

APR 3 1995

HOUSE FILE 554

BY COMMITTEE ON WAYS AND MEANS

WAYS & MEANS CALENDAR

(SUCCESSOR TO HSB 130)

Passed House <sup>(p.1597)</sup> Date 4/17/95 Passed Senate <sup>(p.1255)</sup> Date 4-18-95  
 Vote: Ayes 96 Nays 0 Vote: Ayes 50 Nays 0  
 Approved April 25, 1995

A BILL FOR

1 An Act relating to state and local taxes including appeals of  
 2 department of revenue and finance actions, the prohibition of  
 3 unconstitutional or illegal tax collections, assessment  
 4 procedures pertaining to amended returns, corporate income tax  
 5 rates, sales tax on test laboratory services, collection of  
 6 sales tax by out-of-state retailers, interest accrual on sales  
 7 and use tax refunds, sales tax permit denial for delinquent  
 8 taxes, bonding provisions for sales tax and environmental  
 9 protection charge contested case decisions, costs associated  
 10 with contested case hearings, penalty for underpayment of  
 11 corporation income and franchise taxes, services subject to  
 12 use tax, penalty for underpayment of use tax, the repeal of  
 13 obsolete property tax provisions, and imposition of the drug  
 14 excise tax on unprocessed marijuana plants and providing  
 15 effective and applicability date provisions.

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

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HF 554

1 Section 1. Section 421.10, Code 1995, is amended to read  
2 as follows:

3 421.10 APPEAL PERIOD -- DENIAL OF TAXPAYER'S CLAIM.

4 The appeal period for revision of assessment of tax,  
5 interest, and penalties set out under section 422.28, 422.54,  
6 452A.64, 453A.29, or 453A.46 applies to appeals to notices  
7 from the department denying changes in filing methods, denying  
8 refund claims, and denying portions of refund claims for the  
9 tax covered by that section, and notices of any department  
10 action directed to a specific taxpayer, other than licensing,  
11 which involves a calculation.

12 Sec. 2. Section 421.60, Code 1995, is amended by adding  
13 the following new subsection:

14 NEW SUBSECTION. 10. ILLEGAL TAX. A tax shall not be  
15 collected by the department if it is prohibited under the  
16 Constitution of the United States or laws of the United  
17 States, or under the Constitution of the State of Iowa.

18 Sec. 3. Section 422.25, Code 1995, is amended by adding  
19 the following new subsection:

20 NEW SUBSECTION. 11. If a taxpayer files an amended return  
21 within sixty days prior to the expiration of the applicable  
22 period of limitations described in subsection 1, the  
23 department has sixty days from the date of receipt of the  
24 amended return to issue an assessment for any applicable tax,  
25 interest, or penalty.

26 Sec. 4. Section 422.33, subsection 1, unnumbered paragraph  
27 2, Code 1995, is amended to read as follows:

28 "Income from sources within this state" means income from  
29 real, ~~or~~ tangible, or intangible property located or having a  
30 situs in this state.

31 Sec. 5. Section 422.43, subsection 11, unnumbered  
32 paragraph 1, Code 1995, is amended to read as follows:

33 The following enumerated services are subject to the tax  
34 imposed on gross taxable services: alteration and garment  
35 repair; armored car; vehicle repair; battery, tire and allied;

1 investment counseling; service charges of all financial  
2 institutions; barber and beauty; boat repair; vehicle wash and  
3 wax; carpentry; roof, shingle, and glass repair; dance schools  
4 and dance studios; dating services; dry cleaning, pressing,  
5 dyeing, and laundering; electrical and electronic repair and  
6 installation; rental of tangible personal property, except  
7 mobile homes which are tangible personal property; excavating  
8 and grading; farm implement repair of all kinds; flying  
9 service; furniture, rug, upholstery repair and cleaning; fur  
10 storage and repair; golf and country clubs and all commercial  
11 recreation; house and building moving; household appliance,  
12 television, and radio repair; jewelry and watch repair;  
13 limousine service, including driver; machine operator; machine  
14 repair of all kinds; motor repair; motorcycle, scooter, and  
15 bicycle repair; oilers and lubricators; office and business  
16 machine repair; painting, papering, and interior decorating;  
17 parking facilities; pipe fitting and plumbing; wood  
18 preparation; licensed executive search agencies; private  
19 employment agencies, excluding services for placing a person  
20 in employment where the principal place of employment of that  
21 person is to be located outside of the state; sewage services  
22 for nonresidential commercial operations; sewing and  
23 stitching; shoe repair and shoeshine; sign construction and  
24 installation; storage of household goods, mini-storage, and  
25 warehousing of raw agricultural products; swimming pool  
26 cleaning and maintenance; taxidermy services; telephone  
27 answering service; test laboratories, except including mobile  
28 testing laboratories and field testing by testing  
29 laboratories, and excluding tests on humans or animals;  
30 termite, bug, roach, and pest eradicators; tin and sheet metal  
31 repair; turkish baths, massage, and reducing salons; weighing;  
32 welding; well drilling; wrapping, packing, and packaging of  
33 merchandise other than processed meat, fish, fowl and  
34 vegetables; wrecking service; wrecker and towing; pay  
35 television; campgrounds; carpet and upholstery cleaning; gun

1 and camera repair; janitorial and building maintenance or  
2 cleaning; lawn care, landscaping and tree trimming and  
3 removal; pet grooming; reflexology; security and detective  
4 services; tanning beds or salons; and water conditioning and  
5 softening.

6 Sec. 6. Section 422.43, subsection 12, Code 1995, is  
7 amended by striking the subsection.

8 Sec. 7. Section 422.45, subsection 7, paragraph b, Code  
9 1995, is amended by adding the following new unnumbered  
10 paragraph:

11 NEW UNNUMBERED PARAGRAPH. Refunds authorized under this  
12 subsection shall accrue interest at the rate in effect under  
13 section 421.7 from the first day of the second calendar month  
14 following the date the refund claim is received by the  
15 department.

