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SENATE FILE 2057

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2027)

(P.735) Passed Senate, Date 3-17-94 Vote: Ayes 47 Nays 0

(P.1951) Passed House, Date 4/19/94 Vote: Ayes 100 Nays 0

Approved May 10, 1994

A BILL FOR

1 An Act relating to the procedures, requirements, liability, and
2 penalties for the imposition and collection of state taxes,
3 refund and credit claims, and state finances and providing
4 effective and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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Section 1. Section 421.4, Code 1993, is amended to read as follows:

421.4 DEPUTIES.

The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees necessary to protect the interests of the state and any political subdivision. ~~All independent contracts and fees provided for in this section are subject to the approval of the governor.~~

Sec. 2. Section 421.5, Code 1993, is amended to read as follows:

421.5 SETTLING DOUBTFUL CLAIMS FOR TAXES.

The director may compromise and settle doubtful and disputed claims for taxes or refunds or tax liability of doubtful collectibility notwithstanding the provisions of section 7D.9. Whenever such a compromise and settlement is made ~~or any other compromise and settlement in excess of the director's authority is made~~, the director shall make a complete record of the case showing the tax assessed or claimed due, tax refund claimed, recommendations, reports, and audits of departmental personnel if any, the taxpayer's grounds for dispute or contest together with all evidence thereof, and the amounts, conditions, and settlement or compromise of same.

Sec. 3. Section 421.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~The~~ Immediately upon issuance of a distress warrant authorized by section 422.26, 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~~ the distress warrant ~~authorized by section 422.26~~.

1 Sec. 4. Section 421.17, subsection 5, Code Supplement
2 1993, is amended to read as follows:
3 5. To direct proceedings, actions, and prosecutions to be
4 instituted for the enforcement of the laws relating to the
5 penalties, liabilities, and punishment of public officers, and
6 officers or agents of corporations, and other persons or
7 corporations, for failure or neglect to comply with the
8 provisions of the statutes governing the return, assessment
9 and taxation of property; to make or cause to be made
10 complaints against members of boards of review, boards of
11 supervisors or other assessing, reviewing, or taxing officers
12 for official misconduct or neglect of duty. ~~Provided, that~~
13 ~~employees~~ Employees of the department of revenue and finance
14 shall not during their regular hours of employment engage in
15 the preparation of tax returns ~~for individuals~~, except in
16 connection with a regular audit ~~thereof~~ of a tax return or in
17 connection with assistance requested by the taxpayer.
18 Sec. 5. Section 421.17, subsection 10, unnumbered
19 paragraph 2, Code Supplement 1993, is amended to read as
20 follows:
21 The director may correct obvious errors or obvious
22 injustices in the assessment of any individual property, but
23 the director shall not reduce the valuation of any individual
24 property except upon the recommendation of the local board of
25 review and ~~no~~ an order of the director affecting any valuation
26 shall not be retroactive as to any reduction or increase in
27 taxes payable prior to January 1 of the year in which ~~such~~
28 that order is issued, or prior to September 1 of the preceding
29 year in cities under special charter which collect their own
30 municipal levies. The director shall not correct errors or
31 injustices under the authority of this paragraph if that
32 correction would involve the exercise of judgment. Judicial
33 review of the actions of the director may be sought in
34 accordance with the terms of the Iowa administrative procedure
35 Act.

1 Sec. 6. Section 421.17, subsection 22, Code Supplement
2 1993, is amended to read as follows:
3 22. To employ collection agencies, within or without the
4 state, to collect delinquent taxes, including penalties and
5 interest, administered by the department or delinquent
6 accounts, charges, loans, fees or other indebtedness due the
7 state or any state agency, that have formal agreements with
8 the department for central debt collection where the director
9 finds that departmental personnel are unable to collect the
10 delinquent accounts, charges, loans, fees, or other
11 indebtedness because of a ~~taxpayer's~~ debtor's location outside
12 the state or for any other reason. Fees for services,
13 reimbursement, or other remuneration, including attorney fees,
14 paid to collection agencies shall be based upon the amount of
15 tax, penalty, and interest or debt actually collected and
16 shall be paid only after the amount of tax, penalty, and
17 interest or debt is collected. All funds collected must be
18 remitted in full to the department within thirty days from the
19 date of collection from a ~~taxpayer~~ debtor or in a lesser time
20 as the director prescribes. The funds shall be applied toward
21 the ~~taxpayer's~~ debtor's account and handled as are funds
22 received by other means. An amount is appropriated from the
23 amount of tax, penalty, and interest, delinquent accounts,
24 charges, loans, fees, or other indebtedness actually collected
25 by the collection agency sufficient to pay all fees for
26 services, reimbursement, or other remuneration pursuant to a
27 contract with a collection agency under this subsection. A
28 collection agency entering into a contract with the department
29 for the collection of delinquent taxes, penalties, and
30 interests, delinquent accounts, charges, loans, fees, or other
31 indebtedness pursuant to this subsection is subject to the
32 requirements and penalties of ~~tax information~~ the
33 confidentiality laws of this state regarding tax or
34 indebtedness information. ~~All contracts and fees provided for~~
35 ~~in this subsection are subject to the approval of the~~

1 governor.
2 Sec. 7. Section 421.23, Code 1993, is amended to read as
3 follows:
4 421.23 FEES AND MILEAGE.
5 The fees and mileage of witnesses attending any hearing of
6 the department, including contested case hearings, pursuant to
7 any subpoena, shall be the same as those of witnesses in civil
8 cases in district court.
9 Sec. 8. Section 421.26, Code 1993, is amended to read as
10 follows:
11 421.26 PERSONAL LIABILITY FOR TAX DUE.
12 If a licensee or other person under section 452A.65, a
13 retailer or purchaser under chapter 422A or 422B, or section
14 422.52, or a retailer or purchaser under section 423.13 or a
15 user under section 423.14 fails to pay a tax under those
16 sections when due, an officer of a corporation or association,
17 notwithstanding sections 490A.601 and 490A.602, a member or
18 manager of a limited liability company, or a partner of a
19 partnership, having control or supervision of or the authority
20 for remitting the tax payments and having a substantial legal
21 or equitable interest in the ownership of the corporation,
22 association, limited liability company, or partnership, who
23 has intentionally failed to pay the tax is personally liable
24 for the payment of the tax, interest, and penalty due and
25 unpaid. However, this section shall not apply to taxes on
26 accounts receivable. The dissolution of a corporation,
27 association, limited liability company, or partnership shall
28 not discharge a person's liability for failure to remit the
29 tax due.
30 Sec. 9. Section 421.27, subsection 1, Code 1993, is
31 amended by adding the following new paragraph:
32 NEW PARAGRAPH. 1. If the availability of funds in payment
33 of tax required to be made through electronic funds transfer
34 is delayed and the delay of availability is due to reasons
35 beyond the control of the taxpayer. "Electronic funds

1 transfer" means any transfer of funds, other than a
2 transaction originated by check, draft, or similar paper
3 instrument, that is initiated through an electronic terminal
4 telephone, computer, magnetic tape, or similar device for the
5 purpose of ordering, instructing, or authorizing a financial
6 institution to debit or credit an account.
7 Sec. 10. NEW SECTION. 421.29 REGISTRATIONS.
8 For purposes of the provisions of the Code which are
9 administered by the department, "permit" or "license" includes
10 registration. Unless otherwise specifically provided, the
11 director shall determine by rule the circumstances for which
12 registrations shall be issued and displayed.
13 Sec. 11. Section 421.45, Code 1993, is amended to read as
14 follows:
15 421.45 CANCELLATION OF STATE WARRANTS.
16 ~~The~~ On the last business day of each month, the director of
17 the department of revenue and finance~~,-as-of-March-31,-June~~
18 ~~30,-September-30,-and-December-31-of-each-year~~ shall cancel
19 and request the treasurer of state to stop payment on all
20 state warrants which have been outstanding and unredeemed by
21 the state treasurer for six months or longer.
22 Sec. 12. Section 422.7, subsection 21, unnumbered
23 paragraph 2, Code Supplement 1993, is amended to read as
24 follows:
25 The net capital gain of paragraphs "a", "b", "c", and "d"
26 together shall not exceed seventeen thousand five hundred
27 dollars for the tax year. Married taxpayers who elect
28 separate filing on a combined return for state tax purposes
29 are treated as one taxpayer and the amount of net capital gain
30 to be used to determine the total amount to be subtracted by
31 them shall not exceed seventeen thousand five hundred dollars
32 in the aggregate. Married taxpayers who file jointly or
33 separately on a combined return shall prorate the seventeen
34 thousand five hundred dollar limitation between them based on
35 the ratio of each spouse's net capital gain to the total net

1 capital gain of both spouses. In the case of married
2 taxpayers filing separate returns, the amount of net capital
3 gain to be used to determine the amount to be subtracted by
4 each spouse shall not exceed eight thousand seven hundred
5 fifty dollars. However, to the extent otherwise allowed, the
6 deduction provided in this subsection is not allowed for
7 purposes of computation of a net operating loss in section
8 422.9, subsection 3, and in computing the income for the
9 taxable year or years for which a net operating loss is
10 deducted.
11 Sec. 13. Section 422.16, subsection 1, unnumbered
12 paragraph 3, Code 1993, is amended to read as follows:
13 For the purposes of this subsection, state income tax shall
14 be withheld from pensions, annuities, other similar periodic
15 payments, and other income payments of those persons whose
16 primary residence is in Iowa in those circumstances in which
17 those persons have federal income tax withheld from pensions,
18 annuities, other similar periodic payments, and other income
19 payments under sections 3402(o), 3402(p), 3402(s), 3405(a),
20 ~~and~~ 3405(b), and 3405(c) of the Internal Revenue Code at a
21 rate to be specified by the department.
22 Sec. 14. Section 422.16, subsection 4, Code 1993, is
23 amended to read as follows:
24 4. Every withholding agent who fails to withhold or pay to
25 the department any sums required by this chapter to be
26 withheld and paid, shall be personally, individually, and
27 corporately liable therefor to the state of Iowa, and any sum
28 or sums withheld in accordance with the provisions of
29 subsections 1 and 12 ~~hereof~~, shall be deemed to be held in
30 trust for the state of Iowa. Notwithstanding sections
31 490A.601 and 490A.602, this subsection applies to a member or
32 manager of a limited liability company.
33 Sec. 15. Section 422.21, Code 1993, is amended by adding
34 the following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. If married taxpayers file a

joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) of the Internal Revenue Code.

Sec. 16. Section 422.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law~~,-and-demand-payment-thereof-from the-taxpayer. If-such-payment-is-not-made,-a~~ The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against ~~such~~ the taxpayer immediately.

Sec. 17. Section 422.32, subsection 4, Code 1993, is amended to read as follows:

4. ~~The-word-"corporation"~~ "Corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~other-than-limited-liability-companies,~~ and publicly traded partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 18. Section 422.33, subsection 1A, Code Supplement 1993, is amended to read as follows:

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, ~~subsections~~ subsection 2 ~~through~~-6, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business

1 income computed in accordance with the Internal Revenue Code
2 and with the adjustments set forth in section 422.35.
3 Sec. 19. Section 422.34, subsections 2 through 6, Code
4 1993, are amended by striking the subsections and inserting in
5 lieu thereof the following:
6 2. An organization described in section 501 of the
7 Internal Revenue Code unless the exemption is denied under
8 section 501, 502, 503, or 504 of the Internal Revenue Code.
9 Sec. 20. Section 422.42, subsection 15, unnumbered
10 paragraph 2, Code 1993, is amended to read as follows:
11 "Services used in the processing of tangible personal
12 property" includes the reconditioning or repairing of tangible
13 personal property of the type normally sold in the regular
14 course of the retailer's business and which is held for sale
15 ~~upon-which-the-gross-receipts-tax-under-this-division-or-the~~
16 ~~use-tax-under-chapter-423-will-be-paid-when-the-tangible~~
17 ~~personal-property-is-sold~~.
18 Sec. 21. Section 422.43, subsection 13, Code Supplement
19 1993, is amended to read as follows:
20 13. a. A tax of five percent is imposed upon the gross
21 receipts from the sales, furnishing, or service of solid waste
22 collection and disposal service.
23 For purposes of this subsection, "solid waste" means
24 garbage, refuse, sludge from a water supply treatment plant or
25 air contaminant treatment facility, and other discarded waste
26 materials and sludges, in solid, semisolid, liquid, or
27 contained gaseous form, resulting from nonresidential
28 commercial operations, but does not include <u>auto hulks; street</u>
29 <u>sweepings; ash; construction debris; mining waste; trees;</u>
30 <u>tires; lead acid batteries; used oil;</u> hazardous waste; animal
31 waste used as fertilizer; earthen fill, boulders, rock;
32 foundry sand used for daily cover at a sanitary landfill;
33 sewage sludge; solid or dissolved material in domestic sewage
34 or other common pollutants in water resources, such as silt,
35 dissolved or suspended solids in industrial waste water

1 effluents or discharges which are point sources subject to
2 permits under section 402 of the federal Water Pollution
3 Control Act, dissolved materials in irrigation return flows;
4 or source, special nuclear, or by-product material defined by
5 the federal Atomic Energy Act of 1954.
6 A recycling facility that separates or processes recyclable
7 materials and that reduces the volume of the waste by at least
8 eighty-five percent is exempt from the tax imposed by this
9 subsection if the waste exempted is collected and disposed of
10 separately from other solid waste.
11 b. A person who transports ~~mixed-municipal~~ solid waste
12 generated by that person or another person without
13 compensation shall pay the tax imposed by this subsection at
14 the collection or disposal facility based on the disposal
15 charge or tipping fee. However, the costs of a service or ~~the~~
16 portion of a service to collect and manage recyclable
17 materials separated from ~~mixed-municipal~~ solid waste by the
18 waste generator is exempt from the tax imposed by this
19 subsection. ~~For-purposes-of-this-paragraph,-"mixed-municipal~~
20 ~~solid-waste"-means-garbage,-refuse,-and-other-solid-waste-from~~
21 ~~nonresidential-commercial-operations-which-is-generated-and~~
22 ~~collected-in-aggregate,-but-does-not-include-auto-hulks,~~
23 ~~street-sweepings,-ash,-construction-debris,-mining-waste,~~
24 ~~sludges,-tree-and-agricultural-wastes,-tires,-lead-acid~~
25 ~~batteries,-used-oil,-and-other-materials-collected,-processed,~~
26 ~~and-disposed-of-as-separate-waste-streams.~~
27 Sec. 22. Section 422.50, Code 1993, is amended to read as
28 follows:
29 422.50 RECORDS REQUIRED.
30 It shall be the duty of every retailer required to make a
31 report and pay any tax under this division, to preserve ~~such~~
32 those records of the gross proceeds of sales as the director
33 may require and it shall be the duty of every retailer to
34 preserve for a period of five years all invoices and other
35 records of goods, wares, ~~or~~ merchandise, or services purchased

1 for resale; and all ~~such~~ these books, invoices, and other
2 records shall be open to examination at any time by the
3 department, and shall be made available within this state for
4 ~~such~~ examination upon reasonable notice when the director
5 ~~shall-so-order~~ orders.
6 Sec. 23. Section 422.53, subsection 3, Code 1993, is
7 amended to read as follows:
8 3. The department shall grant and issue to each applicant
9 a permit for each place of business within the state. A
10 permit is not assignable and is valid only for the person in
11 whose name it is issued and for the transaction of business at
12 the place designated. ~~It-shall-at-all-times-be-conspicuously~~
13 ~~displayed-at-the-place-for-which-issued.~~
14 Sec. 24. Section 423.4, subsection 1, Code 1993, is
15 amended to read as follows:
16 1. Tangible personal property and enumerated services, the
17 gross receipts from the sale of which are required to be
18 included in the measure of the tax imposed by division IV of
19 chapter 422, ~~and-any-amendments-made-or-which-may-hereafter-be~~
20 ~~made-thereto~~ if that tax has been paid to the department or
21 paid to the retailer. This exemption does not include
22 vehicles subject to registration or subject only to the
23 issuance of a certificate of title.
24 Sec. 25. Section 425.17, subsection 6, Code Supplement
25 1993, is amended to read as follows:
26 6. "Household income" means all income of the claimant and
27 the claimant's spouse in a household and actual monetary
28 contributions received from any other household member or
29 nonmember living with the claimant during their respective
30 twelve-month income tax accounting periods ending with or
31 during the base year.
32 Sec. 26. Section 425.20, unnumbered paragraphs 1 and 2,
33 Code 1993, are amended to read as follows:
34 A claim for reimbursement for rent constituting property
35 taxes paid shall not be paid or allowed, unless the claim is

