office and business
 28 machine repair; painting, papering, and interior
 29 decorating; parking facilities; pipe fitting and
 30 plumbing; wood preparation; licensed executive search
 31 agencies; private employment agencies, excluding
 32 services for placing a person in employment where the
 33 principal place of employment of that person is to be
 34 located outside of the state; sewing and stitching;
 35 shoe repair and shoeshine; storage warehousing of raw
 36 agricultural products; telephone answering service;
 37 test laboratories, except tests on humans; termite,
 38 bug, roach, and pest eradicators; tin and sheet metal
 39 repair; turkish baths, massage, and reducing salons;
 40 weighing; welding; well drilling; wrapping, packing,
 41 and packaging of merchandise other than processed
 42 meat, fish, fowl and vegetables; wrecking service;
 43 wrecker and towing; cable pay television; campgrounds;
 44 carpet and upholstery cleaning; gun and camera repair;
 45 janitorial and building maintenance or cleaning; lawn
 46 care, landscaping and tree trimming and removal; pet
 47 grooming; reflexology; security and detective
 48 services; tanning beds or salons; and water
 49 conditioning and softening."
 50 2. Page 9, line 4, by inserting after the word

-1-

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Page 2

- 1 "property." the following: "Subject to the previous
 2 provision, a liability is deductible whether or not
 3 the liability is legally enforceable against the
 4 decendent's estate."

By COMMITTEE ON WAYS AND MEANS
 WILLIAM DIELEMAN, Chairperson

Adopted 4/2 (p. 1469)
 S-5778 FILED MARCH 29, 1990

HOUSE FILE 2551

S-5791

1 Amend House File 2551, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 32 the
4 following:

5 "Sec. ____ . Section 422.45, subsection 17, Code
6 Supplement 1989, is amended to read as follows:

7 17. The gross receipts from the sale of horses,
8 commonly-known-as-draft-horses, when-purchased-for-use
9 and-so-used-as-a-draft-horse."

By RAY TAYLOR

S-5791 FILED MARCH 30, 1990

Lois 4/2 (p. 1463)

HOUSE FILE 2551

S-5813

1 Amend House File 2551, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 32 the fol-
4 lowing:

5 "Sec. ____ . Section 422.45, Code Supplement 1989,
6 is amended by adding the following new subsection:

7 NEW SUBSECTION. 43. The gross receipts from the
8 sale of tangible personal property or the sale,
9 furnishing, or servicing of electrical energy, natural
10 or artificial gas, or communication service to another
11 state or political subdivision of another state if the
12 other state provides a similar reciprocal exemption
13 for this state and political subdivisions of this
14 state."

By MAGGIE TINSMAN
DALE L. TIEDEN
WILLIAM D. PALMER

JOE J. WELSH
RICHARD F. DRAKE
PAT DELUHERY

S-5813 FILED MARCH 30, 1990

Adopted 4/2 (p. 1463)

HOUSE FILE 2551

S-5843

1 Amend the amendment, S-5778, to House File 2551, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 1, line 22, by inserting after the word
5 "commercial" the following: "for profit".

By JIM LIND

NORMAN J. GOODWIN

ELAINE SZYMONIAK

LARRY MURPHY

S-5843 FILED APRIL 2, 1990

LOST (p. 1464)

HOUSE FILE 2551

S-5846

1 Amend House File 2551, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Page 6, by inserting after line 32 the follow-
4 ing:
5 "Sec. ____ . Section 422.45, Code Supplement 1989,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 43. The gross receipts from the
8 sale of tangible personal property consisting of
9 advertising material including paper to a person in
10 Iowa if that person or that person's agent will,
11 subsequent to the sale, send that advertising material
12 outside this state and the material is subsequently
13 used solely outside of Iowa. For the purpose of this
14 subsection, "advertising material" means any brochure,
15 catalog, leaflet, flyer, order form, return envelope,
16 or similar item used to promote sales of property or
17 services."

By JIM RIORDAN

RICHARD F. DRAKE

ELAINE SZYMONIAK

CALVIN O. HULTMAN

GEORGE R. KINLEY

BERL E. PRIEBE

S-5846 FILED APRIL 2, 1990

ADOPTED (p. 1467)

HOUSE FILE 2551

S-5805

Amend House File 2551, as amended, passed, and re-printed by the House, as follows:

1. Page 6, by inserting after line 32 the following:

"Sec. . . . Section 422.45, subsection 7, Code Supplement 1989, is amended to read as follows:

7. A private nonprofit educational institution in this state, nonprofit private museum or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency or instrumentality of the state or a political subdivision, or a private nonprofit educational institution in this state, or a nonprofit private museum if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, or is devoted to educational uses; or becomes a nonprofit private museum except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such

S-5805

Page 2

1 sales of goods, wares or merchandise or services
2 rendered, furnished, or performed and used in the
3 performance of such contract, and upon which sales or
4 use tax has been paid, and shall file such forms with
5 the governmental unit, ~~or~~ private nonprofit
6 educational institution, or nonprofit private museum
7 which has made any written contract for performance by
8 said the contractor. Such The forms shall be filed by
9 the contractor with the governmental unit, or
10 educational institution, or nonprofit private museum
11 before final settlement is made.