16 Sec. 8. Section 422.53, subsection 2, Code 1995, is  
17 amended to read as follows:

18 2. The applicant must have a permit for each place of  
19 business. The department may deny a permit to an applicant  
20 who is substantially delinquent in paying a tax due, or the  
21 interest or penalty on the tax, administered by the department  
22 at the time of application. If the applicant is a  
23 partnership, a permit may be denied if the partner is  
24 substantially delinquent in paying any delinquent tax, penalty  
25 or interest. If the applicant is a corporation, a permit may  
26 be denied if any officer having a substantial legal or  
27 equitable interest in the ownership of the corporation owes  
28 any delinquent tax, penalty, or interest ~~of-the-applicant~~  
29 corporation.

30 Sec. 9. Section 422.55, subsection 2, Code 1995, is  
31 amended by striking the subsection and inserting in lieu  
32 thereof the following:

33 2. For cause and upon a showing by the director that  
34 collection of the tax in dispute is in doubt, the court may  
35 order the petitioner to file with the clerk a bond for the use

1 of the respondent, with sureties approved by the clerk, in the  
2 amount of tax appealed from, conditioned that the petitioner  
3 shall perform the orders of the court.

4 Sec. 10. Section 422.70, subsection 2, Code 1995, is  
5 amended to read as follows:

6 2. Where the director finds the taxpayer has made a  
7 fraudulent return, the costs of ~~said~~ any hearing, including a  
8 contested case hearing, shall be taxed to the taxpayer. In  
9 all other cases the costs shall be paid by the state.

10 Sec. 11. Section 422.88, subsections 2 and 3, Code 1995,  
11 are amended to read as follows:

12 2. The amount of the underpayment shall be the excess of  
13 the amount of the installment which would be required to be  
14 paid if the estimated tax was equal to eighty ninety percent  
15 of the tax shown on the return of the taxpayer for the taxable  
16 year over any the amount of installments paid on or before the  
17 date prescribed for payment.

18 3. If the taxpayer did not file a return during the  
19 taxable year, the amount of the underpayment shall be equal to  
20 eighty ninety percent of the taxpayer's tax liability for the  
21 taxable year over any the amount of installments paid on or  
22 before the date prescribed for payment.

23 Sec. 12. Section 422.89, subsection 3, unnumbered  
24 paragraph 1, Code 1995, is amended to read as follows:

25 An amount equal to eighty ninety percent of the tax for the  
26 taxable year computed by placing on an annualized basis the  
27 taxable income:

28 Sec. 13. Section 422B.8, unnumbered paragraph 1, Code  
29 1995, is amended to read as follows:

30 A local sales and services tax at the rate of not more than  
31 one percent may be imposed by a county on the gross receipts  
32 taxed by the state under chapter 422, division IV. A local  
33 sales and services tax shall be imposed on the same basis as  
34 the state sales and services tax and may not be imposed on the  
35 sale of any property or on any service not taxed by the state,

1 except the tax shall not be imposed on the gross receipts from  
2 the sale of motor fuel or special fuel as defined in chapter  
3 452A, on the gross receipts from the rental of rooms,  
4 apartments, or sleeping quarters which are taxed under chapter  
5 422A during the period the hotel and motel tax is imposed, on  
6 the gross receipts from the sale of natural gas or electric  
7 energy in a city or county where the gross receipts are  
8 subject to a franchise fee or user fee during the period the  
9 franchise or user fee is imposed, ~~on-the-gross-receipts-upon~~  
10 ~~which-sales-tax-is-imposed-only-under-section-422.43,~~  
11 ~~subsection-12,~~ on the gross receipts from the sale of  
12 equipment by the state department of transportation, and on  
13 the gross receipts from the sale of a lottery ticket or share  
14 in a lottery game conducted pursuant to chapter 99E. A local  
15 sales and services tax is applicable to transactions within  
16 those incorporated and unincorporated areas of the county  
17 where it is imposed and shall be collected by all persons  
18 required to collect state gross receipts taxes. All cities  
19 contiguous to each other shall be treated as part of one  
20 incorporated area and the tax would be imposed in each of  
21 those contiguous cities only if the majority of those voting  
22 in the total area covered by the contiguous cities favor its  
23 imposition.

24 Sec. 14. Section 423.1, subsection 7, Code 1995, is  
25 amended to read as follows:

26 7. "Retailer" means and includes every person engaged in  
27 the business of selling tangible personal property or services  
28 enumerated in section 422.43 for use within the meaning of  
29 this chapter; ~~provided, however, that.~~ However, when in the  
30 opinion of the director it is necessary for the efficient  
31 administration of this chapter to regard any salespersons,  
32 representatives, truckers, peddlers, or canvassers as the  
33 agents of the dealers, distributors, supervisors, employers,  
34 or persons under whom they operate or from whom they obtain  
35 the tangible personal property sold by them, irrespective of

1 whether they are making sales on their own behalf or on behalf  
2 of ~~such~~ those dealers, distributors, supervisors, employers,  
3 or persons, the director may ~~so~~ regard them and ~~may-regard~~ the  
4 dealers, distributors, supervisors, employers, or persons as  
5 retailers for purposes of this chapter.

6 Sec. 15. Section 423.18, subsections 2 and 3, Code 1995,  
7 are amended to read as follows:

8 2. A person who willfully attempts in any manner to evade  
9 a tax imposed by this chapter or the payment ~~of-ninety-percent~~  
10 of the tax, or a person who makes or causes to be made any  
11 false or fraudulent monthly deposit form or return with intent  
12 to evade the tax imposed by this chapter or the payment ~~of~~  
13 ~~ninety-percent~~ of the tax is guilty of a class "D" felony.

14 3. A person required to pay tax, or to make, sign or file  
15 a monthly deposit form or return, who willfully makes a false  
16 or fraudulent monthly deposit form or return, or who willfully  
17 fails at the time required by law to pay at least ninety  
18 percent of the tax or fails to make, sign or file the monthly  
19 deposit form or return, is guilty of a fraudulent practice.

20 Sec. 16. Section 423.21, Code 1995, is amended to read as  
21 follows:

22 423.21 BOOKS -- EXAMINATION.