1 ~~actually~~ filed with and in the possession of the department of
2 revenue and finance on or before October 31 of the year
3 following the base year.
4 A claim for credit for property taxes due shall not be paid
5 or allowed unless the claim is ~~actually~~ filed with the county
6 treasurer between January 1 and June 1, both dates inclusive,
7 immediately preceding the fiscal year during which the
8 property taxes are due ~~and,-with-the-exception-of-a-claim~~
9 ~~filed-on-behalf-of-a-deceased-claimant-by-the-claimant's-legal~~
10 ~~guardian,-spouse,-or-attorney,-or-by-the-executor-or~~
11 ~~administrator-of-the-claimant's-estate,-contains-an-affidavit~~
12 ~~of-the-claimant's-intent-to-occupy-the-homestead-for-six~~
13 ~~months-or-more-during-the-fiscal-year-beginning-in-the~~
14 ~~calendar-year-in-which-the-claim-is-filed~~. The county
15 treasurer shall submit the claim to the director of revenue
16 and finance on or before August 1 of each year.
17 Sec. 27. Section 425.28, Code 1993, is amended to read as
18 follows:
19 425.28 WAIVER OF CONFIDENTIALITY.
20 A claimant shall expressly waive any right to
21 confidentiality relating to all income tax information
22 obtainable through the department of revenue and finance,
23 including all information covered by sections 422.20 and
24 422.72. This waiver shall apply to information available to
25 the county ~~or-city-assessor~~ treasurer who shall hold the
26 information confidential except that it may be used as
27 evidence to disallow the credit.
28 Sec. 28. Section 435.22, subsection 2, unnumbered
29 paragraph 1, Code 1993, is amended to read as follows:
30 If the owner of the mobile home is an Iowa resident, has
31 attained the age of ~~eighteen~~ twenty-three years on or before
32 December 31 of the base year, and has an income when included
33 with that of a spouse which is less than six thousand dollars
34 per year, the annual tax shall not be imposed on the mobile
35 home. If the income is six thousand dollars or more but less

1 than fourteen thousand dollars, the annual tax shall be
2 computed as follows:
3 Sec. 29. Section 450.4, subsection 2, Code Supplement
4 1993, is amended by striking the subsection and inserting in
5 lieu thereof the following:
6 2. When the property passes for a charitable, educational,
7 or religious purpose as defined in sections 170(c) and 2055 of
8 the Internal Revenue Code.
9 Sec. 30. Section 450.12, subsection 1, paragraph a, Code
10 1993, is amended to read as follows:
11 a. The debts owing by the decedent at the time of death,
12 the local and state taxes accrued before the decedent's death,
13 the federal estate tax and federal taxes owing by the
14 decedent, a reasonable sum for funeral expenses, the allowance
15 for surviving spouse and minor children granted by the probate
16 court or its judge, court costs, the costs of appraisement
17 made for the purpose of assessing the inheritance tax, the fee
18 of personal representatives as allowed by order of court, the
19 amount paid by the personal representatives for a bond, the
20 attorney's fee ~~in a reasonable amount to be~~ as determined
21 pursuant to sections 633.197, 633.198, and 633.199 and
22 approved by the court for the probate proceedings in the
23 estate, the costs of the sale of real estate or personal
24 property in the estate, including the real estate agent's
25 commission, and expenses for abstracting, documentary stamps,
26 and title correction expenses.
27 Sec. 31. Section 450.53, Code 1993, is amended to read as
28 follows:
29 450.53 DUTY ~~OF PERSONAL REPRESENTATIVES~~ TO PAY TAX --
30 PENALTIES.
31 1. All personal representatives, except guardians and
32 conservators, and other persons charged with the management or
33 settlement of any estate or trust from which a tax is due
34 under this chapter, shall file an inheritance tax return,
35 within the time limits set by section 450.6, with a copy of

1 any federal estate tax return and other documents required by
2 the director which may reasonably tend to prove the amount of
3 tax due, and at the time of filing, shall pay to the
4 department of revenue and finance the amount of the tax due
5 from any devisee, grantee, donee, heir, or beneficiary of the
6 decedent, except in cases where payment of the tax is deferred
7 until the determination of a prior estate~~, in which cases the~~.
8 The owner of the future interest shall file a supplemental
9 inheritance tax return and pay to the department of revenue
10 and finance the tax due within the time limits set in this
11 chapter. The inheritance tax returns shall be in the form
12 prescribed by the director.
13 2. A person in possession of assets to be reported for
14 purposes of taxation, including a personal representative or
15 trustee, who willfully makes a false or fraudulent return, or
16 willfully fails to pay the tax, supply the information, make,
17 sign, or file the required return within the time required by
18 law, is guilty of a fraudulent practice.
19 3. A person who willfully attempts in any manner to evade
20 taxes imposed by this chapter or avoid payment of the tax, is
21 guilty of an aggravated misdemeanor.
22 4. The jurisdiction of any offense as defined in this sec-
23 tion is in the county of the residence of the decedent at the
24 time of death. If the decedent is a nonresident of the state,
25 jurisdiction is in any county in which property subject to the
26 tax is located.
27 5. A prosecution for any offense defined in this section
28 shall be commenced not later than six years following the com-
29 mission of the offense.
30 Sec. 32. Section 451.12, Code 1993, is amended to read as
31 follows:
32 451.12 APPLICABLE STATUTES -- PENALTIES.
33 All the provisions of chapter 450 with respect to the lien
34 provisions of section 450.7, and the determination,
35 imposition, payment and collection of the tax imposed under

that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 33. Section 452A.4, unnumbered paragraph 6, Code 1993, is amended to read as follows:

The license shall not be assignable~~,~~ and shall be valid only for the distributor in whose name it is issued~~, and shall be displayed conspicuously in the principal place of business of the distributor in this state~~.

Sec. 34. Section 452A.8, subsection 7, Code 1993, is amended to read as follows:

7. The sum of the tax due under subsections 5 and 6 shall be the amount of motor fuel tax in dollars and cents due from the distributor for the next preceding calendar month. Any ~~outstanding~~ credit ~~memoranda issued~~ calculated by the ~~department to the~~ distributor may be applied against the amount due.

Sec. 35. Section 452A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel is entitled to a ~~memorandum of~~ credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or

1 destroyed through accountable leakage or to fire, accident,
2 lightning, flood, storm, act of war or public enemy, or other
3 like cause. A ~~memorandum of~~ credit shall be allowed ~~against~~
4 ~~subsequent liability~~ under this chapter upon application to
5 the department supported by proof as the director prescribes
6 by rule. If the licensee is no longer engaged in activity for
7 which the license was issued, the department shall refund the
8 appropriate amount upon receipt of an application for refund
9 as provided by the department. Credits and refunds are
10 subject to the following conditions:
11 Sec. 36. Section 453A.13, subsection 10, Code 1993, is
12 amended by striking the subsection.
13 Sec. 37. Section 453A.44, subsection 9, Code 1993, is
14 amended by striking the subsection.
15 Sec. 38. Section 453B.9, unnumbered paragraph 1, Code
16 1993, is amended to read as follows:
17 All assessments of taxes made pursuant to this chapter
18 shall be considered jeopardy assessments or collections as
19 provided in section 422.30. The director shall assess a tax,
20 interest, and applicable penalties based on knowledge or
21 information available to the director; ~~mail to~~ serve the
22 taxpayer by regular mail at the taxpayer's last known address
23 or ~~serve~~ in person, a written notice of the amount of tax,
24 interest, and penalty~~, demand its immediate payment, and, if~~
25 ~~payment is not immediately made,~~ due, which notice may include
26 a demand for immediate payment; and immediately proceed to
27 collect the tax, interest, and penalty by any method
28 prescribed in section 422.30. The period for examination,
29 determination of amount of tax owed, and assessment is
30 unlimited. Service of the notice by regular mail is complete
31 upon mailing.
32 Sec. 39. Section 626.29, Code Supplement 1993, is amended
33 to read as follows:
34 626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND
35 FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE

1 COMMISSIONER.
2 In the service of a distress warrant issued by the director
3 of revenue and finance for the collection of ~~income-tax,-sales~~
4 ~~tax,-motor-vehicle-fuel-tax,-freight-line-and-equipment-car~~
5 ~~tax,-hotel-and-motel-tax,-or-use-tax~~ taxes administered by or
6 debts to be collected by the department of revenue and
7 finance, in the service of a distress warrant issued by the
8 director of inspections and appeals for the collection of
9 overpayment debts owed to the department of human services, or
10 in the service of a distress warrant issued by the job service
11 commissioner of the department of employment services for the
12 collection of employment security contributions, the property
13 of the taxpayer or the employer in the possession of another,
14 or debts due the taxpayer or the employer, may be reached by
15 garnishment.
16 Sec. 40. Section 633.272, Code 1993, is amended to read as
17 follows:
18 633.272 PARTIAL INTESTACY.
19 If part but not all of the estate of a decedent is validly
20 disposed of by will, the part not disposed of by will shall be
21 distributed as provided herein for intestate estates. If the
22 testator left a surviving spouse, and the spouse does not
23 elect to take against the will, ~~such~~ the spouse shall receive,
24 in addition to the property given to the spouse by the will,
25 ~~one-third~~ all of the intestate property~~,-and-that-one-third~~
26 which shall be subject to the payment of its proportionate
27 share of debts and charges against the estate.
28 Sec. 41. Sections 8 and 14 of this Act apply retroactively
29 to July 1, 1993.
30 Sec. 42. Section 12 of this Act applies retroactively to
31 January 1, 1994, for net operating losses in tax years
32 beginning on or after that date.
33 Sec. 43. Section 13 of this Act applies retroactively to
34 January 1, 1994, for distributions from qualified pension
35 plans made on or after that date.

1 Sec. 44. Section 15 of this Act applies retroactively to
2 January 1, 1994, for tax years beginning on or after that
3 date.
4 Sec. 45. Section 30 of this Act applies to the estates of
5 decedents dying on or after July 1, 1994.
6 Sec. 46. Sections 25, 26, and 28 of this Act take effect
7 January 1, 1995, for claims filed on or after that date.
8 EXPLANATION
9 The bill makes changes in the procedures, requirements, and
10 liability relating to the imposition and collection of state
11 taxes and state refunds and credits including authorization
12 for employment of collection agencies to collect delinquent
13 accounts owed any state agency, imposing personal liability on
14 members and employees of limited liability companies in the
15 same way as for an individual who is a partner for sales, use,
16 motor fuel and income taxes, authorizing the waiver of penalty
17 for failure to timely pay the tax required to be paid by
18 electronic funds transfer, eliminates the requirement for
19 displaying of permits and licenses issued by the department of
20 revenue and finance, provides for the cancellation of
21 outstanding warrants at the end of each month, disallowing the
22 limited capital gain deduction in computing net operating loss
23 or disallowing the deduction in the year the net operating
24 loss is deducted, requires withholding from pension
25 distributions to the extent withheld at the federal level,
26 allows the director of revenue and finance to compromise
27 claims for tax refunds, allows the department to file a
28 distress warrant or receive a search warrant immediately upon
29 issuance of the distress warrant for tax assessments in
30 jeopardy of being removed or hidden, prohibits department of
31 revenue and finance employees from preparing tax returns for
32 individuals during regular working hours, except if it is part
33 of an audit or is in connection with assistance requested by
34 the taxpayer, authorizes witness' fees and mileage for those
35 subpoenaed to attend department of revenue and finance

1 hearings, provides that married taxpayers who file joint
2 returns or separately on the combined return are jointly and
3 severally liable for tax liabilities on the returns unless the
4 spouse is considered an innocent spouse under federal law,
5 subjects limited liability companies to the state corporate
6 income tax, eliminates the definition of "mixed municipal
7 solid waste" for sales tax purposes and taxes separately those
8 items that would be taxed under that definition, requires
9 retailers providing taxable services to keep records of sales
10 up to five years, deletes the requirement that a low-income
11 person must occupy the homestead for six months in the fiscal
12 year for which the person was to receive the additional
13 homestead credit, makes failure to file or falsely filing an
14 inheritance tax return or failure to pay the tax due a
15 fraudulent practice, and makes an attempt to evade inheritance
16 tax an aggravated misdemeanor, provides that low-income
17 persons owning mobile homes must be at least 23 years old to
18 qualify for property tax relief, and exempts from use tax
19 those services subject to sales tax.
20 The bill provides retroactive applicability and effective
21 date provisions.
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SENATE FILE 2057

S-5015

1 Amend Senate File 2057 as follows:
2 1. Page 11, by inserting after line 16 the
3 following:
4 "Sec. ___. Section 425.26, subsection 8, Code
5 1993, is amended by striking the subsection."

By RALPH ROSENBERG

S-5015 FILED FEBRUARY 9, 1994

Adopted 3-17-94 (P.735)

SENATE FILE 2057

S-5022

1 Amend Senate File 2057 as follows:
2 1. Page 10, by inserting after line 23 the
3 following:
4 "Sec. 100. Section 423.4, Code 1993, is amended by
5 adding the following new subsection:
6 NEW SUBSECTION. 16. Motor vehicles subject to
7 registration when purchased by the lessee of the motor
8 vehicle if the following occurred:
9 a. The lease of the motor vehicle was entered into
10 after the enactment of this subsection and was for a
11 period of two years or more.
12 b. The use tax on the motor vehicle had been paid
13 by the lessor as provided in section 423.6, subsection
14 1."
15 2. Page 17, by inserting after line 7 the
16 following:
17 "Sec. ___. Section 100 of this Act, being deemed
18 of immediate importance, takes effect upon enactment."

By MERLIN E. BARTZ

S-5022 FILED FEBRUARY 16, 1994

WITHDRAWN
3-17-94

SENATE FILE 2057
FISCAL NOTE REQ. BY SENATOR BARTZ

A fiscal note for **Amendment S-5022 to Senate File 2057** 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.

Senate File 2057 is the "clean-up bill" originally proposed by the Department of Revenue and Finance. Amendment S-5022 would eliminate the requirement that the buyer of a leased vehicle pay use tax on the transaction, provided the buyer is also the lessee. Under current law, the party that owns the vehicle pays the use tax, which is then passed on to the consumer through higher lease payments or additional up-front charges.

ASSUMPTIONS:

1. Approximately 122,000 new vehicles will be purchased or leased each year after the date of enactment. Of this amount, approximately 5,000 will be heavy trucks that are not subject to the use tax.
2. Approximately 15.0% of new vehicles are leased rather than purchased.
3. Approximately 30.0% of leased vehicles will be purchased by the origi lessee. The average "buyout" is approximately $12,500.

FISCAL IMPACT:

The total effect of Amendment S-5022 to SF 2057 would be a decrease of $550,000 in FY 1996, and a decrease of $3.3 million each fiscal year thereafter. Of the $3.3 million yearly impact, $658,000 (20.0%) will be a decrease to the GAAP Retirement Fund. The remainder ($2.6 million) will be a decrease to the Road Use Tax Fund.

The other provisions contained in SF 2057 are not expected to have any significant impact on General Fund revenues.

SOURCES:

Department of Transportation
Des Moines Register
Various Des Moines area auto dealers

(LSB 3462sv, JAM)

FILED MARCH 16, 1994 BY DENNIS PROUTY, FISCAL DIRECTOR

Substituted for HF 2414 4.19.94 (P. 1947)

SENATE FILE 2057
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2027)

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1994)

_____ - New Language by the Senate

Passed Senate, (P. 2057) Date 4/19/94 Passed House, (P. 1951) Date 4/19/94
Vote: Ayes 44 Nays 0 Vote: Ayes 100 Nays 0
Approved May 10, 1994

A BILL FOR

1 An Act relating to the procedures, requirements, liability, and
2 penalties for the imposition and collection of state taxes,
3 refund and credit claims, and state finances and providing
4 effective and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 2057

SF 2057
mg/cc/26

S.F. 2057 H.F. _____

Section 1. Section 421.4, Code 1993, is amended to read as follows:

421.4 DEPUTIES.

The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees necessary to protect the interests of the state and any political subdivision. ~~All independent contracts and fees provided for in this section are subject to the approval of the governor.~~

Sec. 2. Section 421.5, Code 1993, is amended to read as follows:

421.5 SETTLING DOUBTFUL CLAIMS FOR TAXES.

The director may compromise and settle doubtful and disputed claims for taxes or refunds or tax liability of doubtful collectibility notwithstanding the provisions of section 7D.9. Whenever such a compromise and settlement is made ~~or any other compromise and settlement in excess of the director's authority is made~~, the director shall make a complete record of the case showing the tax assessed or claimed due, tax refund claimed, recommendations, reports, and audits of departmental personnel if any, the taxpayer's grounds for dispute or contest together with all evidence thereof, and the amounts, conditions, and settlement or compromise of same.