12 b. Such governmental unit, or educational
13 institution, or nonprofit private museum shall, not
14 more than six months after the final settlement has
15 been made, make application to the department for any
16 refund of the amount of such sales or use tax which
17 shall have been paid upon any goods, wares or
18 merchandise, or services rendered, furnished, or
19 performed, such application to be made in the manner
20 and upon forms to be provided by the department, and
21 the department shall forthwith audit such claim and,
22 if approved, issue a warrant to such governmental
23 unit, or educational institution, or nonprofit private
24 museum in the amount of such sales or use tax which
25 has been paid to the state of Iowa under such
26 contract.

27 c. Any contractor who shall willfully make false
28 report of tax paid under the provisions of this
29 subsection shall be guilty of a simple misdemeanor and
30 in addition thereto shall be liable for the payment of
31 the tax with and any applicable penalty and interest
32 thereon.

33 Sec. ____ . Section 422.45, Code Supplement 1989, is
34 amended by adding the following new subsection:

35 NEW SUBSECTION. 43. The gross receipts of all
36 sales of goods, wares, merchandise, or services, used
37 for educational, scientific, historic preservation, or
38 aesthetic purpose to a nonprofit private museum."

By WILLIAM W. DIELEMAN
MIKE CONNOLLY

JACK W. HESTER
JIM LIND

S-5805 FILED MARCH 30, 1990

Adopted 4/2 (p. 1463)

SENATE AMENDMENT TO HOUSE FILE 2551

H-6046.

1 Amend House File 2551, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 9 the
4 following:

5 "Sec. ____ . Section 422.43, subsection 11,
6 unnumbered paragraph 1, Code 1989, is amended to read
7 as follows:

8 The following enumerated services are subject to
9 the tax imposed on gross taxable services: Alteration
10 and garment repair; armored car; automobile repair;
11 battery, tire and allied; investment counseling;
12 service charges of all financial institutions; barber
13 and beauty; boat repair; car wash and wax; carpentry;
14 roof, shingle, and glass repair; dance schools and
15 dance studios; dry cleaning, pressing, dyeing, and
16 laundering; electrical and electronic repair and
17 installation; rental of tangible personal property,
18 except mobile homes which are tangible personal
19 property; excavating and grading; farm implement
20 repair of all kinds; flying service; furniture, rug,
21 upholstery repair and cleaning; fur storage and
22 repair; golf and country clubs and all commercial
23 recreation; house and building moving; household
24 appliance, television, and radio repair; jewelry and
25 watch repair; machine operator; machine repair of all
26 kinds; motor repair; motorcycle, scooter, and bicycle
27 repair; oilers and lubricators; office and business
28 machine repair; painting, papering, and interior
29 decorating; parking facilities; pipe fitting and
30 plumbing; wood preparation; licensed executive search
31 agencies; private employment agencies, excluding
32 services for placing a person in employment where the
33 principal place of employment of that person is to be
34 located outside of the state; sewing and stitching;
35 shoe repair and shoeshine; storage warehousing of raw
36 agricultural products; telephone answering service;
37 test laboratories, except tests on humans; termite,
38 bug, roach, and pest eradicators; tin and sheet metal
39 repair; turkish baths, massage, and reducing salons;
40 weighing; welding; well drilling; wrapping, packing,
41 and packaging of merchandise other than processed
42 meat, fish, fowl and vegetables; wrecking service;
43 wrecker and towing; cable pay television; campgrounds;
44 carpet and upholstery cleaning; gun and camera repair;
45 janitorial and building maintenance or cleaning; lawn
46 care, landscaping and tree trimming and removal; pet
47 grooming; reflexology; security and detective
48 services; tanning beds or salons; and water
49 conditioning and softening."

50 2. Page 6, by inserting after line 32 the fol-

H-6046

Page 2

1 lowing:
2 "Sec. ____ . Section 422.45, subsection 7, Code
3 Supplement 1989, is amended to read as follows:
4 7. A private nonprofit educational institution in
5 this state, nonprofit private museum or a tax-
6 certifying or tax-levying body or governmental
7 subdivision of the state, including the state board of
8 regents, state department of human services, state
9 department of transportation, a municipally owned
10 solid waste facility which sells all or part of its
11 processed waste as fuel to a municipally owned public
12 utility, and all divisions, boards, commissions,
13 agencies or instrumentalities of state, federal,
14 county or municipal government which do not have
15 earnings going to the benefit of an equity investor or
16 stockholder may make application to the department for
17 the refund of the sales, services, or use tax upon the
18 gross receipts of all sales of goods, wares or
19 merchandise, or from services rendered, furnished, or
20 performed, to a contractor, used in the fulfillment of
21 a written contract with the state of Iowa, any
22 political subdivision of the state, or a division,
23 board, commission, agency or instrumentality of the
24 state or a political subdivision, ~~or~~ a private
25 nonprofit educational institution in this state, or a
26 nonprofit private museum if the property becomes an
27 integral part of the project under contract and at the
28 completion of the project becomes public property, ~~or~~
29 is devoted to educational uses; or becomes a nonprofit
30 private museum except goods, wares or merchandise or
31 services rendered, furnished, or performed used in the
32 performance of any contract in connection with the
33 operation of any municipal utility engaged in selling
34 gas, electricity, or heat to the general public; and
35 except goods, wares, and merchandise used in the
36 performance of a contract for a "project" under
37 chapter 419 as defined in that chapter other than
38 goods, wares or merchandise used in the performance of
39 a contract for a "project" under chapter 419 for which
40 a bond issue was or will have been approved by a
41 municipality prior to July 1, 1968, or for which the
42 goods, wares, or merchandise becomes an integral part
43 of the project under contract and at the completion of
44 the project becomes public property or is devoted to
45 educational uses.
46 a. Such contractor shall state under oath, on
47 forms provided by the department, the amount of such
48 sales of goods, wares or merchandise or services
49 rendered, furnished, or performed and used in the
50 performance of such contract, and upon which sales or