23 Every retailer required or authorized to collect taxes  
24 imposed by this chapter and every person using in this state  
25 tangible personal property, services, or the product of  
26 services shall keep ~~such~~ those records, receipts, invoices,  
27 and other pertinent papers as the director shall require, in  
28 ~~such~~ the form ~~as~~ that the director shall require. The  
29 director or any duly authorized agent of the department may  
30 examine the books, papers, records, and equipment of any  
31 person either selling tangible personal property or services  
32 or liable for the tax imposed by this chapter, and investigate  
33 the character of the business of any ~~such~~ person in order to  
34 verify the accuracy of any return made, or if ~~no~~ a return was  
35 not made by ~~such~~ the person, ascertain and determine the

1 amount due under ~~the provisions of~~ this chapter. Any such  
2 These books, papers, and records shall be made available  
3 within this state for ~~such~~ examination upon reasonable notice  
4 when the director shall deem it advisable and shall so order.  
5 The preceding requirements shall likewise apply to users and  
6 persons rendering, furnishing, or performing service  
7 enumerated in section 422.43.

8 Sec. 17. Section 423.25, Code 1995, is amended to read as  
9 follows:

10 423.25 TAXATION IN ANOTHER STATE.

11 If any person who causes tangible personal property to be  
12 brought into this state or who uses in this state services  
13 enumerated in section 422.43 has already paid a tax in another  
14 state in respect to the sale or use of the property or the  
15 performance of the service, or an occupation tax in respect to  
16 the property, in an amount less than the tax imposed by this  
17 title, the provisions of this title shall apply, but at a rate  
18 measured by the difference only between the rate fixed in this  
19 title and the rate by which the previous tax on the sale or  
20 use, or the occupation tax, was computed. If the tax imposed  
21 and paid in the other state is equal to or more than the tax  
22 imposed by this title, then ~~no~~ a tax is not due in this state  
23 on the personal property or service.

24 Sec. 18. Section 424.13, subsection 2, Code 1995, is  
25 amended by striking the subsection and inserting in lieu  
26 thereof the following:

27 2. For cause and upon a showing by the director that  
28 collection of the tax in dispute is in doubt, the court may  
29 order the petitioner to file with the clerk a bond for the use  
30 of the respondent, with sureties approved by the clerk, in the  
31 amount of tax appealed from, conditioned that the petitioner  
32 shall perform the orders of the court.

33 Sec. 19. Section 427.1, subsections 5, 14, 18, 19, and 22,  
34 Code 1995, are amended by striking the subsections.

35 Sec. 20. Section 428.1, unnumbered paragraph 1, Code 1995,



1 is amended to read as follows:

2 Every ~~inhabitant of this state, of full age and sound mind,~~  
3 person shall list for the assessor all property subject to  
4 taxation in the state, of which the inhabitant person is the  
5 owner, or has the control or management, in the following  
6 manner ~~herein directed~~:

7 Sec. 21. Section 428.23, Code 1995, is amended to read as  
8 follows:

9 428.23 MANUFACTURER TO LIST.

10 Corporations organized ~~under the laws of this state~~ for  
11 pecuniary profit and engaged in manufacturing as defined in  
12 section 428.20 shall list their real property in the same  
13 manner as is required of individuals.

14 Sec. 22. Section 428.37, subsection 2, unnumbered  
15 paragraph 1, Code 1995, is amended to read as follows:

16 Notwithstanding ~~sections~~ section 428.25 ~~and 428.27~~, the  
17 taxable value of an electric power generating plant placed in  
18 commercial service after December 31, 1972, shall be  
19 apportioned by the director of revenue and finance, commencing  
20 with the year 1973, as follows:

21 Sec. 23. Section 433.4, Code 1995, is amended to read as  
22 follows:

23 433.4 ASSESSMENT.

24 The director of revenue and finance shall on the second  
25 Monday in July of each year, proceed to find the actual value  
26 of the property of ~~such~~ these companies in this state, taking  
27 into consideration the information obtained from the  
28 statements ~~above~~ required, and any further information the  
29 director can obtain, using the same as a means for determining  
30 the actual cash value of the property of ~~such~~ these companies  
31 within this state. The director shall also taking take into  
32 consideration the valuation of all property of ~~such~~ these  
33 companies, including franchises and the use of the property in  
34 connection with lines outside the state, and making ~~such~~ these  
35 deductions as may be necessary on account of extra value of

1 property outside the state as compared with the value of  
2 property in the state, in order that the actual cash value of  
3 the property of the company within this state may be  
4 ascertained. ~~Said~~ The assessment shall include all property  
5 of every kind and character whatsoever, real, personal, or  
6 mixed, used by ~~said~~ the companies in the transaction of  
7 telegraph and telephone business; and the property so included  
8 in ~~said~~ the assessment shall not be taxed in any other manner  
9 than as provided in this chapter ~~and-section-427-17-subsection~~  
10 ~~19~~.

11 Sec. 24. Section 433.12, Code 1995, is amended to read as  
12 follows:

13 433.12 "COMPANY" DEFINED.

14 ~~The word "company"~~ "Company" as used in this chapter and  
15 ~~section-427-17-subsection-19, shall be deemed and construed to~~  
16 ~~mean and include~~ means any person, copartnership, association,  
17 corporation, or syndicate that ~~shall own~~ owns or ~~operate~~  
18 operates, or ~~be~~ is engaged in operating, any telegraph or  
19 telephone line, whether formed or organized under the laws of  
20 this state or elsewhere.

21 Sec. 25. Section 437.1, Code 1995, is amended to read as  
22 follows:

23 437.1 "COMPANY" DEFINED.

24 ~~The word "company"~~ "Company" as used in this chapter and  
25 ~~section-427-17-subsection-19, shall be deemed and considered~~  
26 ~~to mean and include~~ means any person, copartnership,  
27 association, corporation, or syndicate, ~~except co-operative~~  
28 ~~corporations or associations which are not organized or~~  
29 ~~operated for profit~~, that ~~shall own~~ owns or ~~operate~~ operates  
30 a transmission line or lines for the conducting of electric  
31 energy located within the state and wholly or partly outside  
32 cities, whether formed or organized under the laws of this  
33 state or elsewhere.