Sec. 3. Section 421.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~The~~ Immediately upon issuance of a distress warrant authorized by section 422.26, 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~~ the distress warrant ~~authorized by section 422.26~~.

1 Sec. 4. Section 421.17, subsection 5, Code Supplement
2 1993, is amended to read as follows:
3 5. To direct proceedings, actions, and prosecutions to be
4 instituted for the enforcement of tne laws relating to the
5 penalties, liabilities, and punishment of public officers, and
6 officers or agents of corporations, and other persons or
7 corporations, for failure or neglect to comply with the
8 provisions of the statutes governing the return, assessment
9 and taxation of property; to make or cause to be made
10 complaints against members of boards of review, boards of
11 supervisors or other assessing, reviewing, or taxing officers
12 for official misconduct or neglect of duty. ~~Provided, that~~
13 ~~employees~~ Employees of the department of revenue and finance
14 shall not during their regular hours of employment engage in
15 the preparation of tax returns ~~for individuals~~, except in
16 connection with a regular audit ~~thereof~~ of a tax return or in
17 connection with assistance requested by the taxpayer.
18 Sec. 5. Section 421.17, subsection 10, unnumbered
19 paragraph 2, Code Supplement 1993, is amended to read as
20 follows:
21 The director may correct obvious errors or obvious
22 injustices in the assessment of any individual property, but
23 the director shall not reduce the valuation of any individual
24 property except upon the recommendation of the local board of
25 review and ~~no~~ an order of the director affecting any valuation
26 shall not be retroactive as to any reduction or increase in
27 taxes payable prior to January 1 of the year in which ~~such~~
28 that order is issued, or prior to September 1 of the preceding
29 year in cities under special charter which collect their own
30 municipal levies. The director shall not correct errors or
31 injustices under the authority of this paragraph if that
32 correction would involve the exercise of judgment. Judicial
33 review of the actions of the director may be sought in
34 accordance with the terms of the Iowa administrative procedure
35 Act.

1 Sec. 6. Section 421.17, subsection 22, Code Supplement
2 1993, is amended to read as follows:
3 22. To employ collection agencies, within or without the
4 state, to collect delinquent taxes, including penalties and
5 interest, administered by the department or delinquent
6 accounts, charges, loans, fees or other indebtedness due the
7 state or any state agency, that have formal agreements with
8 the department for central debt collection where the director
9 finds that departmental personnel are unable to collect the
10 delinquent accounts, charges, loans, fees, or other
11 indebtedness because of a ~~taxpayer's~~ debtor's location outside
12 the state or for any other reason. Fees for services,
13 reimbursement, or other remuneration, including attorney fees,
14 paid to collection agencies shall be based upon the amount of
15 tax, penalty, and interest or debt actually collected and
16 shall be paid only after the amount of tax, penalty, and
17 interest or debt is collected. All funds collected must be
18 remitted in full to the department within thirty days from the
19 date of collection from a ~~taxpayer~~ debtor or in a lesser time
20 as the director prescribes. The funds shall be applied toward
21 the ~~taxpayer's~~ debtor's account and handled as are funds
22 received by other means. An amount is appropriated from the
23 amount of tax, penalty, and interest, delinquent accounts,
24 charges, loans, fees, or other indebtedness actually collected
25 by the collection agency sufficient to pay all fees for
26 services, reimbursement, or other remuneration pursuant to a
27 contract with a collection agency under this subsection. A
28 collection agency entering into a contract with the department
29 for the collection of delinquent taxes, penalties, and
30 interests, delinquent accounts, charges, loans, fees, or other
31 indebtedness pursuant to this subsection is subject to the
32 requirements and penalties of ~~tax information~~ the
33 confidentiality laws of this state regarding tax or
34 indebtedness information. ~~All contracts and fees provided for~~
35 ~~in this subsection are subject to the approval of the~~

1 governor.
2 Sec. 7. Section 421.23, Code 1993, is amended to read as
3 follows:
4 421.23 FEES AND MILEAGE.
5 The fees and mileage of witnesses attending any hearing of
6 the department, including contested case hearings, pursuant to
7 any subpoena, shall be the same as those of witnesses in civil
8 cases in district court.
9 Sec. 8. Section 421.26, Code 1993, is amended to read as
10 follows:
11 421.26 PERSONAL LIABILITY FOR TAX DUE.
12 If a licensee or other person under section 452A.65, a
13 retailer or purchaser under chapter 422A or 422B, or section
14 422.52, or a retailer or purchaser under section 423.13 or a
15 user under section 423.14 fails to pay a tax under those
16 sections when due, an officer of a corporation or association,
17 notwithstanding sections 490A.601 and 490A.602, a member or
18 manager of a limited liability company, or a partner of a
19 partnership, having control or supervision of or the authority
20 for remitting the tax payments and having a substantial legal
21 or equitable interest in the ownership of the corporation,
22 association, limited liability company, or partnership, who
23 has intentionally failed to pay the tax is personally liable
24 for the payment of the tax, interest, and penalty due and
25 unpaid. However, this section shall not apply to taxes on
26 accounts receivable. The dissolution of a corporation,
27 association, limited liability company, or partnership shall
28 not discharge a person's liability for failure to remit the
29 tax due.
30 Sec. 9. Section 421.27, subsection 1, Code 1993, is
31 amended by adding the following new paragraph:
32 NEW PARAGRAPH. 1. If the availability of funds in payment
33 of tax required to be made through electronic funds transfer
34 is delayed and the delay of availability is due to reasons
35 beyond the control of the taxpayer. "Electronic funds

1 transfer" means any transfer of funds, other than a
2 transaction originated by check, draft, or similar paper
3 instrument, that is initiated through an electronic terminal
4 telephone, computer, magnetic tape, or similar device for the
5 purpose of ordering, instructing, or authorizing a financial
6 institution to debit or credit an account.
7 Sec. 10. NEW SECTION. 421.29 REGISTRATIONS.
8 For purposes of the provisions of the Code which are
9 administered by the department, "permit" or "license" includes
10 registration. Unless otherwise specifically provided, the
11 director shall determine by rule the circumstances for which
12 registrations shall be issued and displayed.
13 Sec. 11. Section 421.45, Code 1993, is amended to read as
14 follows:
15 421.45 CANCELLATION OF STATE WARRANTS.
16 ~~The~~ On the last business day of each month, the director of
17 the department of revenue and finance~~,as of March 31, June~~
18 ~~30, September 30, and December 31 of each year~~ shall cancel
19 and request the treasurer of state to stop payment on all
20 state warrants which have been outstanding and unredeemed by
21 the state treasurer for six months or longer.
22 Sec. 12. Section 422.7, subsection 21, unnumbered
23 paragraph 2, Code Supplement 1993, is amended to read as
24 follows:
25 The net capital gain of paragraphs "a", "b", "c", and "d"
26 together shall not exceed seventeen thousand five hundred
27 dollars for the tax year. Married taxpayers who elect
28 separate filing on a combined return for state tax purposes
29 are treated as one taxpayer and the amount of net capital gain
30 to be used to determine the total amount to be subtracted by
31 them shall not exceed seventeen thousand five hundred dollars
32 in the aggregate. Married taxpayers who file jointly or
33 separately on a combined return shall prorate the seventeen
34 thousand five hundred dollar limitation between them based on
35 the ratio of each spouse's net capital gain to the total net

1 capital gain of both spouses. In the case of married
2 taxpayers filing separate returns, the amount of net capital
3 gain to be used to determine the amount to be subtracted by
4 each spouse shall not exceed eight thousand seven hundred
5 fifty dollars. However, to the extent otherwise allowed, the
6 deduction provided in this subsection is not allowed for
7 purposes of computation of a net operating loss in section
8 422.9, subsection 3, and in computing the income for the
9 taxable year or years for which a net operating loss is
10 deducted.
11 Sec. 13. Section 422.16, subsection 1, unnumbered
12 paragraph 3, Code 1993, is amended to read as follows:
13 For the purposes of this subsection, state income tax shall
14 be withheld from pensions, annuities, other similar periodic
15 payments, and other income payments of those persons whose
16 primary residence is in Iowa in those circumstances in which
17 those persons have federal income tax withheld from pensions,
18 annuities, other similar periodic payments, and other income
19 payments under sections 3402(o), 3402(p), 3402(s), 3405(a),
20 ~~and~~ 3405(b), and 3405(c) of the Internal Revenue Code at a
21 rate to be specified by the department.
22 Sec. 14. Section 422.16, subsection 4, Code 1993, is
23 amended to read as follows:
24 4. Every withholding agent who fails to withhold or pay to
25 the department any sums required by this chapter to be
26 withheld and paid, shall be personally, individually, and
27 corporately liable therefor to the state of Iowa, and any sum
28 or sums withheld in accordance with the provisions of
29 subsections 1 and 12 ~~hereof~~, shall be deemed to be held in
30 trust for the state of Iowa. Notwithstanding sections
31 490A.601 and 490A.602, this subsection applies to a member or
32 manager of a limited liability company.
33 Sec. 15. Section 422.21, Code 1993, is amended by adding
34 the following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. If married taxpayers file a

joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) of the Internal Revenue Code.

Sec. 16. Section 422.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law~~,-and-demand-payment-thereof-from the-taxpayer. If-such-payment-is-not-made,-a~~ The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against ~~such~~ the taxpayer immediately.

Sec. 17. Section 422.32, subsection 4, Code 1993, is amended to read as follows:

4. ~~The-word-"corporation"~~ "Corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~other-than-limited-liability-companies,~~ and publicly traded partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 18. Section 422.33, subsection 1A, Code Supplement 1993, is amended to read as follows:

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, ~~subsections~~ subsection 2 ~~through-6~~, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business

1 income computed in accordance with the Internal Revenue Code
2 and with the adjustments set forth in section 422.35.
3 Sec. 19. Section 422.34, subsections 2 through 6, Code
4 1993, are amended by striking the subsections and inserting in
5 lieu thereof the following:
6 2. An organization described in section 501 of the
7 Internal Revenue Code unless the exemption is denied under
8 section 501, 502, 503, or 504 of the Internal Revenue Code.
9 Sec. 20. Section 422.42, subsection 15, unnumbered
10 paragraph 2, Code 1993, is amended to read as follows:
11 "Services used in the processing of tangible personal
12 property" includes the reconditioning or repairing of tangible
13 personal property of the type normally sold in the regular
14 course of the retailer's business and which is held for sale
15 ~~upon which the gross receipts tax under this division or the~~
16 ~~use tax under chapter 423 will be paid when the tangible~~
17 ~~personal property is sold~~.
18 Sec. 21. Section 422.43, subsection 13, Code Supplement
19 1993, is amended to read as follows:
20 13. a. A tax of five percent is imposed upon the gross
21 receipts from the sales, furnishing, or service of solid waste
22 collection and disposal service.
23 For purposes of this subsection, "solid waste" means
24 garbage, refuse, sludge from a water supply treatment plant or
25 air contaminant treatment facility, and other discarded waste
26 materials and sludges, in solid, semisolid, liquid, or
27 contained gaseous form, resulting from nonresidential
28 commercial operations, but does not include auto hulks; street
29 sweepings; ash; construction debris; mining waste; trees;
30 tires; lead acid batteries; used oil; hazardous waste; animal
31 waste used as fertilizer; earthen fill, boulders, rock;
32 foundry sand used for daily cover at a sanitary landfill;
33 sewage sludge; solid or dissolved material in domestic sewage
34 or other common pollutants in water resources, such as silt,
35 dissolved or suspended solids in industrial waste water

1 effluents or discharges which are point sources subject to
2 permits under section 402 of the federal Water Pollution
3 Control Act, dissolved materials in irrigation return flows;
4 or source, special nuclear, or by-product material defined by
5 the federal Atomic Energy Act of 1954.
6 A recycling facility that separates or processes recyclable
7 materials and that reduces the volume of the waste by at least
8 eighty-five percent is exempt from the tax imposed by this
9 subsection if the waste exempted is collected and disposed of
10 separately from other solid waste.
11 b. A person who transports ~~mixed-municipal~~ solid waste
12 generated by that person or another person without
13 compensation shall pay the tax imposed by this subsection at
14 the collection or disposal facility based on the disposal
15 charge or tipping fee. However, the costs of a service or ~~the~~
16 portion of a service to collect and manage recyclable
17 materials separated from ~~mixed-municipal~~ solid waste by the
18 waste generator is exempt from the tax imposed by this
19 subsection. ~~For-purposes-of-this-paragraph,-"mixed-municipal~~
20 ~~solid-waste"-means-garbage,-refuse,-and-other-solid-waste-from~~
21 ~~nonresidential-commercial-operations-which-is-generated-and~~
22 ~~collected-in-aggregate,-but-does-not-include-auto-hulks,~~
23 ~~street-sweepings,-ash,-construction-debris,-mining-waste,~~
24 ~~sludges,-tree-and-agricultural-wastes,-tires,-lead-acid~~
25 ~~batteries,-used-oil,-and-other-materials-collected,-processed,~~
26 ~~and-disposed-of-as-separate-waste-streams.~~
27 Sec. 22. Section 422.50, Code 1993, is amended to read as
28 follows:
29 422.50 RECORDS REQUIRED.
30 It shall be the duty of every retailer required to make a
31 report and pay any tax under this division, to preserve ~~such~~
32 those records of the gross proceeds of sales as the director
33 may require and it shall be the duty of every retailer to
34 preserve for a period of five years all invoices and other
35 records of goods, wares, ~~or~~ merchandise, or services purchased

1 for resale; and all ~~such~~ these books, invoices, and other
2 records shall be open to examination at any time by the
3 department, and shall be made available within this state for
4 ~~such~~ examination upon reasonable notice when the director
5 ~~shall-so-order~~ orders.
6 Sec. 23. Section 422.53, subsection 3, Code 1993, is
7 amended to read as follows:
8 3. The department shall grant and issue to each applicant
9 a permit for each place of business within the state. A
10 permit is not assignable and is valid only for the person in
11 whose name it is issued and for the transaction of business at
12 the place designated. ~~It-shall-at-all-times-be-conspicuously~~
13 ~~displayed-at-the-place-for-which-issued.~~
14 Sec. 24. Section 423.4, subsection 1, Code 1993, is
15 amended to read as follows:
16 1. Tangible personal property and enumerated services, the
17 gross receipts from the sale of which are required to be
18 included in the measure of the tax imposed by division IV of
19 chapter 422, ~~and-any-amendments-made-or-which-may-hereafter-be~~
20 ~~made-thereto~~ if that tax has been paid to the department or
21 paid to the retailer. This exemption does not include
22 vehicles subject to registration or subject only to the
23 issuance of a certificate of title.
24 Sec. 25. Section 425.17, subsection 6, Code Supplement
25 1993, is amended to read as follows:
26 6. "Household income" means all income of the claimant and
27 the claimant's spouse in a household and actual monetary
28 contributions received from any other household member or
29 nonmember living with the claimant during their respective
30 twelve-month income tax accounting periods ending with or
31 during the base year.
32 Sec. 26. Section 425.20, unnumbered paragraphs 1 and 2,
33 Code 1993, are amended to read as follows:
34 A claim for reimbursement for rent constituting property
35 taxes paid shall not be paid or allowed, unless the claim is