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Page 3

1 use tax has been paid, and shall file such forms with
2 the governmental unit, ~~or~~ private nonprofit
3 educational institution, or nonprofit private museum
4 which has made any written contract for performance by
5 ~~said the contractor.~~ Such The forms shall be filed by
6 the contractor with the governmental unit, ~~or~~
7 educational institution, or nonprofit private museum
8 before final settlement is made.

9 b. Such governmental unit, ~~or~~ educational
10 institution, or nonprofit private museum shall, not
11 more than six months after the final settlement has
12 been made, make application to the department for any
13 refund of the amount of such sales or use tax which
14 shall have been paid upon any goods, wares or
15 merchandise, or services rendered, furnished, or
16 performed, such application to be made in the manner
17 and upon forms to be provided by the department, and
18 the department shall forthwith audit such claim and,
19 if approved, issue a warrant to such governmental
20 unit, ~~or~~ educational institution, or nonprofit private
21 museum in the amount of such sales or use tax which
22 has been paid to the state of Iowa under such
23 contract.

24 c. Any contractor who shall willfully make false
25 report of tax paid under the provisions of this
26 subsection shall be guilty of a simple misdemeanor and
27 in addition thereto shall be liable for the payment of
28 the tax with and any applicable penalty and interest
29 thereon.

30 Sec. ____ . Section 422.45, Code Supplement 1989, is
31 amended by adding the following new subsection:

32 NEW SUBSECTION. 43. The gross receipts of all
33 sales of goods, wares, merchandise, or services, used
34 for educational, scientific, historic preservation, or
35 aesthetic purpose to a nonprofit private museum."

36 3. Page 6, by inserting after line 32 the fol-
37 lowing:

38 "Sec. ____ . Section 422.45, Code Supplement 1989,
39 is amended by adding the following new subsection:

40 NEW SUBSECTION. 44. The gross receipts from the
41 sale of tangible personal property or the sale,
42 furnishing, or servicing of electrical energy, natural
43 or artificial gas, or communication service to another
44 state or political subdivision of another state if the
45 other state provides a similar reciprocal exemption
46 for this state and political subdivisions of this
47 state."

48 4. Page 6, by inserting after line 32 the follow-
49 ing:

50 "Sec. ____ . Section 422.45, Code Supplement 1989,

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Page 4

1 is amended by adding the following new subsection:

2 NEW SUBSECTION. 45. The gross receipts from the
3 sale of tangible personal property consisting of
4 advertising material including paper to a person in
5 Iowa if that person or that person's agent will,
6 subsequent to the sale, send that advertising material
7 outside this state and the material is subsequently
8 used solely outside of Iowa. For the purpose of this
9 subsection, "advertising material" means any brochure,
10 catalog, leaflet, flyer, order form, return envelope,
11 or similar item used to promote sales of property or
12 services."

13 5. Page 9, line 4, by inserting after the word
14 "property." the following: "Subject to the previous
15 provision, a liability is deductible whether or not
16 the liability is legally enforceable against the
17 decedent's estate."

18 6. By renumbering, relettering, or redesignating
19 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6046 FILED APRIL 2, 1990

House concurred 4/5 (p. 2073)

HOUSE FILE 2551

H-6053

1 Amend the Senate amendment, H-6046, to House File
2 2551, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 2 the
5 following:

6 "____. Page 2, by striking lines 27 through 35."

7 2. Page 4, by inserting after line 17 the
8 following:

9 "____. Page 9, by striking lines 9 through 11."

By CORBETT of Linn
CLARK of Cerro Gordo
McKEAN of Jones

H-6053 FILED APRIL 3, 1990

Loss 4/5 (p. 2072)

HOUSE FILE 2551

H-6057

1 Amend the Senate amendment, H-6046, to House File
2 2551, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, lines 35 and 36, by striking the words
5 "storage warehousing of raw agricultural products;"
6 and inserting the following: "storage-warehousing-of
7 raw-agricultural-products;"

By SCHNEKLOTH of Scott
PETERSEN of Muscatine
BENNETT of Ida

H-6057 FILED APRIL 3, 1990

Loss 4/5 (p. 2072)

Rosenberg, Chair
Osterberg
Hanson, B.

HSB 654

WAYS AND MEANS

now

HOUSE FILE 255

BY (PROPOSED DEPARTMENT OF
REVENUE AND FINANCE BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to taxes administered by the department of
2 revenue and finance including technical corrections, payment
3 and liability for certain sales and use taxes, income tax,
4 franchise tax, inheritance tax, and providing for certain
5 retroactive applicability and effective dates.