34 Sec. 26. Section 437.12, Code 1995, is amended to read as  
35 follows:

## 1 437.12 ASSESSMENT EXCLUSIVE.

2 Every transmission line or part thereof of a transmission  
 3 line, of which the director of revenue and finance is required  
 4 by this chapter to find the value, shall be exempt from other  
 5 assessment or taxation either under sections 428.24 to 428-27  
 6 428.26, or under any other law of this state except as  
 7 provided in this chapter.

8 Sec. 27. Section 437.13, Code 1995, is amended to read as  
 9 follows:

## 10 437.13 LOCAL ASSESSMENT.

11 All lands, buildings, machinery, poles, towers, wires,  
 12 station and substation equipment, and other construction owned  
 13 or operated by any company referred to in section 437.2, and  
 14 where such this property is located within any city within  
 15 this state, shall be listed and assessed for taxation in the  
 16 same manner as provided in sections 428.24, 428.25, and  
 17 428.29, for the listing and assessment of that part of the  
 18 lands, buildings, machinery, tracks, poles, and wires within  
 19 the limits of any city belonging to individuals or  
 20 corporations furnishing electric light or power, and where  
 21 such this property, except the capital stock, is situated  
 22 partly within and partly without the limits of a city. All  
 23 personal property of every company owning or operating any  
 24 such transmission line referred to in section 437.2, used or  
 25 purchased by it for the purpose of such the transmission line,  
 26 shall be listed and assessed in the assessment district where  
 27 usually kept and housed and under sections 428.26-428-27, and  
 28 428.29.

29 Sec. 28. Section 441.21, subsection 9, paragraph b, Code  
 30 1995, is amended to read as follows:

31 b. ~~Notwithstanding paragraph "a" of this subsection, any~~  
 32 ~~construction or installation of gas production systems using~~  
 33 ~~waste or manure to produce gas completed on property~~  
 34 ~~classified as agricultural, residential, commercial, or~~  
 35 ~~industrial property shall not increase the actual, assessed~~

1 ~~and-taxable-values-of-the-property-for-assessment-years~~  
2 ~~beginning-on-January-17-1979-and-ending-on-or-before-December~~  
3 ~~31-1985.--In-addition7-notwithstanding-paragraph-"a"-of-this~~  
4 ~~subsection,~~ any construction or installation of a solar energy  
5 system on property so classified shall not increase the  
6 actual, assessed and taxable values of the property for five  
7 full assessment years.

8 Sec. 29. Section 453B.1, subsection 3, paragraph b, Code  
9 1995, is amended to read as follows:

10 b. Forty-two and one-half grams or more of processed  
11 marijuana or of a substance consisting of or containing  
12 marijuana.

13 Sec. 30. Section 453B.1, subsection 3, Code 1995, is  
14 amended by adding the following new paragraph after paragraph  
15 b and relettering:

16 NEW PARAGRAPH. c. One or more unprocessed marijuana  
17 plants.

18 Sec. 31. Section 453B.1, Code 1995, is amended by adding  
19 the following new subsections:

20 NEW SUBSECTION. 7A. "Processed marijuana" means all  
21 marijuana except unprocessed marijuana plants.

22 NEW SUBSECTION. 10. "Unprocessed marijuana plant" means  
23 any cannabis plant at any level of growth, whether wet, dry,  
24 harvested, or growing.

25 Sec. 32. Section 453B.7, Code 1995, is amended to read as  
26 follows:

27 453B.7 TAX IMPOSED -- RATE OF TAX.

28 An excise tax is imposed on dealers at the following rates:

29 1. On each gram of processed marijuana, or each portion of  
30 a gram, five dollars.

31 2. On each gram or portion of a gram of any taxable  
32 substance sold by weight other than marijuana, two hundred  
33 fifty dollars.

34 3. On each unprocessed marijuana plant, seven hundred  
35 fifty dollars.



1 provides that contested case hearing costs in fraud cases are  
2 taxed to the taxpayer; repeals certain obsolete property tax  
3 exemptions, and imposes a tax on unprocessed marijuana plants.

4 The bill has numerous effective and applicability date  
5 provisions.

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HSB 130

WAYS AND MEANS

Succeeded By

SENATE/HOUSE FILE 554  
BY (PROPOSED DEPARTMENT OF  
REVENUE AND FINANCE BILL)

*Bankla, Chair  
Van Tassan  
Deeg  
Weigel  
Shoultz*

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

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1 An Act relating to state and local taxes including appeals of  
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4 procedures pertaining to amended returns, corporate income tax  
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7 and use tax refunds, sales and use tax exemption for machinery  
8 and equipment replacement parts, sales tax permit denial for  
9 delinquent taxes, bonding provisions for sales tax and  
10 environmental protection charge contested case decisions,  
11 costs associated with contested case hearings, penalty for  
12 underpayment of corporation income and franchise taxes,  
13 services subject to use tax, penalty for underpayment of use  
14 tax, disclosure of tax return information, the repeal of  
15 obsolete property tax provisions, and imposition of the drug  
16 excise tax on unprocessed marijuana plants.

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

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By \_\_\_\_\_  
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4 The appeal period for revision of assessment of tax,  
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7 from the department denying changes in filing methods, denying  
8 refund claims, and denying portions of refund claims for the  
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12 Sec. 2. Section 421.60, Code 1995, is amended by adding  
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21 within sixty days prior to the expiration of the applicable  
22 period of limitations described in subsection 1, the  
23 department has sixty days from the date of receipt of the  
24 amended return to issue an assessment for any applicable tax,  
25 interest, or penalty.

26 Sec. 4. Section 422.33, subsection 1, unnumbered paragraph  
27 2, Code 1995, is amended to read as follows:

28 "Income from sources within this state" means income from  
29 real, or tangible, or intangible property located or having a  
30 situs in this state.