1 ~~actually~~ filed with and in the possession of the department of
2 revenue and finance on or before October 31 of the year
3 following the base year.
4 A claim for credit for property taxes due shall not be paid
5 or allowed unless the claim is ~~actually~~ filed with the county
6 treasurer between January 1 and June 1, both dates inclusive,
7 immediately preceding the fiscal year during which the
8 property taxes are due ~~and,-with-the-exception-of-a-claim~~
9 ~~filed-on-behalf-of-a-deceased-claimant-by-the-claimant's-legal~~
10 ~~guardian,-spouse,-or-attorney,-or-by-the-executor-or~~
11 ~~administrator-of-the-claimant's-estate,-contains-an-affidavit~~
12 ~~of-the-claimant's-intent-to-occupy-the-homestead-for-six~~
13 ~~months-or-more-during-the-fiscal-year-beginning-in-the~~
14 ~~calendar-year-in-which-the-claim-is-filed~~. The county
15 treasurer shall submit the claim to the director of revenue
16 and finance on or before August 1 of each year.
17 Sec. 27. Section 425.26, subsection 8, Code 1993, is
18 amended by striking the subsection.
19 Sec. 28. Section 425.28, Code 1993, is amended to read as
20 follows:
21 425.28 WAIVER OF CONFIDENTIALITY.
22 A claimant shall expressly waive any right to
23 confidentiality relating to all income tax information
24 obtainable through the department of revenue and finance,
25 including all information covered by sections 422.20 and
26 422.72. This waiver shall apply to information available to
27 the county ~~or-city-assessor~~ treasurer who shall hold the
28 information confidential except that it may be used as
29 evidence to disallow the credit.
30 Sec. 29. Section 435.22, subsection 2, unnumbered
31 paragraph 1, Code 1993, is amended to read as follows:
32 If the owner of the mobile home is an Iowa resident, has
33 attained the age of ~~eighteen~~ twenty-three years on or before
34 December 31 of the base year, and has an income when included
35 with that of a spouse which is less than six thousand dollars

1 per year, the annual tax shall not be imposed on the mobile
2 home. If the income is six thousand dollars or more but less
3 than fourteen thousand dollars, the annual tax shall be
4 computed as follows:
5 Sec. 30. Section 450.4, subsection 2, Code Supplement
6 1993, is amended by striking the subsection and inserting in
7 lieu thereof the following:
8 2. When the property passes for a charitable, educational,
9 or religious purpose as defined in sections 170(c) and 2055 of
10 the Internal Revenue Code.
11 Sec. 31. Section 450.12, subsection 1, paragraph a, Code
12 1993, is amended to read as follows:
13 a. The debts owing by the decedent at the time of death,
14 the local and state taxes accrued before the decedent's death,
15 the federal estate tax and federal taxes owing by the
16 decedent, a reasonable sum for funeral expenses, the allowance
17 for surviving spouse and minor children granted by the probate
18 court or its judge, court costs, the costs of appraisement
19 made for the purpose of assessing the inheritance tax, the fee
20 of personal representatives as allowed by order of court, the
21 amount paid by the personal representatives for a bond, the
22 attorney's fee ~~in a reasonable amount to be~~ as determined
23 pursuant to sections 633.197, 633.198, and 633.199 and
24 approved by the court for the probate proceedings in the
25 estate, the costs of the sale of real estate or personal
26 property in the estate, including the real estate agent's
27 commission, and expenses for abstracting, documentary stamps,
28 and title correction expenses.
29 Sec. 32. Section 450.53, Code 1993, is amended to read as
30 follows:
31 450.53 DUTY ~~OF PERSONAL REPRESENTATIVES~~ TO PAY TAX --
32 PENALTIES.
33 1. All personal representatives, except guardians and
34 conservators, and other persons charged with the management or
35 settlement of any estate or trust from which a tax is due

1 under this chapter, shall file an inheritance tax return,
2 within the time limits set by section 450.6, with a copy of
3 any federal estate tax return and other documents required by
4 the director which may reasonably tend to prove the amount of
5 tax due, and at the time of filing, shall pay to the
6 department of revenue and finance the amount of the tax due
7 from any devisee, grantee, donee, heir, or beneficiary of the
8 decedent, except in cases where payment of the tax is deferred
9 until the determination of a prior estate~~, in which cases the~~.
10 The owner of the future interest shall file a supplemental
11 inheritance tax return and pay to the department of revenue
12 and finance the tax due within the time limits set in this
13 chapter. The inheritance tax returns shall be in the form
14 prescribed by the director.
15 2. A person in possession of assets to be reported for
16 purposes of taxation, including a personal representative or
17 trustee, who willfully makes a false or fraudulent return, or
18 willfully fails to pay the tax, supply the information, make,
19 sign, or file the required return within the time required by
20 law, is guilty of a fraudulent practice.
21 3. A person who willfully attempts in any manner to evade
22 taxes imposed by this chapter or avoid payment of the tax, is
23 guilty of an aggravated misdemeanor.
24 4. The jurisdiction of any offense as defined in this sec-
25 tion is in the county of the residence of the decedent at the
26 time of death. If the decedent is a nonresident of the state,
27 jurisdiction is in any county in which property subject to the
28 tax is located.
29 5. A prosecution for any offense defined in this section
30 shall be commenced not later than six years following the com-
31 mission of the offense.
32 Sec. 33. Section 451.12, Code 1993, is amended to read as
33 follows:
34 451.12 APPLICABLE STATUTES -- PENALTIES.
35 All the provisions of chapter 450 with respect to the lien

1 provisions of section 450.7, and the determination,
2 imposition, payment and collection of the tax imposed under
3 that chapter, including penalty and interest upon delinquent
4 taxes and the confidentiality of the tax return, are
5 applicable to this chapter, except as they are in conflict
6 with this chapter. The penalty provisions set out in section
7 450.53 shall apply to a person in possession of assets to be
8 reported for purposes of taxation who willfully makes a false
9 or fraudulent return or willfully fails to pay the tax, supply
10 the information, make, sign, or file the required return
11 within the time required by law or a person who willfully
12 attempts in any manner to evade taxes imposed by this chapter
13 or avoid payment of the tax. The director of revenue and
14 finance shall adopt rules necessary for the enforcement of
15 this chapter.
16 Sec. 34. Section 452A.4, unnumbered paragraph 6, Code
17 1993, is amended to read as follows:
18 The license shall not be assignable, and shall be valid
19 only for the distributor in whose name it is issued~~, and shall~~
20 ~~be displayed conspicuously in the principal place of business~~
21 ~~of the distributor in this state~~.
22 Sec. 35. Section 452A.8, subsection 7, Code 1993, is
23 amended to read as follows:
24 7. The sum of the tax due under subsections 5 and 6 shall
25 be the amount of motor fuel tax in dollars and cents due from
26 the distributor for the next preceding calendar month. Any
27 ~~outstanding~~ credit ~~memoranda issued~~ calculated by the
28 ~~department to the~~ distributor may be applied against the
29 amount due.
30 Sec. 36. Section 452A.16, unnumbered paragraph 1, Code
31 1993, is amended to read as follows:
32 A distributor, dealer or user licensed under this chapter
33 who has received motor fuel or has paid the tax on motor fuel
34 or special fuel is entitled to a ~~memorandum of~~ credit or
35 refund, when the fuel is used for any purpose other than as

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

Sec. 37. Section 453A.13, subsection 10, Code 1993, is amended by striking the subsection.

Sec. 38. Section 453A.44, subsection 9, Code 1993, is amended by striking the subsection.

Sec. 39. Section 453B.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All assessments of taxes made pursuant to this chapter shall be considered jeopardy assessments or collections as provided in section 422.30. The director shall assess a tax, interest, and applicable penalties based on knowledge or information available to the director; ~~mail to~~ serve the taxpayer by regular mail at the taxpayer's last known address or ~~serve~~ in person, a written notice of the amount of tax, interest, and penalty~~; demand its immediate payment; and, if payment is not immediately made,~~ due, which notice may include a demand for immediate payment; and immediately proceed to collect the tax, interest, and penalty by any method prescribed in section 422.30. The period for examination, determination of amount of tax owed, and assessment is unlimited. Service of the notice by regular mail is complete upon mailing.

Sec. 40. Section 626.29, Code Supplement 1993, is amended to read as follows:

1 626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND
2 FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE
3 COMMISSIONER.
4 In the service of a distress warrant issued by the director
5 of revenue and finance for the collection of ~~income-tax,-sales~~
6 ~~tax,-motor-vehicle-fuel-tax,-freight-line-and-equipment-car~~
7 ~~tax,-hotel-and-motel-tax,-or-use-tax~~ taxes administered by or
8 debts to be collected by the department of revenue and
9 finance, in the service of a distress warrant issued by the
10 director of inspections and appeals for the collection of
11 overpayment debts owed to the department of human services, or
12 in the service of a distress warrant issued by the job service
13 commissioner of the department of employment services for the
14 collection of employment security contributions, the property
15 of the taxpayer or the employer in the possession of another,
16 or debts due the taxpayer or the employer, may be reached by
17 garnishment.
18 Sec. 41. Section 633.272, Code 1993, is amended to read as
19 follows:
20 633.272 PARTIAL INTESTACY.
21 If part but not all of the estate of a decedent is validly
22 disposed of by will, the part not disposed of by will shall be
23 distributed as provided herein for intestate estates. If the
24 testator left a surviving spouse, and the spouse does not
25 elect to take against the will, ~~such~~ the spouse shall receive,
26 in addition to the property given to the spouse by the will,
27 ~~one-third~~ all of the intestate property~~,-and-that-one-third~~
28 which shall be subject to the payment of its proportionate
29 share of debts and charges against the estate.
30 Sec. 42. Sections 8 and 14 of this Act apply retroactively
31 to July 1, 1993.
32 Sec. 43. Section 12 of this Act applies retroactively to
33 January 1, 1994, for net operating losses in tax years
34 beginning on or after that date.
35 Sec. 44. Section 13 of this Act applies retroactively to

1 January 1, 1994, for distributions from qualified pension
2 plans made on or after that date.
3 Sec. 45. Section 15 of this Act applies retroactively to
4 January 1, 1994, for tax years beginning on or after that
5 date.
6 Sec. 46. Section 31 of this Act applies to the estates of
7 decedents dying on or after July 1, 1994.
8 Sec. 47. Sections 25, 26, and 29 of this Act take effect
9 January 1, 1995, for claims filed on or after that date.
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SENATE FILE 2057

H-5593

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 6, by inserting after line 10 the
4 following:
5 "Sec. 106. Section 422.7, Code Supplement 1993, is
6 amended by adding the following new subsection:
7 NEW SUBSECTION. 29. For a person who is disabled,
8 or is fifty-five years of age or older, or is the
9 surviving spouse of an individual or a survivor having
10 an insurable interest in an individual who would have
11 qualified for the exemption under this subsection for
12 the tax year, subtract, to the extent included, the
13 total amount of a governmental or other pension,
14 retirement pay, annuity, or other similar periodic
15 payment made under a plan maintained or contributed to
16 by an employer, or maintained and contributed to by a
17 self-employed person as an employer, up to a maximum
18 of three thousand dollars for a person who files a
19 separate state income tax return, and up to a maximum
20 of six thousand dollars for a husband and wife who
21 file a joint state income tax return. However, a
22 surviving spouse who is not disabled or fifty-five
23 years of age or older can only exclude the amount of
24 annuities or other similar periodic payments received
25 as a result of the death of the other spouse."
26 2. Page 17, line 3, by inserting after the figure
27 "15" the following: "and section 106".
28 3. Page 17, line 3, by striking the word
29 "applies" and inserting the following: "apply".
30 4. By renumbering and correcting internal
31 references as necessary.

By HANSEN of Woodbury

H-5593 FILED MARCH 22, 1994

Withdrawn 4/19/94 (P. 1948)

SENATE FILE 2057

H-5594

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 10, by inserting after line 13 the
4 following:
5 "Sec. ___. Section 422.73, Code 1993, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 8. Notwithstanding subsection 2,
8 a claim for credit or refund of individual income tax
9 paid for any tax year beginning on or after January 1,
10 1985, and before January 1, 1989, is considered timely
11 if filed with the department on or before April 30,
12 1995, if the taxpayer's claim is the result of the
13 unconstitutional taxation of federal pension benefits
14 based upon the decision in Davis v. Michigan
15 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500
16 (1989).
17 A taxpayer entitled to a credit or refund of tax
18 paid under this subsection shall receive the credit or
19 refund within the time frame used for other retired
20 federal employees claiming a credit or refund of tax
21 unlawfully imposed on their federal pensions during
22 the same tax years."

By O'BRIEN of Boone

H-5594 FILED MARCH 22, 1994

Withdrawn 4/19/94

SENATE FILE 2057

H-5598

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 1. Section 8.59, Code Supplement 1993, is
6 amended to read as follows:
7 8.59 APPROPRIATIONS FREEZE.
8 Notwithstanding contrary provisions of the Code,
9 the amounts appropriated under the applicable sections
10 of the Code for fiscal years commencing on or after
11 July 1, 1993, are limited to those amounts expended
12 under those sections for the fiscal year commencing
13 July 1, 1992. If an applicable section appropriates
14 moneys to be distributed to different recipients and
15 the operation of this section reduces the total amount
16 to be distributed under the applicable section, the
17 moneys shall be prorated among the recipients. As
18 used in this section, "applicable sections" means the
19 following sections: 53.50, 229.35, 230.8, 230.11,
20 405A.8, 411.20, 425.1, ~~425.39,~~ 426A.1, 663.44, and
21 822.5."
22 2. Page 6, by inserting after line 10 the
23 following:
24 "Sec. 206. Section 422.9, subsection 1, Code 1993,
25 is amended to read as follows:
26 1. An optional standard deduction, after deduction
27 of federal income tax, equal to one thousand two
28 hundred thirty dollars for a married person who files
29 separately or a single person or equal to three
30 thousand thirty dollars for a husband and wife who
31 file a joint return, a surviving spouse, or an
32 unmarried head of household. The optional standard
33 deduction shall not exceed the amount remaining after
34 deduction of the federal income tax. The amount of
35 the federal income tax deducted shall not exceed the
36 amount as computed under subsection 2, paragraph "b".
37 Sec. 207. Section 422.9, subsection 2, paragraph
38 b, Code 1993, is amended by striking the paragraph and
39 inserting in lieu thereof the following:
40 b. Add the amount of federal income taxes paid or
41 accrued, as the case may be, for the tax year. Also
42 add the amount of federal income taxes paid with the
43 federal return or as a result of an adjustment to a
44 federal return during the tax year for a prior year.
45 However, the amount of federal income taxes deducted
46 for the tax year shall not exceed the following
47 amounts:
48 (1) For single individuals, three hundred twenty-
49 five thousand dollars.
50 (2) For married persons who file a joint state

1 income tax return, or who file separately on
2 individual returns, or who file separately on a
3 combined return, five hundred fifty thousand dollars.
4 (3) For an unmarried head of household, four
5 hundred fifty thousand dollars.
6 However, any additional taxes paid with the federal
7 return or as a result of an adjustment to a federal
8 return during tax years ending prior to January 1,
9 1993, are not subject to the dollar limitation.
10 Subtract the amount of federal income tax refunds
11 received for the tax year to the extent that the
12 federal income tax was deducted in a previous year.
13 Married persons who file separate returns or file
14 separately on combined return forms shall be limited
15 to a federal income tax deduction for federal income
16 taxes paid during the tax year not to exceed five
17 hundred fifty thousand dollars in total for both
18 spouses. The amount of the federal income tax
19 deduction shall be divided between each spouse by the
20 ratio of federal adjusted gross income of each spouse
21 to total federal adjusted gross income of both spouses
22 unless they can show that another method more
23 accurately reflects the amount of federal income tax
24 to be paid by each.
25 Sec. 506. Section 422.12, subsection 1, paragraph
26 c, Code 1993, is amended to read as follows:
27 c. For each dependent, an additional ~~fifteen~~ forty
28 dollars. As used in this section, the term
29 "dependent" has the same meaning as provided by the
30 Internal Revenue Code."
31 3. Page 11, by inserting after line 29 the
32 following:
33 "Sec. 703. Section 425.39, Code Supplement 1993,
34 is amended to read as follows:
35 425.39 FUND CREATED -- APPROPRIATION -- PRIORITY,
36 PRORATION.
37 1. The extraordinary property tax credit and
38 reimbursement fund is created. There is appropriated
39 annually from the general fund of the state to the
40 department of revenue and finance to be credited to
41 the extraordinary property tax credit and
42 reimbursement fund, from funds not otherwise
43 appropriated, ~~an amount sufficient to implement this~~
44 ~~division~~ twelve million eight hundred thousand
45 dollars.
46 2. If the amount appropriated under subsection 1,
47 ~~as limited by section 8.59,~~ plus any supplemental
48 appropriation made for purposes of this section for a
49 fiscal year is insufficient to pay all claims in full,
50 the director shall pay, in full, all claims to be paid

H-5598
Page 3

1 during the fiscal year for reimbursement of rent
2 constituting property taxes paid or if moneys are
3 insufficient to pay all such claims on a pro rata
4 basis. If the amount of claims for credit for
5 property taxes due to be paid during the fiscal year
6 exceed the amount remaining after payment to renters,
7 the director of revenue and finance shall prorate the
8 payments to the counties for the property tax credit.
9 In order for the director to carry out the
10 requirements of this subsection, notwithstanding any
11 provision to the contrary in this division, claims for
12 reimbursement for rent constituting property taxes
13 paid filed before May 1 of the fiscal year shall be
14 eligible to be paid in full during the fiscal year and
15 those claims filed on or after May 1 of the fiscal
16 year shall be eligible to be paid during the following
17 fiscal year and the director is not required to make
18 payments to counties for the property tax credit
19 before June 15 of the fiscal year."
20 4. Page 17, line 3, by inserting after the figure
21 "15" the following: "and sections 206, 207, and 506".
22 5. Page 17, line 3, by striking the word
23 "applies" and inserting the following: "apply".
24 6. Page 17, by inserting after line 9 the
25 following:
26 "Sec. ___. Section 703 of this Act which amends
27 section 425.39, applies to property tax credit claims
28 for taxes payable on or after July 1, 1994, and to
29 rent reimbursement claims filed on or after January 1,
30 1995."
31 7. By renumbering and correcting internal
32 references as necessary.