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

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1 Section 1. Section 98.44, subsections 4, 6, and 7, Code
2 Supplement 1989, are amended to read as follows:

3 4. ~~Each application for a distributor's license shall be~~
4 ~~accompanied by a fee of twenty-five dollars, except that no~~
5 ~~applicant holding a permit pursuant to division I of this~~
6 ~~chapter shall be required to pay an additional fee.~~ The
7 application shall also be accompanied by a corporate surety
8 bond issued by a surety licensed to do business in this state,
9 in the sum of one thousand dollars, conditioned upon the true
10 and faithful compliance by the distributor with all the
11 provisions of this division and the payment when due of all
12 taxes, penalties and accrued interest arising in the ordinary
13 course of business or by reason of any delinquent money which
14 may be due the state of Iowa. This bond shall be in a form to
15 be fixed by the director and approved by the attorney general.
16 Whenever it is the opinion of the director that the bond given
17 by a licensee is inadequate in amount to fully protect the
18 state, the director shall require either an increase in the
19 amount of said bond or additional bond, in such amount as the
20 director deems sufficient. Any bond required by this
21 subdivision, or a reissue thereof, or a substitute therefor,
22 shall be kept in full force and effect during the entire
23 period covered by the license.

24 A separate ~~application for~~ license shall be made for each
25 place of business ~~at which~~ where a distributor proposes to
26 engage in business as such under this division.

27 6. A ~~distributor or~~ subjobber applying for a license
28 between January 1 and June 30 of any year shall be required to
29 pay only one-half of the license fee provided for herein.

30 7. The director, upon receipt of the application (and
31 bond, in the case of the distributor) in proper form, and
32 payment of the license fee required by ~~subsection 4 or~~
33 subsection 5, shall unless otherwise provided by this
34 division, issue the applicant a license in a form as
35 prescribed by the director, which license shall permit the

1 applicant to whom it is issued to engage in business as a
2 distributor or subjobber at the place of business shown in the
3 application. The director shall assign a permit number to
4 each person licensed as a distributor at the time of issuance
5 of the person's first license, which shall be inscribed upon
6 all licenses issued to that distributor.

7 Sec. 2. Section 421.9, Code 1989, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 3. The director may petition the district
10 court in the county where the books, records, or assets are
11 located for an administrative search warrant as authorized by
12 section 808.14, to ensure equitable administration of state
13 tax law, if any of the following occurs:

14 a. A person refuses to allow the director or the
15 director's authorized representative to audit the person's
16 books or records or to inspect or value the person's assets.

17 b. The director has good and sufficient reason to believe
18 that a person will not allow the department to audit books or
19 records or inspect or value assets or to believe that the
20 person will destroy books or records or secrete or transfer
21 assets.

22 The director may petition the district court for an
23 administrative search warrant as authorized by section 808.14
24 to execute a distress warrant authorized by section 422.26.

25 Sec. 3. Section 421.17, Code Supplement 1989, is amended
26 by adding the following new subsection:

27 NEW SUBSECTION. 31. At the director's discretion, accept
28 payment of taxes, penalties, interest, and fees, or any
29 portion thereof, by credit card. The director may adjust the
30 payable amount to reflect the costs of processing the payment
31 as determined by the treasurer of state and the payment by
32 credit card shall include, in addition to all other charges,
33 any discount charged by the credit card issuer.

34 Sec. 4. Section 421.26, Code 1989, is amended to read as
35 follows:

1 421.26 PERSONAL LIABILITY FOR TAX DUE.

2 If a licensee or other person under section 324.65, a
3 retailer or purchaser under chapter 422A or 422B, or section
4 422.52, or a retailer or purchaser under section 423.13 or a
5 user under section 423.14 fails to pay a tax under those
6 sections when due, any an officer of a corporation or
7 association, or any a partner of a partnership, having control
8 or supervision of or the authority for remitting the tax
9 payments and having a substantial legal or equitable interest
10 in the ownership of the corporation or partnership, who has
11 intentionally failed to pay the tax is personally liable for
12 the payment of the tax, interest, and penalty due and unpaid.
13 However, this section shall not apply to taxes on accounts
14 receivable. The dissolution of a corporation, association, or
15 partnership shall not discharge a person's liability for
16 failure to remit the tax due.

17 Sec. 5. Section 421.28, Code 1989, is amended to read as
18 follows:

19 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

20 The immediate successor to a licensee's or retailer's
21 business or stock of goods under chapter 422A or 422B, or
22 section 324.65, 422.52, or 423.13, or 423.14 is not personally
23 liable for the amount of delinquent tax, interest, or penalty
24 due and unpaid if the immediate successor shows that the
25 purchase of the business or stock of goods was made in good
26 faith that no delinquent tax, interest, or penalty was due and
27 unpaid. For purposes of this section the immediate successor
28 shows good faith by evidence that no tax liens were filed,
29 that the department had informed the immediate successor that
30 no delinquent tax, interest, or penalty is unpaid, or that the
31 immediate successor had taken in good faith a certified
32 statement from the licensee or retailer that no delinquent
33 tax, interest, or penalty is unpaid. When requested to do so
34 by a person with whom the licensee or retailer is negotiating
35 the sale of the business or stock of goods, the director of

1 revenue and finance shall, upon being satisfied that such a
2 situation exists, inform that person as to the amount of
3 unpaid delinquent tax, interest, or penalty due by the
4 licensee or the retailer. The giving of the information under
5 this circumstance is not a violation of section 324.63,
6 422.20, or 422.72.