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3 wax; carpentry; roof, shingle, and glass repair; dance schools  
4 and dance studios; dating services; dry cleaning, pressing,  
5 dyeing, and laundering; electrical and electronic repair and  
6 installation; rental of tangible personal property, except  
7 mobile homes which are tangible personal property; excavating  
8 and grading; farm implement repair of all kinds; flying  
9 service; furniture, rug, upholstery repair and cleaning; fur  
10 storage and repair; golf and country clubs and all commercial  
11 recreation; house and building moving; household appliance,  
12 television, and radio repair; jewelry and watch repair;  
13 limousine service, including driver; machine operator; machine  
14 repair of all kinds; motor repair; motorcycle, scooter, and  
15 bicycle repair; oilers and lubricators; office and business  
16 machine repair; painting, papering, and interior decorating;  
17 parking facilities; pipe fitting and plumbing; wood  
18 preparation; licensed executive search agencies; private  
19 employment agencies, excluding services for placing a person  
20 in employment where the principal place of employment of that  
21 person is to be located outside of the state; sewage services  
22 for nonresidential commercial operations; sewing and  
23 stitching; shoe repair and shoeshine; sign construction and  
24 installation; storage of household goods, mini-storage, and  
25 warehousing of raw agricultural products; swimming pool  
26 cleaning and maintenance; taxidermy services; telephone  
27 answering service; test laboratories, except including mobile  
28 testing laboratories and field testing by testing  
29 laboratories, and excluding tests on humans or animals;  
30 termite, bug, roach, and pest eradicators; tin and sheet metal  
31 repair; turkish baths, massage, and reducing salons; weighing;  
32 welding; well drilling; wrapping, packing, and packaging of  
33 merchandise other than processed meat, fish, fowl and  
34 vegetables; wrecking service; wrecker and towing; pay  
35 television; campgrounds; carpet and upholstery cleaning; gun

1 and camera repair; janitorial and building maintenance or  
2 cleaning; lawn care, landscaping and tree trimming and  
3 removal; pet grooming; reflexology; security and detective  
4 services; tanning beds or salons; and water conditioning and  
5 softening.

6 Sec. 6. Section 422.43, subsection 12, Code 1995, is  
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8 Sec. 7. Section 422.45, subsection 7, paragraph b, Code  
9 1995, is amended by adding the following new unnumbered  
10 paragraph:

11 NEW UNNUMBERED PARAGRAPH. Refunds authorized under this  
12 subsection shall accrue interest at the rate in effect under  
13 section 421.7 from the first day of the second calendar month  
14 following the date the refund claim is received by the  
15 department.

16 Sec. 8. Section 422.45, subsection 27, unnumbered  
17 paragraph 1, Code 1995, is amended to read as follows:

18 The gross receipts from the sale or rental, on or after  
19 July 1, 1987 or on or after July 1, 1985, in the case of an  
20 industry which has entered into an agreement under chapter  
21 260E prior to the sale or lease, of industrial machinery,  
22 equipment and computers, including replacement parts which are  
23 ~~depreciable~~ depreciated for ~~state-and~~ federal income tax  
24 purposes, if the following conditions are met:

25 Sec. 9. Section 422.53, subsection 2, Code 1995, is  
26 amended to read as follows:

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

1 equitable interest in the ownership of the corporation owes  
2 any delinquent tax, penalty, or interest ~~of-the-applicant~~  
3 corporation.

4 Sec. 10. Section 422.55, subsection 2, Code 1995, is  
5 amended by striking the subsection and inserting in lieu  
6 thereof the following:

7 2. For cause and upon a showing by the director that  
8 collection of the tax in dispute is in doubt, the court may  
9 order the petitioner to file with the clerk a bond for the use  
10 of the respondent, with sureties approved by the clerk, in the  
11 amount of tax appealed from, conditioned that the petitioner  
12 shall perform the orders of the court.

13 Sec. 11. Section 422.70, subsection 2, Code 1995, is  
14 amended to read as follows:

15 2. Where the director finds the taxpayer has made a  
16 fraudulent return, the costs of said any hearing, including a  
17 contested case hearing, shall be taxed to the taxpayer. In  
18 all other cases the costs shall be paid by the state.

19 Sec. 12. Section 422.88, subsections 2 and 3, Code 1995,  
20 are amended to read as follows:

21 2. The amount of the underpayment shall be the excess of  
22 the amount of the installment which would be required to be  
23 paid if the estimated tax was equal to eighty ninety percent  
24 of the tax shown on the return of the taxpayer for the taxable  
25 year over any the amount of installments paid on or before the  
26 date prescribed for payment.

27 3. If the taxpayer did not file a return during the  
28 taxable year, the amount of the underpayment shall be equal to  
29 eighty ninety percent of the taxpayer's tax liability for the  
30 taxable year over any the amount of installments paid on or  
31 before the date prescribed for payment.

32 Sec. 13. Section 422.89, subsection 3, unnumbered  
33 paragraph 1, Code 1995, is amended to read as follows:

34 An amount equal to eighty ninety percent of the tax for the  
35 taxable year computed by placing on an annualized basis the

1 taxable income:

2 Sec. 14. Section 422B.8, unnumbered paragraph 1, Code  
3 1995, is amended to read as follows:

4 A local sales and services tax at the rate of not more than  
5 one percent may be imposed by a county on the gross receipts  
6 taxed by the state under chapter 422, division IV. A local  
7 sales and services tax shall be imposed on the same basis as  
8 the state sales and services tax and may not be imposed on the  
9 sale of any property or on any service not taxed by the state,  
10 except the tax shall not be imposed on the gross receipts from  
11 the sale of motor fuel or special fuel as defined in chapter  
12 452A, on the gross receipts from the rental of rooms,  
13 apartments, or sleeping quarters which are taxed under chapter  
14 422A during the period the hotel and motel tax is imposed, on  
15 the gross receipts from the sale of natural gas or electric  
16 energy in a city or county where the gross receipts are  
17 subject to a franchise fee or user fee during the period the  
18 franchise or user fee is imposed, ~~on-the-gross-receipts-upon~~  
19 ~~which-sales-tax-is-imposed-only-under-section-422-43,~~  
20 ~~subsection-12,~~ on the gross receipts from the sale of  
21 equipment by the state department of transportation, and on  
22 the gross receipts from the sale of a lottery ticket or share  
23 in a lottery game conducted pursuant to chapter 99E. A local  
24 sales and services tax is applicable to transactions within  
25 those incorporated and unincorporated areas of the county  
26 where it is imposed and shall be collected by all persons  
27 required to collect state gross receipts taxes. All cities  
28 contiguous to each other shall be treated as part of one  
29 incorporated area and the tax would be imposed in each of  
30 those contiguous cities only if the majority of those voting  
31 in the total area covered by the contiguous cities favor its  
32 imposition.