By BERNAU of Story

H-5598 FILED MARCH 22, 1994

Not Germane
4-19-94

SENATE FILE 2057

-5629

1 Amend the amendment, H-5594, to Senate File 2057,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, lines 11 and 12, by striking the word
5 and figures "April 30, 1995" and inserting the
6 following: "August 1, 1994".
7 2. Page 1, by striking lines 19 through 22 and
8 inserting the following: "refund within four years.
9 The amount of credit or refund shall be equally spread
10 over those four years. Any claims for refund shall be
11 payable from the special refund account established in
12 section 422.105.
13 Sec. ___. NEW SECTION. 422.105 SPECIAL REFUND
14 ACCOUNT.
15 The department shall establish a special refund
16 account for the purpose of paying the refund claims of
17 federal retirees pursuant to section 422.73,
18 subsection 8. There is appropriated annually from the
19 general fund of the state an amount sufficient to pay
20 the refund claims of these federal retirees.""

By O'BRIEN of Boone

H-5629 FILED MARCH 23, 1994

out of order 4/19/94

SENATE FILE 2057

H-6230

1 Amend Senate File 2057 as follows:
2 1. Page 6, by inserting after line 21 the
3 following:
4 "Sec. 510. Section 422.16, subsection 1, Code
5 1993, is amended by adding the following new
6 unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. For the purposes of this
8 subsection, state income tax at the rate of six
9 percent shall be withheld from supplemental wages of
10 employees in those circumstances in which the employer
11 treats the supplemental wages as wholly separate from
12 regular wages for purposes of withholding and federal
13 income tax is withheld from the supplemental wages
14 under section 3402(g) of the Internal Revenue Code."
15 2. Page 17, line 3, by striking the word and
16 figure "Section 15" and inserting the following:
17 "Sections 15 and 510".
18 3. Page 17, line 3, by striking the word
19 "applies" and inserting the following: "apply".
20 4. By renumbering as necessary.

By MILLAGE of Scott

H-6230 FILED APRIL 15, 1994

adopted 4/19/94 (p. 1948)

SENATE FILE 2057

H-5606

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 15, by inserting after line 14 the
4 following:
5 "Sec. 160. Section 453A.42, subsection 5,
6 paragraph c, Code 1993, is amended to read as follows:
7 c. Either weighs not more than ~~three~~ four pounds
8 per thousand, irrespective of retail price, or weighs
9 more than ~~three~~ four pounds per thousand and has a
10 retail price of not more than ~~two-and-one-half~~ four
11 cents per little cigar. For purposes of this
12 subsection, the retail price is the ordinary retail
13 price in this state, not including retail sales tax,
14 use tax, or the tax on little cigars imposed by
15 section 453A.43."
16 2. Page 17, by inserting after line 9 the
17 following:
18 "Sec. ___. Section 160 of this Act, being deemed
19 of immediate importance, takes effect upon enactment."

By HANSON of Delaware

H-5606 FILED MARCH 23, 1994

Withdrawn 4/19/94

SENATE FILE 2057

H-5607

1 Amend the amendment, H-5594, to Senate File 2057,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, lines 11 and 12, by striking the word
5 and figures "April 30, 1995" and inserting the
6 following: "August 1, 1994".
7 2. Page 1, by striking lines 19 through 22 and
8 inserting the following: "refund within four years.
9 Any claims for refund shall be payable from the
10 federal retirees refund account, to the extent funds
11 are available, as established in section 422.105.
12 Sec. ___. NEW SECTION. 422.105 FEDERAL RETIREES
13 REFUND ACCOUNT.
14 The department shall establish a federal retirees
15 refund account for the purpose of paying the refund
16 claims of federal retirees pursuant to section 422.73,
17 subsection 8. Funds in the account shall be as a
18 result of a line item appropriation. If funds in the
19 account are insufficient to pay all refund claims, the
20 department shall prorate the available funds.""

By RANTS of Woodbury

H-5607 FILED MARCH 23, 1994

Out of Order 4-19-94

SENATE FILE 2057

H-6326

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 16, by inserting after line 29 the
4 following:
5 "Sec. ___. 1994 Iowa Acts, House File 2180,
6 section 9, subsection 2, is amended to read as
7 follows:
8 2. For purposes of this section, "improvements"
9 include new construction and rehabilitation of and
10 additions to existing structures. The exemption shall
11 apply to all taxing districts in which the real
12 property is located.
13 Sec. ___. 1994 Iowa Acts, House File 2180, section
14 12, is amended to read as follows:
15 SEC. 12. NEW SECTION. 15.335 RESEARCH ACTIVITIES
16 CREDIT.
17 An eligible business may claim a corporate tax
18 credit for increasing research activities in this
19 state during the period the eligible business is
20 participating in the program. The credit equals six
21 and one-half percent of the state's apportioned share
22 of the qualifying expenditures for increasing research
23 activities. The state's apportioned share of the
24 qualifying expenditures for increasing research
25 activities is a percent equal to the ratio of
26 qualified research expenditures in this state to total
27 qualified research expenditures. The credit allowed
28 in this section is in addition to the credit
29 authorized in section 422.33, subsection 5. If the
30 eligible business is a partnership, subchapter S
31 corporation, limited liability company, or estate or
32 trust electing to have the income taxed directly to
33 the individual, an individual may claim the tax credit
34 allowed. The amount claimed by the individual shall
35 be based upon the pro rata share of the individual's
36 earnings of the partnership, subchapter S corporation,
37 limited liability company, or estate or trust. For
38 purposes of this section, "qualifying expenditures for
39 increasing research activities" means the qualifying
40 expenditures as defined for the federal credit for
41 increasing research activities which would be
42 allowable under section 41 of the Internal Revenue
43 Code in effect on January 1, 1994.
44 A credit in excess of the tax liability for the tax
45 year may be credited to the tax liability for the
46 following seven years or until depleted, whichever
47 comes first."

By HANSON of Delaware

H-6326 FILED APRIL 19, 1994

adopted 4-19-94 (P. 1949)

SENATE FILE 2057

H-5854

1 Amend the amendment, H-5594, to Senate File 2057,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 1, by striking lines 3 through 22 and
5 inserting the following:
6 "___. Page 10, by inserting after line 13 the
7 following:
8 "Sec. ___. Section 422.73, Code 1993, is amended
9 by adding the following new subsection:
10 NEW SUBSECTION. 8. Notwithstanding subsection 2,
11 a claim for credit or refund of individual income tax
12 paid for any tax year beginning on or after January 1,
13 1985, and before January 1, 1989, is considered timely
14 if filed with the department on or before April 30,
15 1995, if the taxpayer's claim is the result of the
16 unconstitutional taxation of federal pension benefits
17 based upon the decision in Davis v. Michigan
18 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500
19 (1989).
20 A taxpayer entitled to a credit or refund of tax
21 paid under this subsection shall receive the credit or
22 refund within four years. The amount of credit or
23 refund shall be equally spread over those four years.
24 Any claims for refund shall be payable from the
25 special refund account established in section 422.105.
26 The department shall state on the actual tax form for
27 the next four tax years a notice that federal retirees
28 may be entitled to a credit or refund under the
29 provisions of this subsection.
30 Sec. ___. NEW SECTION. 422.105 SPECIAL REFUND
31 ACCOUNT.
32 The department shall establish a special refund
33 account for the purpose of paying the refund claims of
34 federal retirees pursuant to section 422.73,
35 subsection 8. Beginning with the fiscal year
36 beginning July 1, 1994, there is appropriated annually
37 from the general fund of the state an amount
38 sufficient to pay the refund claims of these federal
39 retirees.""

By O'BRIEN of Boone
HENDERSON of Scott

H-5854 FILED MARCH 30, 1994

out of order
4-19-94

SENATE FILE 2057

H-5597

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 001. Section 321.109, subsection 1, Code
6 Supplement 1993, is amended to read as follows:
7 1. a. The annual fee for all motor vehicles
8 including vehicles designated by manufacturers as
9 station wagons, ~~and 1993 and subsequent model years~~
10 ~~for multipurpose vehicles,~~ except motor trucks, motor
11 homes, ambulances, hearses, motorcycles, motor
12 bicycles, and ~~1992 and older model years for~~
13 multipurpose vehicles, shall be equal to one percent
14 of the value as fixed by the department plus forty
15 cents for each one hundred pounds or fraction thereof
16 of weight of vehicle, as fixed by the department. The
17 weight of a motor vehicle, fixed by the department for
18 registration purposes, shall include the weight of a
19 battery, heater, bumpers, spare tire, and wheel.
20 ~~Provided, however, that for~~
21 b. For any new vehicle purchased in this state by
22 a nonresident for removal to the nonresident's state
23 of residence, the purchaser may make application to
24 the county treasurer in the county of purchase for a
25 transit plate for which a fee of ten dollars shall be
26 paid. ~~And provided, however, that for~~ For any used
27 vehicle held by a registered dealer and not currently
28 registered in this state, or for any vehicle held by
29 an individual and currently registered in this state,
30 when purchased in this state by a nonresident for
31 removal to the nonresident's state of residence, the
32 purchaser may make application to the county treasurer
33 in the county of purchase for a transit plate for
34 which a fee of three dollars shall be paid. The
35 county treasurer shall issue a nontransferable
36 certificate of registration for which no refund shall
37 be allowed; and the transit plates shall be void
38 thirty days after issuance. Such purchaser may apply
39 for a certificate of title by surrendering the
40 manufacturer's or importer's certificate or
41 certificate of title, duly assigned as provided in
42 this chapter. In this event, the treasurer in the
43 county of purchase shall, when satisfied with the
44 genuineness and regularity of the application, and
45 upon payment of a fee of ten dollars, issue a
46 certificate of title in the name and address of the
47 nonresident purchaser delivering the same to the
48 person entitled to the title as provided in this
49 chapter. ~~The provisions of this subsection relating~~
50 ~~to multipurpose vehicles are effective January 1,~~

~~1993, for all 1993 and subsequent model years. The annual registration fee for multipurpose vehicles that are 1992 model years and older shall be in accordance with section 321.124.~~

~~The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a disabled person who is either the owner or a member of the owner's household in entry and exit of the vehicle or for a multipurpose vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be sixty dollars. For purposes of this unnumbered paragraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.~~

Sec. 002. Section 321.124, subsection 3, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The annual registration fee for motor homes and ~~1992 and older model years for~~ multipurpose vehicles is as follows:

Sec. 003. Section 321.124, subsection 3, paragraph h, Code Supplement 1993, is amended to read as follows:

h. For multipurpose vehicles in accordance with the following:

~~(1) Two hundred dollars for registration for the first and second model years.~~

~~(2) One hundred seventy-five dollars for registration for the third and fourth model years.~~

~~(3) One hundred fifty dollars for registration for the fifth model year.~~

~~(4)~~ (1) Seventy-five dollars for registration for ~~the sixth model~~ each year through five model years.

~~(5)~~ (2) Fifty-five dollars for registration for each succeeding model year.

~~(6) The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a disabled person who is either the owner or a member of the owner's household in entry and exit of the vehicle or for a multipurpose vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be sixty dollars. For purposes of this subparagraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.~~

~~The registration fees required by this lettered~~

H-5597
Page 3

1 ~~paragraph-are-applicable-to-all-1992-and-older-model~~
2 ~~years-for-multipurpose-vehicles-beginning-January-1,~~
3 ~~1993.--The-registration-fees-for-multipurpose-vehicles~~
4 ~~that-are-1993-and-subsequent-model-years-shall-be-in~~
5 ~~accordance-with-section-321.109.~~
6 ~~---For-purposes-of-determining-that-portion-of-the~~
7 ~~annual-registration-fee-which-is-based-upon-the-value~~
8 ~~of-the-multipurpose-vehicle,-sixty-percent-of-the~~
9 ~~annual-fee-is-attributable-to-the-value-of-the~~
10 ~~vehicle.~~"
11 2. Page 6, by inserting after line 10 the
12 following:
13 "Sec. 401. Section 422.9, subsection 2, paragraphs
14 g and h, Code 1993, are amended by striking the
15 paragraphs."
16 3. Page 8, by inserting after line 8 the
17 following:
18 "Sec. 501. Section 422.35, subsection 15, Code
19 1993, is amended by striking the subsection."
20 4. Page 17, by inserting after line 9 the
21 following:
22 "Sec. ___. Sections 001, 002, 003, 401, and 501 of
23 this Act take effect January 1, 1995, and are
24 applicable to tax years beginning on or after January
25 1, 1995."
26 5. By renumbering and correcting internal
27 references as necessary.