7 Sec. 6. Section 422.7, subsection 18, Code Supplement
8 1989, is amended to read as follows:

9 18. For a person who is disabled, is fifty-five years of
10 age or older or is the surviving spouse of an individual or
11 survivor having an insurable interest in an individual who
12 would have qualified for the exemption under this paragraph
13 for this tax year, subtract, to the extent included, the total
14 amount of pension, annuity, or retirement allowances received
15 under the peace officers' retirement system under chapter 97A,
16 the Iowa public employees' retirement system under chapter
17 97B, the disabled and retired firefighters and police officers
18 system under chapter 410, the Iowa police officers' and
19 firefighters retirement system under chapter 411, the judicial
20 retirement system under chapter 602, article 9, and any
21 federal retirement and disability system, as a result of being
22 an officer or employee of the federal government, up to a
23 maximum each tax year of two thousand five hundred dollars for
24 a person who files a separate state income tax return and five
25 thousand dollars for a husband and wife who file a joint state
26 income tax return. However, a surviving spouse who is not
27 disabled or ~~sixty-two~~ fifty-five years of age or older can
28 only exclude the amount of annuities received as a result of
29 the death of the other spouse.

30 Sec. 7. Section 422.26, unnumbered paragraph 2, 1989, is
31 amended to read as follows:

32 The lien aforesaid shall attach at the time the tax becomes
33 due and payable and shall continue for ten years from the time
34 the lien attaches date an assessment is issued unless sooner
35 released or otherwise discharged. The lien may, within ten

1 years from the date ~~the-lien-attaches~~ an assessment is issued,
2 be extended by filing for record a notice with the appropriate
3 county official of any county and from the time of such
4 filing, the lien shall be extended to the property in such
5 county for ten years, unless sooner released or otherwise
6 discharged, with no limit on the number of extensions. Liens
7 having attached prior to January 1, 1969, will expire on
8 January 1, 1979, unless extended by the director. The
9 director shall charge off any account whose lien is allowed to
10 lapse and may charge off any account and release the
11 corresponding lien before the lien has lapsed if the director
12 determines under uniform rules prescribed by the director that
13 the account is uncollectible or collection costs involved
14 would not warrant collection of the amount due.

15 Sec. 8. Section 422.26, Code 1989, is amended by adding
16 the following new subsection and renumbering the subsequent
17 subsection:

18 NEW SUBSECTION. 6. Date of assessment.

19 Sec. 9. Section 422.26, Code 1989, is amended by adding
20 the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. For purposes of this section,
22 "assessment issued" means the most recent assessment against
23 the taxpayer for the tax type and tax period.

24 Sec. 10. Section 422.27, subsection 1, Code 1989, is
25 amended to read as follows:

26 1. A final account of a personal representative, as
27 defined in section 450.1, shall not be allowed by any court
28 unless the account shows, and the judge of the court finds,
29 that all taxes imposed by this division upon the personal
30 representative, which have become payable, have been paid, and
31 that all taxes which may become due are secured by bond, or
32 deposit, or are otherwise secured. The certificate of
33 acquittances of the department of revenue and finance is
34 conclusive as to the payment of the tax to the extent of the
35 acquittance. This subsection does not apply if all property

1 in the estate of a decedent is held in joint tenancy with
2 right of survivorship by husband and wife alone.

3 Sec. 11. Section 422.42, Code 1989, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 12A. "Property purchased for resale in
6 connection with the performance of a service" means property
7 which is purchased for resale in connection with the
8 performance of a service by a person who renders, furnishes,
9 or performs the service if all of the following occur:

10 a. The provider and user of the service intend that a sale
11 of the property will occur.

12 b. The property is transferred to the user of the service
13 in connection with the performance of the service in a form or
14 quantity capable of a fixed or definite price value.

15 c. The sale is evidenced by a separate charge for the
16 identifiable piece of property.

17 Sec. 12. Section 450.5, Code 1989, is amended to read as
18 follows:

19 450.5 LIABILITY FOR TAX.

20 Any person becoming beneficially entitled to any property
21 or interest in property by any method of transfer as specified
22 in this chapter, and all personal representatives and referees
23 of estates or transfers taxable under this chapter, are
24 respectively personally liable for all taxes to be paid by
25 them respectively.

26 Sec. 13. Section 450.7, subsection 1, unnumbered paragraph
27 1, Code 1989, is amended to read as follows:

28 ~~The~~ Except for the share of the estate passing to the
29 surviving spouse, the tax is a charge against and a lien upon
30 the estate subject to tax under this chapter, and all property
31 of the estate or owned by the decedent from the death of the
32 decedent until paid, subject to the following limitations:

33 Sec. 14. Section 450.7, Code 1989, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 4. This section does not apply and the

1 lien created under this section does not attach to intangible
2 personal property included in the gross estate.

3 Sec. 15. Section 422.64, Code 1989, is repealed.

4 Sec. 16. Section 3 of this Act is applicable to payments
5 of taxes, penalties, interest, or fees made on or after July
6 1, 1990.

7 Sec. 17. Section 6 of this Act is applicable retroactively
8 to January 1, 1989, for tax years beginning on or after that
9 date and is repealed January 1, 1990.