33 Sec. 15. Section 423.1, subsection 7, Code 1995, is  
34 amended to read as follows:

35 7. "Retailer" means and includes every person engaged in

1 the business of selling tangible personal property or services  
2 enumerated in section 422.43 for use within the meaning of  
3 this chapter ~~provided, however, that.~~ However, when in the  
4 opinion of the director it is necessary for the efficient  
5 administration of this chapter to regard any salespersons,  
6 representatives, truckers, peddlers, or canvassers as the  
7 agents of the dealers, distributors, supervisors, employers,  
8 or persons under whom they operate or from whom they obtain  
9 the tangible personal property sold by them, irrespective of  
10 whether they are making sales on their own behalf or on behalf  
11 of ~~such~~ those dealers, distributors, supervisors, employers,  
12 or persons, the director may ~~so~~ regard them and ~~may regard~~ the  
13 dealers, distributors, supervisors, employers, or persons as  
14 retailers for purposes of this chapter.

15 Sec. 16. Section 423.18, subsections 2 and 3, Code 1995,  
16 are amended to read as follows:

17 2. A person who willfully attempts in any manner to evade  
18 a tax imposed by this chapter or the payment ~~of ninety-percent~~  
19 of the tax, or a person who makes or causes to be made any  
20 false or fraudulent monthly deposit form or return with intent  
21 to evade the tax imposed by this chapter or the payment ~~of~~  
22 ~~ninety-percent~~ of the tax is guilty of a class "D" felony.

23 3. A person required to pay tax, or to make, sign or file  
24 a monthly deposit form or return, who willfully makes a false  
25 or fraudulent monthly deposit form or return, or who willfully  
26 fails at the time required by law to pay at least ninety  
27 percent of the tax or fails to make, sign or file the monthly  
28 deposit form or return, is guilty of a fraudulent practice.

29 Sec. 17. Section 423.21, Code 1995, is amended to read as  
30 follows:

31 423.21 BOOKS -- EXAMINATION.

32 Every retailer required or authorized to collect taxes  
33 imposed by this chapter and every person using in this state  
34 tangible personal property, services, or the product of  
35 services shall keep such those records, receipts, invoices,

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 and other pertinent papers as the director shall require, in  
2 such the form as that the director shall require. The  
3 director or any duly authorized agent of the department may  
4 examine the books, papers, records, and equipment of any  
5 person either selling tangible personal property or services  
6 or liable for the tax imposed by this chapter, and investigate  
7 the character of the business of any such person in order to  
8 verify the accuracy of any return made, or if no a return was  
9 not made by such the person, ascertain and determine the  
10 amount due under ~~the-provisions-of~~ this chapter. ~~Any-such~~  
11 These books, papers, and records shall be made available  
12 within this state for such examination upon reasonable notice  
13 when the director shall deem it advisable and shall so order.  
14 The preceding requirements shall likewise apply to users and  
15 persons rendering, furnishing, or performing service  
16 enumerated in section 422.43.

17 Sec. 18. Section 423.25, Code 1995, is amended to read as  
18 follows:

19 423.25 TAXATION IN ANOTHER STATE.

20 If any person who causes tangible personal property to be  
21 brought into this state or who uses in this state services  
22 enumerated in section 422.43 has already paid a tax in another  
23 state in respect to the sale or use of the property or the  
24 performance of the service, or an occupation tax in respect to  
25 the property, in an amount less than the tax imposed by this  
26 title, the provisions of this title shall apply, but at a rate  
27 measured by the difference only between the rate fixed in this  
28 title and the rate by which the previous tax on the sale or  
29 use, or the occupation tax, was computed. If the tax imposed  
30 and paid in the other state is equal to or more than the tax  
31 imposed by this title, then no a tax is not due in this state  
32 on the personal property or service.

33 Sec. 19. Section 423A.2, Code 1995, is amended by adding  
34 the following new subsection:

35 NEW SUBSECTION. 5. Requested by an auditor or other

1 equivalent representative of a governmental agency having  
2 responsibility for tax collection.

3 Sec. 20. Section 424.13, subsection 2, Code 1995, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 2. For cause and upon a showing by the director that  
7 collection of the tax in dispute is in doubt, the court may  
8 order the petitioner to file with the clerk a bond for the use  
9 of the respondent, with sureties approved by the clerk, in the  
10 amount of tax appealed from, conditioned that the petitioner  
11 shall perform the orders of the court.

12 Sec. 21. Section 427.1, subsections 5, 14, 18, 19, and 22,  
13 Code 1995, are amended by striking the subsections.

14 Sec. 22. Section 428.1, unnumbered paragraph 1, Code 1995,  
15 is amended to read as follows:

16 ~~Every inhabitant-of-this-state,-of-full-age-and-sound-mind,~~  
17 person shall list for the assessor all property subject to  
18 taxation in the state, of which the inhabitant person is the  
19 owner, or has the control or management, in the following  
20 manner ~~herein-directed~~:

21 Sec. 23. Section 428.23, Code 1995, is amended to read as  
22 follows:

23 428.23 MANUFACTURER TO LIST.

24 Corporations ~~organized under-the-laws-of-this-state~~ for  
25 pecuniary profit and engaged in manufacturing as defined in  
26 section 428.20 shall list their real property in the same  
27 manner as is required of individuals.

28 Sec. 24. Section 428.37, subsection 2, unnumbered  
29 paragraph 1, Code 1995, is amended to read as follows:

30 Notwithstanding ~~sections~~ section 428.25 and ~~428.27~~, the  
31 taxable value of an electric power generating plant placed in  
32 commercial service after December 31, 1972, shall be  
33 apportioned by the director of revenue and finance, commencing  
34 with the year 1973, as follows:

35 Sec. 25. Section 433.4, Code 1995, is amended to read as

1 follows:

2 433.4 ASSESSMENT.