By BERNAU of Story

H-5597 FILED MARCH 22, 1994

Withdrawn
4-19-94 (p1947)

HOUSE AMENDMENT TO
SENATE FILE 2057

S-5760

1 Amend Senate File 2057, as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 6, by inserting after line 21 the
4 following:
5 "Sec. 510. Section 422.16, subsection 1, Code
6 1993, is amended by adding the following new
7 unnumbered paragraph:
8 NEW UNNUMBERED PARAGRAPH. For the purposes of this
9 subsection, state income tax at the rate of six
10 percent shall be withheld from supplemental wages of
11 employees in those circumstances in which the employer
12 treats the supplemental wages as wholly separate from
13 regular wages for purposes of withholding and federal
14 income tax is withheld from the supplemental wages
15 under section 3402(g) of the Internal Revenue Code."
16 2. Page 16, by inserting after line 29 the
17 following:
18 "Sec. ___. 1994 Iowa Acts, House File 2180,
19 section 9, subsection 2, is amended to read as
20 follows:
21 2. For purposes of this section, "improvements"
22 include new construction and rehabilitation of and
23 additions to existing structures. The exemption shall
24 apply to all taxing districts in which the real
25 property is located.
26 Sec. ___. 1994 Iowa Acts, House File 2180, section
27 12, is amended to read as follows:
28 SEC. 12. NEW SECTION. 15.335 RESEARCH ACTIVITIES
29 CREDIT.
30 An eligible business may claim a corporate tax
31 credit for increasing research activities in this
32 state during the period the eligible business is
33 participating in the program. The credit equals six
34 and one-half percent of the state's apportioned share
35 of the qualifying expenditures for increasing research
36 activities. The state's apportioned share of the
37 qualifying expenditures for increasing research
38 activities is a percent equal to the ratio of
39 qualified research expenditures in this state to total
40 qualified research expenditures. The credit allowed
41 in this section is in addition to the credit
42 authorized in section 422.33, subsection 5. If the
43 eligible business is a partnership, subchapter S
44 corporation, limited liability company, or estate or
45 trust electing to have the income taxed directly to
46 the individual, an individual may claim the tax credit
47 allowed. The amount claimed by the individual shall
48 be based upon the pro rata share of the individual's
49 earnings of the partnership, subchapter S corporation,
50 limited liability company, or estate or trust. For

S-5760
Page 2
1 purposes of this section, "qualifying expenditures for
2 increasing research activities" means the qualifying
3 expenditures as defined for the federal credit for
4 increasing research activities which would be
5 allowable under section 41 of the Internal Revenue
6 Code in effect on January 1, 1994.
7 A credit in excess of the tax liability for the tax
8 year may be credited to the tax liability for the
9 following seven years or until depleted, whichever
10 comes first."
11 3. Page 17, line 3, by striking the word and
12 figure "Section 15" and inserting the following:
13 "Sections 15 and 510".
14 4. Page 17, line 3, by striking the word
15 "applies" and inserting the following: "apply".
16 5. By renumbering, relettering, or redesignating
17 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5760 FILED APRIL 19, 1994
CONCURRED

Rosenberg - Chair
Lulubery
Drake

SSB-2027
Ways + Means

SENATE FILE 2057
BY (PROPOSED COMMITTEE ON WAYS AND MEANS BILL BY CHAIRPERSON DIELEMAN)

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

A BILL FOR

1 An Act relating to the procedures, requirements, liability, and
2 penalties for the imposition and collection of state taxes,
3 refund and credit claims, and state finances and providing
4 effective and retroactive applicability date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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TLSB 3462SC 75
mg/jw/5

1 Section 1. Section 421.4, Code 1993, is amended to read as
2 follows:
3 421.4 DEPUTIES.
4 The director may appoint deputy directors and may designate
5 one or more of the deputies as acting director. A deputy
6 designated to serve in the absence of the director has all of
7 the powers possessed by the director. The director may employ
8 certified public accountants, engineering and technical
9 assistants, and other employees necessary to protect the
10 interests of the state and any political subdivision. ~~All~~
11 ~~independent-contracts-and-fees-provided-for-in-this-section~~
12 ~~are-subject-to-the-approval-of-the-governor.~~
13 Sec. 2. Section 421.5, Code 1993, is amended to read as
14 follows:
15 421.5 SETTLING DOUBTFUL CLAIMS FOR TAXES.
16 The director may compromise and settle doubtful and
17 disputed claims for taxes <u>or refunds</u> or tax liability of
18 doubtful collectibility notwithstanding the provisions of
19 section 7D.9. Whenever such a compromise and settlement is
20 made ~~or-any-other-compromise-and-settlement-in-excess-of-the~~
21 ~~director's-authority-is-made~~, the director shall make a
22 complete record of the case showing the tax assessed <u>or</u>
23 <u>claimed due, tax refund claimed</u>, recommendations, reports, and
24 audits of departmental personnel if any, the taxpayer's
25 grounds for dispute or contest together with all evidence
26 thereof, and the amounts, conditions, and settlement or
27 compromise of same.
28 Sec. 3. Section 421.9, unnumbered paragraph 1, Code 1993,
29 is amended to read as follows:
30 ~~The~~ <u>Immediately upon issuance of a distress warrant</u>
31 <u>authorized by section 422.26, the</u> director may make
32 application to the district court or judicial magistrate for
33 an administrative search warrant as authorized by section
34 808.14 to execute ~~a~~ <u>the</u> distress warrant ~~authorized-by-section~~
35 ~~422.26~~.

1 Sec. 4. Section 421.17, subsection 5, Code Supplement
2 1993, is amended to read as follows:
3 5. To direct proceedings, actions, and prosecutions to be
4 instituted for the enforcement of the laws relating to the
5 penalties, liabilities, and punishment of public officers, and
6 officers or agents of corporations, and other persons or
7 corporations, for failure or neglect to comply with the
8 provisions of the statutes governing the return, assessment
9 and taxation of property; to make or cause to be made
10 complaints against members of boards of review, boards of
11 supervisors or other assessing, reviewing, or taxing officers
12 for official misconduct or neglect of duty. ~~Provided, that~~
13 ~~employees~~ Employees of the department of revenue and finance
14 shall not during their regular hours of employment engage in
15 the preparation of tax returns ~~for individuals~~, except in
16 connection with a regular audit ~~thereof~~ of a tax return or in
17 connection with assistance requested by the taxpayer.
18 Sec. 5. Section 421.17, subsection 10, unnumbered
19 paragraph 2, Code Supplement 1993, is amended to read as
20 follows:
21 The director may correct obvious errors or obvious
22 injustices in the assessment of any individual property, but
23 the director shall not reduce the valuation of any individual
24 property except upon the recommendation of the local board of
25 review and ~~no~~ an order of the director affecting any valuation
26 shall not be retroactive as to any reduction or increase in
27 taxes payable prior to January 1 of the year in which ~~such~~
28 that order is issued, or prior to September 1 of the preceding
29 year in cities under special charter which collect their own
30 municipal levies. The director shall not correct errors or
31 injustices under the authority of this paragraph if that
32 correction would involve the exercise of judgment. Judicial
33 review of the actions of the director may be sought in
34 accordance with the terms of the Iowa administrative procedure
35 Act.

1 Sec. 6. Section 421.17, subsection 22, Code Supplement
2 1993, is amended to read as follows:
3 22. To employ collection agencies, within or without the
4 state, to collect delinquent taxes, including penalties and
5 interest, administered by the department or delinquent
6 accounts, charges, loans, fees or other indebtedness due the
7 state or any state agency, that have formal agreements with
8 the department for central debt collection where the director
9 finds that departmental personnel are unable to collect the
10 delinquent accounts, charges, loans, fees, or other
11 indebtedness because of a ~~taxpayer's~~ debtor's location outside
12 the state or for any other reason. Fees for services,
13 reimbursement, or other remuneration, including attorney fees,
14 paid to collection agencies shall be based upon the amount of
15 tax, penalty, and interest or debt actually collected and
16 shall be paid only after the amount of tax, penalty, and
17 interest or debt is collected. All funds collected must be
18 remitted in full to the department within thirty days from the
19 date of collection from a ~~taxpayer~~ debtor or in a lesser time
20 as the director prescribes. The funds shall be applied toward
21 the ~~taxpayer's~~ debtor's account and handled as are funds
22 received by other means. An amount is appropriated from the
23 amount of tax, penalty, and interest, delinquent accounts,
24 charges, loans, fees, or other indebtedness actually collected
25 by the collection agency sufficient to pay all fees for
26 services, reimbursement, or other remuneration pursuant to a
27 contract with a collection agency under this subsection. A
28 collection agency entering into a contract with the department
29 for the collection of delinquent taxes, penalties, and
30 interests, delinquent accounts, charges, loans, fees, or other
31 indebtedness pursuant to this subsection is subject to the
32 requirements and penalties of ~~tax information~~ the
33 confidentiality laws of this state regarding tax or
34 indebtedness information. ~~All contracts and fees provided for~~
35 ~~in this subsection are subject to the approval of the~~

1 governor.
2 Sec. 7. Section 421.23, Code 1993, is amended to read as
3 follows:
4 421.23 FEES AND MILEAGE.
5 The fees and mileage of witnesses attending any hearing of
6 the department, including contested case hearings, pursuant to
7 any subpoena, shall be the same as those of witnesses in civil
8 cases in district court.
9 Sec. 8. Section 421.26, Code 1993, is amended to read as
10 follows:
11 421.26 PERSONAL LIABILITY FOR TAX DUE.
12 If a licensee or other person under section 452A.65, a
13 retailer or purchaser under chapter 422A or 422B, or section
14 422.52, or a retailer or purchaser under section 423.13 or a
15 user under section 423.14 fails to pay a tax under those
16 sections when due, an officer of a corporation or association,
17 notwithstanding sections 490A.601 and 490A.602, a member or
18 manager of a limited liability company, or a partner of a
19 partnership, having control or supervision of or the authority
20 for remitting the tax payments and having a substantial legal
21 or equitable interest in the ownership of the corporation,
22 association, limited liability company, or partnership, who
23 has intentionally failed to pay the tax is personally liable
24 for the payment of the tax, interest, and penalty due and
25 unpaid. However, this section shall not apply to taxes on
26 accounts receivable. The dissolution of a corporation,
27 association, limited liability company, or partnership shall
28 not discharge a person's liability for failure to remit the
29 tax due.
30 Sec. 9. Section 421.27, subsection 1, Code 1993, is
31 amended by adding the following new paragraph:
32 NEW PARAGRAPH. 1. If the availability of funds in payment
33 of tax required to be made through electronic funds transfer
34 is delayed and the delay of availability is due to reasons
35 beyond the control of the taxpayer. "Electronic funds

transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal telephone, computer, magnetic tape, or similar device for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Sec. 10. NEW SECTION. 421.29 REGISTRATIONS.

For purposes of the provisions of the Code which are administered by the department, "permit" or "license" includes registration. Unless otherwise specifically provided, the director shall determine by rule the circumstances for which registrations shall be issued and displayed.

Sec. 11. Section 421.45, Code 1993, is amended to read as follows:

421.45 CANCELLATION OF STATE WARRANTS.

~~The~~ On the last business day of each month, the director of the department of revenue and finance~~,-as-of-March-31,-June 30,-September-30,-and-December-31-of-each-year~~ shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the state treasurer for six months or longer.

Sec. 12. Section 422.7, subsection 21, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The net capital gain of paragraphs "a", "b", "c", and "d" together shall not exceed seventeen thousand five hundred dollars for the tax year. Married taxpayers who elect separate filing on a combined return for state tax purposes are treated as one taxpayer and the amount of net capital gain to be used to determine the total amount to be subtracted by them shall not exceed seventeen thousand five hundred dollars in the aggregate. Married taxpayers who file jointly or separately on a combined return shall prorate the seventeen thousand five hundred dollar limitation between them based on the ratio of each spouse's net capital gain to the total net

1 capital gain of both spouses. In the case of married
2 taxpayers filing separate returns, the amount of net capital
3 gain to be used to determine the amount to be subtracted by
4 each spouse shall not exceed eight thousand seven hundred
5 fifty dollars. However, to the extent otherwise allowed, the
6 deduction provided in this subsection is not allowed for
7 purposes of computation of a net operating loss in section
8 422.9, subsection 3, and in computing the income for the
9 taxable year or years to which a net operating loss is
10 deducted.
11 Sec. 13. Section 422.16, subsection 1, unnumbered
12 paragraph 3, Code 1993, is amended to read as follows:
13 For the purposes of this subsection, state income tax shall
14 be withheld from pensions, annuities, other similar periodic
15 payments, and other income payments of those persons whose
16 primary residence is in Iowa in those circumstances in which
17 those persons have federal income tax withheld from pensions,
18 annuities, other similar periodic payments, and other income
19 payments under sections 3402(o), 3402(p), 3402(s), 3405(a),
20 and 3405(b), and 3405(c) of the Internal Revenue Code at a
21 rate to be specified by the department.
22 Sec. 14. Section 422.16, subsection 4, Code 1993, is
23 amended to read as follows:
24 4. Every withholding agent who fails to withhold or pay to
25 the department any sums required by this chapter to be
26 withheld and paid, shall be personally, individually, and
27 corporately liable therefor to the state of Iowa, and any sum
28 or sums withheld in accordance with the provisions of
29 subsections 1 and 12 hereof, shall be deemed to be held in
30 trust for the state of Iowa. Notwithstanding sections
31 490A.601 and 490A.602, this subsection applies to a member or
32 manager of a limited liability company.
33 Sec. 15. Section 422.21, Code 1993, is amended by adding
34 the following new unnumbered paragraph:
35 NEW UNNUMBERED PARAGRAPH. If married taxpayers file a

joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) of the Internal Revenue Code.

Sec. 16. Section 422.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law~~,-and-demand-payment-thereof-from the-taxpayer. If-such-payment-is-not-made,-a~~ The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against ~~such~~ the taxpayer immediately.

Sec. 17. Section 422.32, subsection 4, Code 1993, is amended to read as follows:

4. ~~The-word-"corporation"~~ "Corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~other-than-limited-liability-companies,~~ and publicly traded partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 18. Section 422.33, subsection 1A, Code Supplement 1993, is amended to read as follows:

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, ~~subsections~~ subsection 2 ~~through-6~~, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business

1 income computed in accordance with the Internal Revenue Code
2 and with the adjustments set forth in section 422.35.
3 Sec. 19. Section 422.34, subsections 2 through 6, Code
4 1993, are amended by striking the subsections and inserting in
5 lieu thereof the following:
6 2. An organization described in section 501 of the
7 Internal Revenue Code unless the exemption is denied under
8 section 501, 502, 503, or 504 of the Internal Revenue Code.
9 Sec. 20. Section 422.42, subsection 15, unnumbered
10 paragraph 2, Code 1993, is amended to read as follows:
11 "Services used in the processing of tangible personal
12 property" includes the reconditioning or repairing of tangible
13 personal property of the type normally sold in the regular
14 course of the retailer's business and which is held for sale
15 ~~upon-which-the-gross-receipts-tax-under-this-division-or-the~~
16 ~~use-tax-under-chapter-423-will-be-paid-when-the-tangible~~
17 ~~personal-property-is-sold~~.
18 Sec. 21. Section 422.43, subsection 13, Code Supplement
19 1993, is amended to read as follows:
20 13. a. A tax of five percent is imposed upon the gross
21 receipts from the sales, furnishing, or service of solid waste
22 collection and disposal service.
23 For purposes of this subsection, "solid waste" means
24 garbage, refuse, sludge from a water supply treatment plant or
25 air contaminant treatment facility, and other discarded waste
26 materials and sludges, in solid, semisolid, liquid, or
27 contained gaseous form, resulting from nonresidential
28 commercial operations, but does not include <u>auto hulks; street</u>
29 <u>sweepings; ash; construction debris; mining waste; trees;</u>
30 <u>tires; lead acid batteries; used oil;</u> hazardous waste; animal
31 waste used as fertilizer; earthen fill, boulders, rock;
32 foundry sand used for daily cover at a sanitary landfill;
33 sewage sludge; solid or dissolved material in domestic sewage
34 or other common pollutants in water resources, such as silt,
35 dissolved or suspended solids in industrial waste water

1 effluents or discharges which are point sources subject to
2 permits under section 402 of the federal Water Pollution
3 Control Act, dissolved materials in irrigation return flows;
4 or source, special nuclear, or by-product material defined by
5 the federal Atomic Energy Act of 1954.
6 A recycling facility that separates or processes recyclable
7 materials and that reduces the volume of the waste by at least
8 eighty-five percent is exempt from the tax imposed by this
9 subsection if the waste exempted is collected and disposed of
10 separately from other solid waste.
11 b. A person who transports ~~mixed-municipal~~ solid waste
12 generated by that person or another person without
13 compensation shall pay the tax imposed by this subsection at
14 the collection or disposal facility based on the disposal
15 charge or tipping fee. However, the costs of a service or ~~the~~
16 portion of a service to collect and manage recyclable
17 materials separated from ~~mixed-municipal~~ solid waste by the
18 waste generator is exempt from the tax imposed by this
19 subsection. ~~For-purposes-of-this-paragraph,-"mixed-municipal~~
20 ~~solid-waste"-means-garbage,-refuse,-and-other-solid-waste-from~~
21 ~~nonresidential-commercial-operations-which-is-generated-and~~
22 ~~collected-in-aggregate,-but-does-not-include-auto-hulks,~~
23 ~~street-sweepings,-ash,-construction-debris,-mining-waste,~~
24 ~~sludges,-tree-and-agricultural-wastes,-tires,-lead-acid~~
25 ~~batteries,-used-oil,-and-other-materials-collected,-processed,~~
26 ~~and-disposed-of-as-separate-waste-streams.~~
27 Sec. 22. Section 422.50, Code 1993, is amended to read as
28 follows:
29 422.50 RECORDS REQUIRED.
30 It shall be the duty of every retailer required to make a
31 report and pay any tax under this division, to preserve ~~such~~
32 those records of the gross proceeds of sales as the director
33 may require and it shall be the duty of every retailer to
34 preserve for a period of five years all invoices and other
35 records of goods, wares, ~~or~~ merchandise, or services purchased