10 Sec. 18. Section 7 of this Act is applicable retroactively
11 to January 1, 1990, for taxes due and payable before January
12 1, 1990, and unpaid on that date and for all taxes due on or
13 after January 1, 1990.

14 Sec. 19. Sections 10 and 13 of this Act are retroactively
15 applicable to January 1, 1988, for decedents dying on or after
16 that date.

17 Sec. 20. Sections 12 and 14 of this Act are retroactively
18 applicable to estates of decedents dying on or after July 1,
19 1990.

20 EXPLANATION

21 The bill amends a number of provisions of Iowa tax law
22 relating to taxes administered by the department.

23 Concerning tobacco taxes, the bill deletes the \$25 license
24 fee required of tobacco product distributors.

25 Concerning auditing, valuation of assets, and collection of
26 delinquent taxes, the bill provides the director of revenue
27 and finance with the authority to petition the district court
28 for administrative search warrants if necessary to audit a
29 person's books and records, inspect and value assets, or to
30 enforce collection of taxes through distress warrants.

31 Concerning the payment of taxes, penalties, interest, and
32 fees, the bill authorizes the director of revenue and finance
33 to accept payment by credit card, providing that all charges
34 in connection with the use of the card for such payments are
35 borne by the taxpayer. The director is authorized to enter

1 into an agreement with the treasurer of state to implement
2 this payment plan.

3 Concerning hotel and motel and local option, and consumer
4 use tax, the bill provides that corporate officers' and
5 partners' personal liability applies to hotel and motel and
6 local option taxes, and to consumer use tax. The bill also
7 extends the exemption to successor liability to hotel and
8 motel and local option taxes, and consumer use tax.

9 Concerning individual income tax, the bill provides that
10 retired police officers and firefighters receiving pension
11 benefits under chapter 410 qualify for the partial exclusion
12 of pension benefits of retired government employees enacted in
13 1989 and that surviving spouses between the ages of 55 years
14 of age and 62 years of age also are eligible for the partial
15 exclusion of pension benefits.

16 Concerning the collection of delinquent taxes, the bill
17 extends the period that a lien is valid from ten years after
18 the due date to ten years after an assessment is issued.
19 There are three distinct situations where the liability may be
20 discovered or perfected after the lien would have expired
21 under the current code: (1) If a taxpayer has not filed
22 returns for many years, the department may not discover a
23 liability for taxes within ten years after the date the taxes
24 became due and payable; (2) Many large corporations because of
25 the time involved in litigation do not resolve their
26 controversies with the Internal Revenue Service within ten
27 years after the taxes became due and payable; and (3) Often a
28 taxpayer has protested an assessment where an identical issue
29 is being litigated and action on the protest is held in
30 abeyance pending the outcome of the litigation which may take
31 many years. Without providing for these exceptions, a tax
32 liability may not be discovered or perfected until after ten
33 years, and there would be no statutory authority to collect
34 the unpaid tax.

35 Concerning income tax, the bill specifically provides that

1 an income tax certificate of acquittance from the department
2 is not required if all of the property of the estate is held
3 in joint tenancy by husband and wife alone because the income
4 from this joint property is chargeable to the surviving spouse
5 individually and not to the estate.

6 Concerning sales tax, the bill creates a definition of the
7 "property purchased for resale in connection with the
8 performance of a service."

9 Concerning inheritance tax, the bill removes the
10 inheritance tax lien from intangible personal property
11 included in the gross estate of the decedent. Also, the bill
12 amends the inheritance tax lien section to specifically
13 provide that there is no lien on the surviving spouse's share
14 of the estate. Present section 450.7 of the Code provides
15 that the inheritance tax lien is on the entire estate. The
16 share of the surviving spouse has been tax-exempt since
17 January 1, 1988. Further, the bill provides that the personal
18 representatives of the decedent's estate as well as the
19 beneficiary is personally liable for payment of the
20 inheritance tax.

21 Concerning franchise tax, the bill removes the requirement
22 that franchise tax payments must accompany franchise tax
23 returns at the time of filing.

24 Concerning applicability dates, the bill is applicable to
25 payments by credit card of taxes, penalties, interest, and
26 fees made on or after July 1, 1990. The bill is retroactively
27 applicable to tax years beginning on or after January 1, 1989,
28 to include certain disabled and retired firefighters and
29 police officers and surviving spouses over 55 years of age in
30 the exemption from taxation of a portion of the benefits
31 received by former government employees passed by the general
32 assembly in 1989 and is repealed on January 1, 1990. The lien
33 provisions are retroactive to January 1, 1990, for taxes due
34 but not paid on that date and for taxes due on or after that
35 date.

1 The bill is retroactive to January 1, 1988, for
2 clarification that a certificate of acquittance is not
3 required if all property of the decedent is held in joint
4 tenancy with right of survivorship by husband and wife alone.
5 The bill is retroactively applicable to January 1, 1988, for
6 decedents dying on or after that date in regard to liens on
7 the share of the estate passing to a surviving spouse. The
8 bill is effective July 1, 1990, for estates of decedents dying
9 on or after that date for the clarification of the liability
10 of the personal representative of the estate for taxes and the
11 removal of the lien on intangible personal property.