3 The director of revenue and finance shall on the second  
4 Monday in July of each year, proceed to find the actual value  
5 of the property of ~~such~~ these companies in this state, taking  
6 into consideration the information obtained from the  
7 statements ~~above~~ required, and any further information the  
8 director can obtain, using the same as a means for determining  
9 the actual cash value of the property of ~~such~~ these companies  
10 within this state~~7~~. The director shall also taking take into  
11 consideration the valuation of all property of ~~such~~ these  
12 companies, including franchises and the use of the property in  
13 connection with lines outside the state, and making ~~such~~ these  
14 deductions as may be necessary on account of extra value of  
15 property outside the state as compared with the value of  
16 property in the state, in order that the actual cash value of  
17 the property of the company within this state may be  
18 ascertained. ~~Said~~ The assessment shall include all property  
19 of every kind and character whatsoever, real, personal, or  
20 mixed, used by ~~said~~ the companies in the transaction of  
21 telegraph and telephone business; and the property so included  
22 in ~~said~~ the assessment shall not be taxed in any other manner  
23 than as provided in this chapter ~~and-section-427-17-subsection~~  
24 ~~19~~.

25 Sec. 26. Section 433.12, Code 1995, is amended to read as  
26 follows:

27 433.12 "COMPANY" DEFINED.

28 ~~The word "company"~~ "Company" as used in this chapter and  
29 ~~section-427-17-subsection-19, shall be deemed and construed to~~  
30 ~~mean and include~~ means any person, copartnership, association,  
31 corporation, or syndicate that ~~shall own~~ owns or operate  
32 operates, or be is engaged in operating, any telegraph or  
33 telephone line, whether formed or organized under the laws of  
34 this state or elsewhere.

35 Sec. 27. Section 437.1, Code 1995, is amended to read as



1 follows:

2 437.1 "COMPANY" DEFINED.

3 ~~The word "company"~~ "Company" as used in this chapter and  
4 ~~section 427.1, subsection 19, shall be deemed and considered~~  
5 ~~to mean and include~~ means any person, copartnership,  
6 association, corporation, or syndicate, ~~(except co-operative~~  
7 corporations or associations which are not organized or  
8 operated for profit), ~~that shall own~~ owns or operate operates  
9 a transmission line or lines for the conducting of electric  
10 energy located within the state and wholly or partly outside  
11 cities, whether formed or organized under the laws of this  
12 state or elsewhere.

13 Sec. 28. Section 437.12, Code 1995, is amended to read as  
14 follows:

15 437.12 ASSESSMENT EXCLUSIVE.

16 Every transmission line or part thereof of a transmission  
17 line, of which the director of revenue and finance is required  
18 by this chapter to find the value, shall be exempt from other  
19 assessment or taxation either under sections 428.24 to ~~428.27~~  
20 428.26, or under any other law of this state except as  
21 provided in this chapter.

22 Sec. 29. Section 437.13, Code 1995, is amended to read as  
23 follows:

24 437.13 LOCAL ASSESSMENT.

25 All lands, buildings, machinery, poles, towers, wires,  
26 station and substation equipment, and other construction owned  
27 or operated by any company referred to in section 437.2, and  
28 where such this property is located within any city within  
29 this state, shall be listed and assessed for taxation in the  
30 same manner as provided in sections 428.24, 428.25, and  
31 428.29, for the listing and assessment of that part of the  
32 lands, buildings, machinery, tracks, poles, and wires within  
33 the limits of any city belonging to individuals or  
34 corporations furnishing electric light or power, and where  
35 such this property, except the capital stock, is situated

1 partly within and partly without the limits of a city. All  
2 personal property of every company owning or operating any  
3 such transmission line referred to in section 437.2, used or  
4 purchased by it for the purpose of such the transmission line,  
5 shall be listed and assessed in the assessment district where  
6 usually kept and housed and under sections 428.267-428.277 and  
7 428.29.

8 Sec. 30. Section 441.21, subsection 9, paragraph b, Code  
9 1995, is amended to read as follows:

10 b. ~~Notwithstanding paragraph "a" of this subsection, any~~  
11 ~~construction or installation of gas production systems using~~  
12 ~~waste or manure to produce gas completed on property~~  
13 ~~classified as agricultural, residential, commercial, or~~  
14 ~~industrial property shall not increase the actual, assessed~~  
15 ~~and taxable values of the property for assessment years~~  
16 ~~beginning on January 1, 1979 and ending on or before December~~  
17 ~~31, 1985. In addition, notwithstanding paragraph "a" of this~~  
18 ~~subsection, any construction or installation of a solar energy~~  
19 ~~system on property so classified shall not increase the~~  
20 ~~actual, assessed and taxable values of the property for five~~  
21 ~~full assessment years.~~

22 Sec. 31. Section 453B.1, subsection 3, paragraph b, Code  
23 1995, is amended to read as follows:

24 b. Forty-two and one-half grams or more of processed  
25 marijuana or of a substance consisting of or containing  
26 marijuana.

27 Sec. 32. Section 453B.1, subsection 3, Code 1995, is  
28 amended by adding the following new paragraph after paragraph  
29 b and relettering:

30 NEW PARAGRAPH. c. One or more unprocessed marijuana  
31 plants.

32 Sec. 33. Section 453B.1, Code 1995, is amended by adding  
33 the following new subsections:

34 NEW SUBSECTION. 7A. "Processed marijuana" means all  
35 marijuana except unprocessed marijuana plants.

1 NEW SUBSECTION. 10. "Unprocessed marijuana plant" means  
2 any cannabis plant at any level of growth, whether wet, dry,  
3 harvested, or growing.

4 Sec. 34. Section 453B.7, Code 1995, is amended to read as  
5 follows:

6 453B.7 TAX IMPOSED -- RATE OF TAX.

7 An excise tax is imposed on dealers at the following rates:

8 1. On each gram of processed marijuana, or each portion of  
9 a gram, five dollars.

10 2. On each gram or portion of a gram of any taxable  
11 substance sold by weight other than marijuana, two hundred  
12 fifty dollars.

13 3. On each unprocessed marijuana plant, seven hundred  
14 fifty dollars.

15 ~~3.~~ 4. On each ten dosage units of any taxable substance,  
16 other than unprocessed marijuana plants, that is not sold by  
17 weight, or portion thereof, four hundred dollars.