1 for resale; and all ~~such~~ these books, invoices, and other
2 records shall be open to examination at any time by the
3 department, and shall be made available within this state for
4 ~~such~~ examination upon reasonable notice when the director
5 ~~shall-so-order~~ orders.
6 Sec. 23. Section 422.53, subsection 3, Code 1993, is
7 amended to read as follows:
8 3. The department shall grant and issue to each applicant
9 a permit for each place of business within the state. A
10 permit is not assignable and is valid only for the person in
11 whose name it is issued and for the transaction of business at
12 the place designated. ~~It-shall-at-all-times-be-conspicuously~~
13 ~~displayed-at-the-place-for-which-issued.~~
14 Sec. 24. Section 423.4, subsection 1, Code 1993, is
15 amended to read as follows:
16 1. Tangible personal property and enumerated services, the
17 gross receipts from the sale of which are required to be
18 included in the measure of the tax imposed by division IV of
19 chapter 422, ~~and-any-amendments-made-or-which-may-hereafter-be~~
20 ~~made-thereto~~ if that tax has been paid to the department or
21 paid to the retailer. This exemption does not include
22 vehicles subject to registration or subject only to the
23 issuance of a certificate of title.
24 Sec. 25. Section 425.17, subsection 6, Code Supplement
25 1993, is amended to read as follows:
26 6. "Household income" means all income of the claimant and
27 the claimant's spouse in a household and actual monetary
28 contributions received from any other household member or
29 nonmember living with the claimant during their respective
30 twelve-month income tax accounting periods ending with or
31 during the base year.
32 Sec. 26. Section 425.20, unnumbered paragraphs 1 and 2,
33 Code 1993, are amended to read as follows:
34 A claim for reimbursement for rent constituting property
35 taxes paid shall not be paid or allowed, unless the claim is

1 ~~actually~~ filed with and in the possession of the department of
2 revenue and finance on or before October 31 of the year
3 following the base year.
4 A claim for credit for property taxes due shall not be paid
5 or allowed unless the claim is ~~actually~~ filed with the county
6 treasurer between January 1 and June 1, both dates inclusive,
7 immediately preceding the fiscal year during which the
8 property taxes are due ~~and,-with-the-exception-of-a-claim~~
9 ~~filed-on-behalf-of-a-deceased-claimant-by-the-claimant's-legal~~
10 ~~guardian,-spouse,-or-attorney,-or-by-the-executor-or~~
11 ~~administrator-of-the-claimant's-estate,-contains-an-affidavit~~
12 ~~of-the-claimant's-intent-to-occupy-the-homestead-for-six~~
13 ~~months-or-more-during-the-fiscal-year-beginning-in-the~~
14 ~~calendar-year-in-which-the-claim-is-filed~~. The county
15 treasurer shall submit the claim to the director of revenue
16 and finance on or before August 1 of each year.
17 Sec. 27. Section 425.28, Code 1993, is amended to read as
18 follows:
19 425.28 WAIVER OF CONFIDENTIALITY.
20 A claimant shall expressly waive any right to
21 confidentiality relating to all income tax information
22 obtainable through the department of revenue and finance,
23 including all information covered by sections 422.20 and
24 422.72. This waiver shall apply to information available to
25 the county ~~or-city-assessor~~ treasurer who shall hold the
26 information confidential except that it may be used as
27 evidence to disallow the credit.
28 Sec. 28. Section 435.22, subsection 2, unnumbered
29 paragraph 1, Code 1993, is amended to read as follows:
30 If the owner of the mobile home is an Iowa resident, has
31 attained the age of ~~eighteen~~ twenty-three years on or before
32 December 31 of the base year, and has an income when included
33 with that of a spouse which is less than six thousand dollars
34 per year, the annual tax shall not be imposed on the mobile
35 home. If the income is six thousand dollars or more but less

1 than fourteen thousand dollars, the annual tax shall be
2 computed as follows:
3 Sec. 29. Section 450.4, subsection 2, Code Supplement
4 1993, is amended by striking the subsection and inserting in
5 lieu thereof the following:
6 2. When the property passes for a charitable, educational,
7 or religious purpose as defined in sections 170(c) and 2055 of
8 the Internal Revenue Code.
9 Sec. 30. Section 450.12, subsection 1, paragraph a, Code
10 1993, is amended to read as follows:
11 a. The debts owing by the decedent at the time of death,
12 the local and state taxes accrued before the decedent's death,
13 the federal estate tax and federal taxes owing by the
14 decedent, a reasonable sum for funeral expenses, the allowance
15 for surviving spouse and minor children granted by the probate
16 court or its judge, court costs, the costs of appraisement
17 made for the purpose of assessing the inheritance tax, the fee
18 of personal representatives as allowed by order of court, the
19 amount paid by the personal representatives for a bond, the
20 attorney's fee ~~in a reasonable amount to be~~ as determined
21 pursuant to sections 633.197, 633.198, and 633.199 and
22 approved by the court for the probate proceedings in the
23 estate, the costs of the sale of real estate or personal
24 property in the estate, including the real estate agent's
25 commission, and expenses for abstracting, documentary stamps,
26 and title correction expenses.
27 Sec. 31. Section 450.53, Code 1993, is amended to read as
28 follows:
29 450.53 DUTY ~~OF PERSONAL REPRESENTATIVES~~ TO PAY TAX --
30 PENALTIES.
31 1. All personal representatives, except guardians and
32 conservators, and other persons charged with the management or
33 settlement of any estate or trust from which a tax is due
34 under this chapter, shall file an inheritance tax return,
35 within the time limits set by section 450.6, with a copy of

1 any federal estate tax return and other documents required by
2 the director which may reasonably tend to prove the amount of
3 tax due, and at the time of filing, shall pay to the
4 department of revenue and finance the amount of the tax due
5 from any devisee, grantee, donee, heir, or beneficiary of the
6 decedent, except in cases where payment of the tax is deferred
7 until the determination of a prior estate~~, in which cases the~~.
8 The owner of the future interest shall file a supplemental
9 inheritance tax return and pay to the department of revenue
10 and finance the tax due within the time limits set in this
11 chapter. The inheritance tax returns shall be in the form
12 prescribed by the director.
13 2. A person in possession of assets to be reported for
14 purposes of taxation, including a personal representative or
15 trustee, who willfully makes a false or fraudulent return, or
16 willfully fails to pay the tax, supply the information, make,
17 sign, or file the required return within the time required by
18 law, is guilty of a fraudulent practice.
19 3. A person who willfully attempts in any manner to evade
20 taxes imposed by this chapter or avoid payment of the tax, is
21 guilty of an aggravated misdemeanor.
22 4. The jurisdiction of any offense as defined in this sec-
23 tion is in the county of the residence of the decedent at the
24 time of death. If the decedent is a nonresident of the state,
25 jurisdiction is in any county in which property subject to the
26 tax is located.
27 5. A prosecution for any offense defined in this section
28 shall be commenced not later than six years following the com-
29 mission of the offense.
30 Sec. 32. Section 451.12, Code 1993, is amended to read as
31 follows:
32 451.12 APPLICABLE STATUTES -- PENALTIES.
33 All the provisions of chapter 450 with respect to the lien
34 provisions of section 450.7, and the determination,
35 imposition, payment and collection of the tax imposed under

that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willingly fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 33. Section 452A.4, unnumbered paragraph 6, Code 1993, is amended to read as follows:

The license shall not be assignable~~,~~ and shall be valid only for the distributor in whose name it is issued~~,-and-shall be-displayed-conspicuously-in-the-principal-place-of-business of-the-distributor-in-this-state~~.

Sec. 34. Section 452A.8, subsection 7, Code 1993, is amended to read as follows:

7. The sum of the tax due under subsections 5 and 6 shall be the amount of motor fuel tax in dollars and cents due from the distributor for the next preceding calendar month. Any ~~outstanding~~ credit ~~memoranda-issued~~ calculated by the ~~department-to-the~~ distributor may be applied against the amount due.

Sec. 35. Section 452A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel is entitled to a ~~memorandum-of~~ credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or

1 destroyed through accountable leakage or to fire, accident,
2 lightning, flood, storm, act of war or public enemy, or other
3 like cause. A memorandum of credit shall be allowed against
4 subsequent liability under this chapter upon application to
5 the department supported by proof as the director prescribes
6 by rule. If the licensee is no longer engaged in activity for
7 which the license was issued, the department shall refund the
8 appropriate amount upon receipt of an application for refund
9 as provided by the department. Credits and refunds are
10 subject to the following conditions:
11 Sec. 36. Section 453A.13, subsection 10, Code 1993, is
12 amended by striking the subsection.
13 Sec. 37. Section 453A.44, subsection 9, Code 1993, is
14 amended by striking the subsection.
15 Sec. 38. Section 453B.9, unnumbered paragraph 1, Code
16 1993, is amended to read as follows:
17 All assessments of taxes made pursuant to this chapter
18 shall be considered jeopardy assessments or collections as
19 provided in section 422.30. The director shall assess a tax,
20 interest, and applicable penalties based on knowledge or
21 information available to the director; mail to serve the
22 taxpayer by regular mail at the taxpayer's last known address
23 or serve in person, a written notice of the amount of tax,
24 interest, and penalty, demand its immediate payment, and, if
25 payment is not immediately made, due, which notice may include
26 a demand for immediate payment; and immediately proceed to
27 collect the tax, interest, and penalty by any method
28 prescribed in section 422.30. The period for examination,
29 determination of amount of tax owed, and assessment is
30 unlimited. Service of the notice by regular mail is complete
31 upon mailing.
32 Sec. 39. Section 626.29, Code Supplement 1993, is amended
33 to read as follows:
34 626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND
35 FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE

1 COMMISSIONER.
2 In the service of a distress warrant issued by the director
3 of revenue and finance for the collection of ~~income-tax,-sales~~
4 ~~tax,-motor-vehicle-fuel-tax,-freight-line-and-equipment-car~~
5 ~~tax,-hotel-and-motel-tax,-or-use-tax~~ taxes administered by or
6 debts to be collected by the department of revenue and
7 finance, in the service of a distress warrant issued by the
8 director of inspections and appeals for the collection of
9 overpayment debts owed to the department of human services, or
10 in the service of a distress warrant issued by the job service
11 commissioner of the department of employment services for the
12 collection of employment security contributions, the property
13 of the taxpayer or the employer in the possession of another,
14 or debts due the taxpayer or the employer, may be reached by
15 garnishment.
16 Sec. 40. Section 633.272, Code 1993, is amended to read as
17 follows:
18 633.272 PARTIAL INTESTACY.
19 If part but not all of the estate of a decedent is validly
20 disposed of by will, the part not disposed of by will shall be
21 distributed as provided herein for intestate estates. If the
22 testator left a surviving spouse, and the spouse does not
23 elect to take against the will, ~~such~~ the spouse shall receive,
24 in addition to the property given to the spouse by the will,
25 ~~one-third~~ all of the intestate property~~,-and-that-one-third~~
26 which shall be subject to the payment of its proportionate
27 share of debts and charges against the estate.
28 Sec. 41. Sections 8 and 14 of this Act apply retroactively
29 to July 1, 1993.
30 Sec. 42. Section 12 of this Act applies retroactively to
31 January 1, 1994, for net operating losses in tax years
32 beginning on or after that date.
33 Sec. 43. Section 13 of this Act applies retroactively to
34 January 1, 1994, for distributions from qualified pension
35 plans made on or after that date.

1 Sec. 44. Section 15 of this Act applies retroactively to
2 January 1, 1994, for tax years beginning on or after that
3 date.
4 Sec. 45. Section 30 of this Act applies to the estates of
5 decedents dying on or after July 1, 1994.
6 Sec. 46. Sections 25, 26, and 28 of this Act take effect
7 January 1, 1995, for claims filed on or after that date.
8 EXPLANATION
9 The bill makes changes in the procedures, requirements, and
10 liability relating to the imposition and collection of state
11 taxes and state refunds and credits including authorization
12 for employment of collection agencies to collect delinquent
13 accounts owed any state agency, imposing personal liability on
14 members and employees of limited liability companies in the
15 same way as for an individual who is a partner for sales, use,
16 motor fuel and income taxes, authorizing the waiver of penalty
17 for failure to timely pay the tax required to be paid by
18 electronic funds transfer, eliminates the requirement for
19 displaying of permits and licenses issued by the department of
20 revenue and finance, provides for the cancellation of
21 outstanding warrants at the end of each month, disallowing the
22 limited capital gain deduction in computing net operating loss
23 or disallowing the deduction in the year the net operating
24 loss is deducted, requires withholding from pension
25 distributions to the extent withheld at the federal level,
26 allows the director of revenue and finance to compromise
27 claims for tax refunds, allows the department to file a
28 distress warrant or receive a search warrant immediately upon
29 issuance of the distress warrant for tax assessments in
30 jeopardy of being removed or hidden, prohibits department of
31 revenue and finance employees from preparing tax returns for
32 individuals during regular working hours, except if it is part
33 of an audit or is in connection with assistance requested by
34 the taxpayer, authorizes witness' fees and mileage for those
35 subpoenaed to attend department of revenue and finance

1 hearings, provides that married taxpayers who file joint
2 returns or separately on the combined return are jointly and
3 severally liable for tax liabilities on the returns unless the
4 spouse is considered an innocent spouse under federal law,
5 subjects limited liability companies to the state corporate
6 income tax, eliminates the definition of "mixed municipal
7 solid waste" for sales tax purposes and taxes separately those
8 items that would be taxed under that definition, requires
9 retailers providing taxable services to keep record of sales
10 up to five years, deletes the requirement that a low-income
11 person must occupy the homestead for six months in the fiscal
12 year for which the person was to receive the additional
13 homestead credit, makes failure to file or falsely filing an
14 inheritance tax return or failure to pay the tax due a
15 fraudulent practice, and makes an attempt to evade inheritance
16 tax an aggravated misdemeanor, provides that low-income
17 persons owning mobile homes must be at least 23 years old to
18 quality for property tax relief, and exempts from use tax
19 those services subject to sales tax.
20 The bill provides retroactive applicability and effective
21 date provisions.
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SENATE FILE 2057

AN ACT

RELATING TO THE PROCEDURES, REQUIREMENTS, LIABILITY, AND PENALTIES FOR THE IMPOSITION AND COLLECTION OF STATE TAXES, REFUND AND CREDIT CLAIMS, AND STATE FINANCES AND PROVIDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 421.4, Code 1993, is amended to read as follows:

421.4 DEPUTIES.

The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees necessary to protect the interests of the state and any political subdivision. ~~All independent contracts and fees provided for in this section are subject to the approval of the governor.~~

Sec. 2. Section 421.5, Code 1993, is amended to read as follows:

421.5 SETTLING DOUBTFUL CLAIMS FOR TAXES.

The director may compromise and settle doubtful and disputed claims for taxes or refunds or tax liability of doubtful collectibility notwithstanding the provisions of section 7D.9. Whenever such a compromise and settlement is made ~~or any other compromise and settlement in excess of the~~

~~director's authority is made~~, the director shall make a complete record of the case showing the tax assessed or claimed due, tax refund claimed, recommendations, reports, and audits of departmental personnel if any, the taxpayer's grounds for dispute or contest together with all evidence thereof, and the amounts, conditions, and settlement or compromise of same.

Sec. 3. Section 421.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~The~~ Immediately upon issuance of a distress warrant authorized by section 422.26, 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~~ the distress warrant ~~authorized by section 422.26~~.

Sec. 4. Section 421.17, subsection 5, Code Supplement 1993, is amended to read as follows:

5. To direct proceedings, actions, and prosecutions to be instituted for the enforcement of the laws relating to the penalties, liabilities, and punishment of public officers, and officers or agents of corporations, and other persons or corporations, for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; to make or cause to be made complaints against members of boards of review, boards of supervisors or other assessing, reviewing, or taxing officers for official misconduct or neglect of duty. ~~Provided, that employees~~ Employees of the department of revenue and finance shall not during their regular hours of employment engage in the preparation of tax returns ~~for individuals~~, except in connection with a regular audit ~~thereof~~ of a tax return or in connection with assistance requested by the taxpayer.