12 BACKGROUND STATEMENT

13 SUBMITTED BY THE AGENCY

14 This bill provides the following changes: Deletes the \$25
15 tobacco distributors license fee; clarifies director's
16 authority to obtain search warrants; authorizes director to
17 accept tax payments by credit card; clarifies that personal
18 liability applies to hotel/motel tax, local option tax, and
19 consumers use tax; includes hotel/motel tax, local option tax,
20 and consumers use tax to successor liability exceptions under
21 certain conditions; makes technical correction to public
22 employee pension exclusion; changes starting date for ten year
23 lien provision; deletes certificate of acquittance when estate
24 of husband or wife consists of joint tenancy with right of
25 survivorship property; defines when a resale of property used
26 in connection of a service occurs; repeals form and payment
27 restrictions for remitting franchise tax; deletes tax liens on
28 intangibles and clarifies personal liability for inheritance
29 tax purposes; deletes inheritance tax return for surviving
30 spouse when estate is held in joint tenancy; removes
31 inheritance tax lien on intangible personal property.

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HOUSE FILE 2551

AN ACT

RELATING TO TAXES ADMINISTERED AND FEES COLLECTED BY THE DEPARTMENT OF REVENUE AND FINANCE INCLUDING TECHNICAL CORRECTIONS, PAYMENT AND LIABILITY FOR CERTAIN SALES AND USE TAXES, SPECIAL FUEL TAXES, INCOME TAX, FRANCHISE TAX, INHERITANCE TAX, AND PROVIDING FOR CERTAIN RETROACTIVE APPLICABILITY AND EFFECTIVE DATES.

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

Section 1. Section 98.44, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Each application for a distributor's license shall be accompanied by a fee of twenty-five one hundred dollars, except that no an applicant holding a permit pursuant to division I of this chapter shall not be required to pay an additional fee. The application shall also be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of one thousand dollars, conditioned upon the true and faithful compliance by the distributor with all the provisions of this division and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Iowa. This bond shall be in a form to be fixed by the director and approved by the attorney general. Whenever it is the opinion of the director that the bond given by a licensee is inadequate in amount to fully protect the state, the director shall require either an increase in the amount of said bond or additional bond, in such amount as the director deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business ~~at which~~ where a distributor proposes to engage in business as such under this division.

Sec. 2. Section 324.34, unnumbered paragraph 6, Code 1989, is amended to read as follows:

All gallonage which is not for highway or aircraft use, dispensed through metered pumps as licensed under this section, on which special fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A "valid exemption certificate provided by a dealer" is an exemption certificate which is in the form prescribed by the director to assist dealers in properly accounting for fuel dispensed for which special fuel tax is not collected and which is complete and correct according to the requirements of the director.

Sec. 3. Section 421.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The director may make application to the district court or judicial magistrate in the county where the books, records, or assets are located for an administrative search warrant as authorized by section 808.14, to ensure equitable administration of state tax law, if any of the following occurs:

- a. A person refuses to allow the director or the director's authorized representative to audit the person's books or records or to inspect or value the person's assets.
- b. The director has good and sufficient reason to believe that a person will not allow the department to audit books or records or inspect or value assets or to believe that the person will destroy books or records or secrete or transfer assets.

The director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute a distress warrant authorized by section 422.26.

Sec. 4. Section 421.17, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 31. At the director's discretion, accept payment of taxes, penalties, interest, and fees, or any portion thereof, by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

Sec. 5. Section 421.26, Code 1989, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 324.65, a retailer or purchaser under chapter 422A or 422B, or section 422.52, or a retailer or purchaser under section 423.13 or a user under section 423.14 fails to pay a tax under those sections when due, any an officer of a corporation or association, or any a 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. 6. Section 421.27, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The taxpayer was subject to the penalty provision of section 422.25, subsection 2, and was eligible to compute taxable income under the cash receipts and disbursements method of accounting under section 448(b)(3) of the Internal Revenue Code. The waiver provision in this paragraph applies only for tax years beginning in the 1985 and 1986 calendar years and only to the extent that the taxpayer failed to include in its net income for state tax purposes

interest payable on short-term obligations as it accrued during those tax years as provided in section 1281 of the Internal Revenue Code and provided that an amended return is filed by July 1, 1990.

Sec. 7. Section 421.28, Code 1989, is amended to read as follows:

421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 422A or 422B, or section 324.65, 422.52, or 423.13, or 423.14 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 and finance 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. 8. Section 422.26, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue for ten years from the time the lien attaches date an assessment is issued unless sooner released or otherwise discharged. The lien may, within ten years from the date the lien attaches an assessment is issued, be extended by filing for record a notice with the appropriate

county official of any county and from the time of such filing, the lien shall be extended to the property in such county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions. Liens having attached prior to January 1, 1969, will expire on January 1, 1979, unless extended by the director. The director shall charge off any account whose lien is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines under uniform rules prescribed by the director that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

Sec. 9. Section 422.26, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsection:

NEW SUBSECTION. 6. Date of assessment.

Sec. 10. Section 422.26, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "assessment issued" means the most recent assessment against the taxpayer for the tax type and tax period.

Sec. 11. Section 422.27, subsection 1, Code 1989, is amended to read as follows:

1. A final account of a personal representative, as defined in section 450.1, shall not be allowed by any court unless the account shows, and the judge of the court finds, that all taxes imposed by this division upon the personal representative, which have become payable, have been paid, and that all taxes which may become due are secured by bond or deposit, or are otherwise secured. The certificate of acquittances of the department of revenue and finance is conclusive as to the payment of the tax to the extent of the acquittance. This subsection does not apply if all property in the estate of a decedent is held in joint tenancy with right of survivorship by husband and wife alone.

Sec. 12. Section 422.42, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Property purchased for resale in connection with the performance of a service" means property which is purchased for resale in connection with the performance of a service by a person who renders, furnishes, or performs the service if all of the following occur:

- a. The provider and user of the service intend that a sale of the property will occur.
- b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value.
- c. The sale is evidenced by a separate charge for the identifiable piece of property.

Sec. 13. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located

outside of the state; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; cable pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 14. Section 422.45, subsection 5, Code Supplement 1989, is amended to read as follows:

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof of the state, including regional transit systems, as defined in section 601J.1, the state board of regents, state department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

Sec. 15. Section 422.45, subsection 7, Code Supplement 1989, is amended to read as follows:

7. A private nonprofit educational institution in this state, nonprofit private museum or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency or instrumentality of the state or a political subdivision, or a private nonprofit educational institution in this state, or a nonprofit private museum if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, or is devoted to educational uses; or becomes a nonprofit private museum except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of

the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit, or private nonprofit educational institution, or nonprofit private museum which has made any written contract for performance by said the contractor. Such The forms shall be filed by the contractor with the governmental unit, or educational institution, or nonprofit private museum before final settlement is made.

b. Such governmental unit, or educational institution, or nonprofit private museum shall, not more than six months after the final settlement has been made, make application to the department for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, such application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, issue a warrant to such governmental unit, or educational institution, or nonprofit private museum in the amount of such sales or use tax which has been paid to the state of Iowa under such contract.

c. Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax with and any applicable penalty and interest thereon.

Sec. 16. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 43. The gross receipts of all sales of goods, wares, merchandise, or services, used for educational, scientific, historic preservation, or aesthetic purpose to a nonprofit private museum.

Sec. 17. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 44. The gross receipts from the sale of tangible personal property or the sale, furnishing, or servicing of electrical energy, natural or artificial gas, or communication service to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivisions of this state.

Sec. 18. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 45. The gross receipts from the sale of tangible personal property consisting of advertising material including paper to a person in Iowa if that person or that person's agent will, subsequent to the sale, send that advertising material outside this state and the material is subsequently used solely outside of Iowa. For the purpose of this subsection, "advertising material" means any brochure, catalog, leaflet, flyer, order form, return envelope, or similar item used to promote sales of property or services.

Sec. 19. Section 422.72, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal

arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which ~~have laws that are as strict~~ by agreement with this state limit the disclosure of the information as strictly as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes.

PARAGRAPH DIVIDED. The department shall not authorize the examination of tax information by officers and employees of this state, another state, or of the United States if the officers or employees would otherwise be required to obtain a judicial order to examine the information if it were to be obtained from another source, and if the purpose of the examination is other than for tax administration. However, the director may provide sample individual income tax information to be used for statistical purposes to the legislative fiscal bureau. The information shall not include the name or mailing address of the taxpayer or the taxpayer's social security number. Any information contained in an individual income tax return which is provided by the director shall only be used as a part of a data base which contains similar information from a number of returns. The legislative fiscal bureau shall not have access to the income tax returns of individuals. Each request for individual income tax information shall contain a statement by the director of the legislative fiscal bureau that the individual income tax information received by the bureau shall be used solely for statistical purposes. This subsection does not prevent the department from authorizing the examination of state returns

and state information under the provisions of section 252B.9. This subsection prevails over any general law of this state relating to public records.

Sec. 20. Section 450.7, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following limitations:

Sec. 21. Section 450.12, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. A liability shall not be deducted unless the personal representative or other person filing the inheritance tax return as provided in section 450.22 certifies that it has been paid or, if not paid, the director of revenue and finance is satisfied that it will be paid. If the amount of liabilities deductible under this section exceed the amount of property subject to the payment of the liabilities, the excess shall be deducted from other property included in the gross estate on a prorated basis that the gross value of each item of other property bears to the total gross value of all the other property. Subject to the previous provision, a liability is deductible whether or not the liability is legally enforceable against the decedent's estate.

Sec. 22. Section 421.8A, Code 1989, is repealed.

Sec. 23. Section 422.64, Code 1989, is repealed.

Sec. 24. Section 422.63A, Code Supplement 1989, is repealed.

Sec. 25. Section 4 of this Act is applicable to payments of taxes, penalties, interest, or fees made on or after July 1, 1990.

Sec. 26. Section 14 of this Act is retroactively applicable to July 1, 1985.

Sec. 27. Section 8 of this Act is applicable retroactively to January 1, 1990, for taxes due and payable before January 1, 1990, and unpaid on that date and for all taxes due on or after January 1, 1990.

Sec. 28. Sections 11 and 20 of this Act are retroactively applicable to January 1, 1988, for decedents dying on or after that date.

Sec. 29.

Section 6 of this Act applies retroactively to tax years beginning in the 1985 and 1986 calendar years.

Sec. 30.

Section 24 of this Act applies retroactively to January 1, 1990, for tax years beginning on or after that date.

Sec. 31.

Section 22 of this Act takes effect January 1, 1991, for assessments made on or after that date.

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 2551, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 2, 1990

TERRY E. BRANSTAD
Governor

HF 2551