Sec. 5. Section 421.17, subsection 10, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The director may correct obvious errors or obvious injustices in the assessment of any individual property, but

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the director shall not reduce the valuation of any individual property except upon the recommendation of the local board of review and ~~no~~ an order of the director affecting any valuation shall not be retroactive as to any reduction or increase in taxes payable prior to January 1 of the year in which ~~such~~ that order is issued, or prior to September 1 of the preceding year in cities under special charter which collect their own municipal levies. The director shall not correct errors or injustices under the authority of this paragraph if that correction would involve the exercise of judgment. Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 6. Section 421.17, subsection 22, Code Supplement 1993, is amended to read as follows:

22. To employ collection agencies, within or without the state, to collect delinquent taxes, including penalties and interest, administered by the department or delinquent accounts, charges, loans, fees or other indebtedness due the state or any state agency, that have formal agreements with the department for central debt collection where the director finds that departmental personnel are unable to collect the delinquent accounts, charges, loans, fees, or other indebtedness because of a ~~taxpayer's~~ debtor's location outside the state or for any other reason. Fees for services, reimbursement, or other remuneration, including attorney fees, paid to collection agencies shall be based upon the amount of tax, penalty, and interest or debt actually collected and shall be paid only after the amount of tax, penalty, and interest or debt is collected. All funds collected must be remitted in full to the department within thirty days from the date of collection from a ~~taxpayer~~ debtor or in a lesser time as the director prescribes. The funds shall be applied toward the ~~taxpayer's~~ debtor's account and handled as are funds received by other means. An amount is appropriated from the amount of tax, penalty, and interest, delinquent accounts, charges, loans, fees, or other indebtedness actually collected

by the collection agency sufficient to pay all fees for services, reimbursement, or other remuneration pursuant to a contract with a collection agency under this subsection. A collection agency entering into a contract with the department for the collection of delinquent taxes, penalties, and interests, delinquent accounts, charges, loans, fees, or other indebtedness pursuant to this subsection is subject to the requirements and penalties of ~~tax information~~ the confidentiality laws of this state regarding tax or indebtedness information. ~~All contracts and fees provided for in this subsection are subject to the approval of the governor.~~

Sec. 7. Section 421.23, Code 1993, is amended to read as follows:

421.23 FEES AND MILEAGE.

The fees and mileage of witnesses attending any hearing of the department, including contested case hearings, pursuant to any subpoena, shall be the same as those of witnesses in civil cases in district court.

Sec. 8. Section 421.26, Code 1993, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.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, an officer of a corporation or association, notwithstanding sections 490A.601 and 490A.602, a member or manager of a limited liability company, or 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, association, limited liability company, 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, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 9. Section 421.27, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. If the availability of funds in payment of tax required to be made through electronic funds transfer is delayed and the delay of availability is due to reasons beyond the control of the taxpayer. "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal telephone, computer, magnetic tape, or similar device for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Sec. 10. NEW SECTION. 421.29 REGISTRATIONS.

For purposes of the provisions of the Code which are administered by the department, "permit" or "license" includes registration. Unless otherwise specifically provided, the director shall determine by rule the circumstances for which registrations shall be issued and displayed.

Sec. 11. Section 421.45, Code 1993, is amended to read as follows:

421.45 CANCELLATION OF STATE WARRANTS.

~~The~~ On the last business day of each month, the director of the department of revenue and finance~~, as of March 31, June 30, September 30, and December 31 of each year~~ shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the state treasurer for six months or longer.

Sec. 12. Section 422.7, subsection 21, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The net capital gain of paragraphs "a", "b", "c", and "d" together shall not exceed seventeen thousand five hundred dollars for the tax year. Married taxpayers who elect separate filing on a combined return for state tax purposes

are treated as one taxpayer and the amount of net capital gain to be used to determine the total amount to be subtracted by them shall not exceed seventeen thousand five hundred dollars in the aggregate. Married taxpayers who file jointly or separately on a combined return shall prorate the seventeen thousand five hundred dollar limitation between them based on the ratio of each spouse's net capital gain to the total net capital gain of both spouses. In the case of married taxpayers filing separate returns, the amount of net capital gain to be used to determine the amount to be subtracted by each spouse shall not exceed eight thousand seven hundred fifty dollars. However, to the extent otherwise allowed, the deduction provided in this subsection is not allowed for purposes of computation of a net operating loss in section 422.9, subsection 3, and in computing the income for the taxable year or years for which a net operating loss is deducted.

Sec. 13. Section 422.16, subsection 1, unnumbered paragraph 3, Code 1993, is amended to read as follows:

For the purposes of this subsection, state income tax shall be withheld from pensions, annuities, other similar periodic payments, and other income payments of those persons whose primary residence is in Iowa in those circumstances in which those persons have federal income tax withheld from pensions, annuities, other similar periodic payments, and other income payments under sections 3402(o), 3402(p), 3402(s), 3405(a), and 3405(b), and 3405(c) of the Internal Revenue Code at a rate to be specified by the department.

Sec. 14. Section 422.16, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, state income tax at the rate of six percent shall be withheld from supplemental wages of employees in those circumstances in which the employer treats the supplemental wages as wholly separate from regular wages for purposes of withholding and federal income tax is withheld from the supplemental wages under section 3402(g) of the Internal Revenue Code.

Sec. 15. Section 422.16, subsection 4, Code 1993, is amended to read as follows:

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12 ~~hereof~~, shall be deemed to be held in trust for the state of Iowa. Notwithstanding sections 490A.601 and 490A.602, this subsection applies to a member or manager of a limited liability company.

Sec. 16. Section 422.21, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If married taxpayers file a joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) of the Internal Revenue Code.

Sec. 17. Section 422.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law~~,~~ ~~and demand payment thereof from the taxpayer. If such payment is not made, a~~ The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against ~~such~~ the taxpayer immediately.

Sec. 18. Section 422.32, subsection 4, Code 1993, is amended to read as follows:

4. ~~The word "corporation"~~ "Corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~other than limited liability companies,~~ and publicly traded partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 19. Section 422.33, subsection 1A, Code Supplement 1993, is amended to read as follows:

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, ~~subsections~~ subsection 2 ~~through 6~~, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business income computed in accordance with the Internal Revenue Code and with the adjustments set forth in section 422.35.

Sec. 20. Section 422.34, subsections 2 through 6, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

2. An organization described in section 501 of the Internal Revenue Code unless the exemption is denied under section 501, 502, 503, or 504 of the Internal Revenue Code.

Sec. 21. Section 422.42, subsection 15, unnumbered paragraph 2, Code 1993, is amended to read as follows:

"Services used in the processing of tangible personal property" includes the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale ~~upon which the gross receipts tax under this division or the use tax under chapter 423 will be paid when the tangible personal property is sold.~~

Sec. 22. Section 422.43, subsection 13, Code Supplement 1993, is amended to read as follows:

13. a. A tax of five percent is imposed upon the gross receipts from the sales, furnishing, or service of solid waste collection and disposal service.

For purposes of this subsection, "solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste

materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from nonresidential commercial operations, but does not include auto hulks; street sweepings; ash; construction debris; mining waste; trees; tires; lead acid batteries; used oil; hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; foundry sand used for daily cover at a sanitary landfill; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material defined by the federal Atomic Energy Act of 1954.

A recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least eighty-five percent is exempt from the tax imposed by this subsection if the waste exempted is collected and disposed of separately from other solid waste.

b. A person who transports ~~mixed-municipal~~ solid waste generated by that person or another person without compensation shall pay the tax imposed by this subsection at the collection or disposal facility based on the disposal charge or tipping fee. However, the costs of a service or ~~the~~ portion of a service to collect and manage recyclable materials separated from ~~mixed-municipal~~ solid waste by the waste generator is exempt from the tax imposed by this subsection. ~~For-purposes-of-this-paragraph,-"mixed-municipal solid-waste"-means-garbage,-refuse,-and-other-solid-waste-from nonresidential-commercial-operations-which-is-generated-and collected-in-aggregate,-but-does-not-include-auto-hulks, street-sweepings,-ash,-construction-debris,-mining-waste, sludges,-tree-and-agricultural-wastes,-tires,-lead-acid batteries,-used-oil,-and-other-materials-collected,-processed, and-disposed-of-as-separate-waste-streams.~~

Sec. 23. Section 422.50, Code 1993, is amended to read as follows:

422.50 RECORDS REQUIRED.

It shall be the duty of every retailer required to make a report and pay any tax under this division, to preserve ~~such~~ those records of the gross proceeds of sales as the director may require and it shall be the duty of every retailer to preserve for a period of five years all invoices and other records of goods, wares, ~~or~~ merchandise, or services purchased for resale; and all ~~such~~ these books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for ~~such~~ examination upon reasonable notice when the director ~~shall-so-order~~ orders.

Sec. 24. Section 422.53, subsection 3, Code 1993, is amended to read as follows:

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated. ~~It-shall-at-all-times-be-conspicuously displayed-at-the-place-for-which-issued.~~

Sec. 25. Section 423.4, subsection 1, Code 1993, is amended to read as follows:

1. Tangible personal property and enumerated services, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by division IV of chapter 422, ~~and-any-amendments-made-or-which-may-hereafter-be made-thereto~~ if that tax has been paid to the department or paid to the retailer. This exemption does not include vehicles subject to registration or subject only to the issuance of a certificate of title.

Sec. 26. Section 425.17, subsection 6, Code Supplement 1993, is amended to read as follows:

6. "Household income" means all income of the claimant and the claimant's spouse in a household and actual monetary contributions received from any other household member or

nonmember living with the claimant during their respective twelve-month income tax accounting periods ending with or during the base year.

Sec. 27. Section 425.20, unnumbered paragraphs 1 and 2, Code 1993, are amended to read as follows:

A claim for reimbursement for rent constituting property taxes paid shall not be paid or allowed, unless the claim is ~~actually~~ filed with and in the possession of the department of revenue and finance on or before October 31 of the year following the base year.

A claim for credit for property taxes due shall not be paid or allowed unless the claim is ~~actually~~ filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due ~~and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the homestead for six months or more during the fiscal year beginning in the calendar year in which the claim is filed~~. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 of each year.

Sec. 28. Section 425.26, subsection 8, Code 1993, is amended by striking the subsection.

Sec. 29. Section 425.28, Code 1993, is amended to read as follows:

425.28 WAIVER OF CONFIDENTIALITY.

A claimant shall expressly waive any right to confidentiality relating to all income tax information obtainable through the department of revenue and finance, including all information covered by sections 422.20 and 422.72. This waiver shall apply to information available to the county ~~or city assessor~~ treasurer who shall hold the information confidential except that it may be used as evidence to disallow the credit.

Sec. 30. Section 435.22, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the owner of the mobile home is an Iowa resident, has attained the age of ~~eighteen~~ twenty-three years on or before December 31 of the base year, and has an income when included with that of a spouse which is less than six thousand dollars per year, the annual tax shall not be imposed on the mobile home. If the income is six thousand dollars or more but less than fourteen thousand dollars, the annual tax shall be computed as follows:

Sec. 31. Section 450.4, subsection 2, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. When the property passes for a charitable, educational, or religious purpose as defined in sections 170(c) and 2055 of the Internal Revenue Code.

Sec. 32. Section 450.12, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, the costs of appraisement made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee ~~in a reasonable amount to be~~ as determined pursuant to sections 633.197, 633.198, and 633.199 and approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses.

Sec. 33. Section 450.53, Code 1993, is amended to read as follows:

450.53 DUTY ~~OF PERSONAL REPRESENTATIVES~~ TO PAY TAX -- PENALTIES.

1. All personal representatives, except guardians and conservators, and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, shall file an inheritance tax return, within the time limits set by section 450.6, with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and at the time of filing, shall pay to the department of revenue and finance the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate~~, in which cases the~~. The owner of the future interest shall file a supplemental inheritance tax return and pay to the department of revenue and finance the tax due within the time limits set in this chapter. The inheritance tax returns shall be in the form prescribed by the director.

2. A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice.

3. A person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax, is guilty of an aggravated misdemeanor.

4. The jurisdiction of any offense as defined in this section is in the county of the residence of the decedent at the time of death. If the decedent is a nonresident of the state, jurisdiction is in any county in which property subject to the tax is located.

5. A prosecution for any offense defined in this section shall be commenced not later than six years following the commission of the offense.

Sec. 34. Section 451.12, Code 1993, is amended to read as follows:

451.12 APPLICABLE STATUTES -- PENALTIES.

All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment and collection of the tax imposed under that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 35. Section 452A.4, unnumbered paragraph 6, Code 1993, is amended to read as follows:

The license shall not be assignable~~,~~ and shall be valid only for the distributor in whose name it is issued~~, and shall be displayed conspicuously in the principal place of business of the distributor in this state~~.

Sec. 36. Section 452A.8, subsection 7, Code 1993, is amended to read as follows:

7. The sum of the tax due under subsections 5 and 6 shall be the amount of motor fuel tax in dollars and cents due from the distributor for the next preceding calendar month. Any ~~outstanding~~ credit ~~memoranda issued~~ calculated by the ~~department to the~~ distributor may be applied against the amount due.

Sec. 37. Section 452A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel

or special fuel is entitled to a ~~memorandum of~~ credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or destroyed through accountable leakage or to fire, accident, lightning, flood, storm, act of war or public enemy, or other like cause. A ~~memorandum of~~ credit shall be allowed ~~against subsequent liability~~ under this chapter upon application to the department supported by proof as the director prescribes by rule. If the licensee is no longer engaged in activity for which the license was issued, the department shall refund the appropriate amount upon receipt of an application for refund as provided by the department. Credits and refunds are subject to the following conditions:

Sec. 38. Section 453A.13, subsection 10, Code 1993, is amended by striking the subsection.

Sec. 39. Section 453A.44, subsection 9, Code 1993, is amended by striking the subsection.

Sec. 40. Section 453B.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All assessments of taxes made pursuant to this chapter shall be considered jeopardy assessments or collections as provided in section 422.30. The director shall assess a tax, interest, and applicable penalties based on knowledge or information available to the director; ~~mail to~~ serve the taxpayer by regular mail at the taxpayer's last known address or ~~serve~~ in person, a written notice of the amount of tax, interest, and penalty~~; demand its immediate payment; and, if payment is not immediately made,~~ due, which notice may include a demand for immediate payment; and immediately proceed to collect the tax, interest, and penalty by any method prescribed in section 422.30. The period for examination, determination of amount of tax owed, and assessment is unlimited. Service of the notice by regular mail is complete upon mailing.

Sec. 41. Section 626.29, Code Supplement 1993, is amended to read as follows:

626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE COMMISSIONER.

In the service of a distress warrant issued by the director of revenue and finance for the collection of ~~income tax, sales tax, motor vehicle fuel tax, freight line and equipment car tax, hotel and motel tax, or use tax~~ taxes administered by or debts to be collected by the department of revenue and finance, in the service of a distress warrant issued by the director of inspections and appeals for the collection of overpayment debts owed to the department of human services, or in the service of a distress warrant issued by the job service commissioner of the department of employment services for the collection of employment security contributions, the property of the taxpayer or the employer in the possession of another, or debts due the taxpayer or the employer, may be reached by garnishment.

Sec. 42. Section 633.272, Code 1993, is amended to read as follows:

633.272 PARTIAL INTESTACY.

If part but not all of the estate of a decedent is validly disposed of by will, the part not disposed of by will shall be distributed as provided herein for intestate estates. If the testator left a surviving spouse, and the spouse does not elect to take against the will, ~~such~~ the spouse shall receive, in addition to the property given to the spouse by the will, ~~one-third~~ all of the intestate property~~, and that one-third~~ which shall be subject to the payment of its proportionate share of debts and charges against the estate.

Sec. 43. 1994 Iowa Acts, House File 2180, section 9, subsection 2, is amended to read as follows:

2. For purposes of this section, "improvements" include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located.

Sec. 44. 1994 Iowa Acts, House File 2180, section 12, is amended to read as follows:

SEC. 12. NEW SECTION. 15.335 RESEARCH ACTIVITIES CREDIT.

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. The credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, 1994.

A credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever comes first.

Sec. 45. Sections 8 and 15 of this Act apply retroactively to July 1, 1993.

Sec. 46. Section 12 of this Act applies retroactively to January 1, 1994, for net operating losses in tax years beginning on or after that date.

Sec. 47. Section 13 of this Act applies retroactively to January 1, 1994, for distributions from qualified pension plans made on or after that date.

Sec. 48. Sections 14 and 16 of this Act apply retroactively to January 1, 1994, for tax years beginning on or after that date.

Sec. 49. Section 32 of this Act applies to the estates of decedents dying on or after July 1, 1994.

Sec. 50. Sections 26, 27, and 30 of this Act take effect January 1, 1995, for claims filed on or after that date.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2057, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 12, 1994

TERRY E. BRANSTAD
Governor

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