18 Sec. 35. Section 428.27, Code 1995, is repealed.

19 Sec. 36. Section 3 of this Act, being deemed of immediate  
20 importance, takes effect upon enactment, and applies or  
21 retroactively applies to April 1, 1995, for amended tax  
22 returns filed on or after that date.

23 Sec. 37. Section 4 of this Act applies retroactively to  
24 January 1, 1995, for tax years beginning on or after that  
25 date.

26 Sec. 38. Sections 12 and 13 of this Act are effective July  
27 1, 1995, for tax years beginning on or after that date.

28 EXPLANATION

29 The bill makes a number of changes to the state tax laws  
30 including income tax changes that treat income from intangible  
31 property as income from sources within the state for corporate  
32 income tax purposes; increase from 80 percent to 90 percent  
33 the amount of estimated tax payments to be paid by  
34 corporations and financial institutions; specifically allow  
35 tax preparers to release tax records for examination by

1 employees of the department of revenue and finance; and give  
2 the department 60 days to assess tax on amended returns  
3 received within 60 days of the statute of limitations.

4 Sales and use tax provisions include changes that expand  
5 taxable services of testing laboratories to include mobile and  
6 field testing laboratories; eliminate the requirement that  
7 out-of-state retailers collect sales tax if their only  
8 activity is catalogue sales; allow interest on refunds to  
9 governmental bodies, private nonprofit education institutions,  
10 and private museums to accrue the first day of the second  
11 month after receipt of the refund claim by the department;  
12 exempt sales of replacement parts for industrial machinery and  
13 equipment only if parts are actually depreciated; provide that  
14 the definition of "retailer" includes persons providing  
15 enumerated services; include services used in this state as  
16 subject to use tax if sales tax is not paid; modify certain  
17 evasion of use tax provisions.

18 The bill modifies certain bonding requirements on appeal,  
19 provides that contest case hearing costs in fraud cases are  
20 taxed to the taxpayer; repeals certain obsolete property tax  
21 exemptions, and imposes a tax on unprocessed marijuana plants.

22 The bill has numerous effective and applicability date  
23 provisions.

24 BACKGROUND STATEMENT

25 SUBMITTED BY THE AGENCY

26 The bill specifies that appeal periods under various taxing  
27 provisions, except licensing, apply to any department of  
28 revenue and finance action involving calculation of tax and  
29 directed at a specific taxpayer.

30 The bill gives statutory authority to the department of  
31 revenue and finance not to collect a tax where to do so would  
32 be prohibited by the Constitution of the United States or laws  
33 or by the Constitution of the State of Iowa. This provision  
34 covers all taxes where prior law only covered retail sales  
35 tax.

1 The bill extends the statute of limitations for assessment  
2 by up to 60 days for amended returns that are filed within 60  
3 days prior to the date that the statute of limitations for  
4 assessment was to expire. This provision applies  
5 retroactively, if need be, to April 1, 1995.

6 The bill allows an Iowa domiciled corporation to apportion  
7 its income if its only contact with another state is the  
8 licensing of the use of an intangible in that state. States  
9 may constitutionally tax a corporation if its only contact  
10 with that state is the licensing of intangibles. This  
11 provision will prevent the double taxation of some Iowa  
12 corporations' income. The bill will also tax the Iowa income  
13 from intangibles of non-Iowa corporations.

14 The bill clarifies existing law by adding language which  
15 states explicitly that the taxable service of "test  
16 laboratories" includes the service of mobile testing  
17 laboratories and field testing by testing laboratories.

18 The bill repeals the sales tax provision which allows the  
19 state to require certain retailers with no physical presence  
20 in Iowa to collect sales tax on the gross receipts from sales  
21 of tangible personal property in Iowa.

22 Present law provides that all refunds shall accrue interest  
23 at the rate in effect under section 421.7 from the first day  
24 of the second month following the date of payment or the date  
25 the return was due to be filed or was filed, whichever is the  
26 latest. Under state law, contractors are the consumer and  
27 must pay sales or use tax on all materials they use to  
28 incorporate into real property. Section 422.45, subsection 7,  
29 provides that private nonprofit educational institutions,  
30 nonprofit private museums, tax certifying or tax levying  
31 bodies, or governmental subdivisions of the state are entitled  
32 to a refund of all sales and use tax paid by contractors, when  
33 performing construction for the above. This is a situation  
34 where the person that paid the tax does not receive the  
35 refund. This bill provides that the interest will not start

1 to accrue until the refund claim is actually filed by the  
2 organization entitled to the refund.

3 The bill changes the conditions under which sale or use of  
4 replacements parts for industrial machinery, equipment or  
5 computers is exempt from tax. Under existing law, their sale  
6 or use is exempt if the cost of a replacement part could be  
7 depreciated under federal and state income tax law. As  
8 amended, the cost of the replacement part must be depreciated  
9 if the sale or use of it is to be exempt from tax. The  
10 exemption will not apply if the cost of the replacement part  
11 is deducted as an expense rather than depreciated over its  
12 useful life. The statute's reference to state law is deleted  
13 as redundant because Iowa law always follows federal law with  
14 regard to depreciation.

15 The bill allows for the denial of a sales tax permit where  
16 an officer having a substantial legal or equitable ownership  
17 in a corporation owes any delinquent sales tax, penalty, or  
18 interest. Current language is confusing and contrary to the  
19 purpose of the statute.

20 The bill amends bonding provisions associated with sales  
21 tax contested case decisions and with environmental protection  
22 charge contested case decisions to read the same as section  
23 422.29, subsection 2, relating to income tax contested case  
24 decisions. If for cause, the director of revenue and finance  
25 shows that collection of the tax in dispute is in doubt, the  
26 court may order a petitioner to file a bond for the amount of  
27 tax in dispute. This was overlooked in the taxpayer bill of  
28 rights enacted in 1994.

29 The bill makes clear that in the event of fraud, the costs  
30 of a contested case hearing are to be taxed to the taxpayer to  
31 the same extent as the costs of other hearings under section  
32 422.70. In cases other than fraud, the state pays the costs.

33 For corporations and financial institutions, the bill  
34 raises the portion from 80 to 90 percent of the current year  
35 tax liability that must be paid through estimated tax payments

1 to avoid penalty for underpayment of estimated tax. This is  
2 consistent with federal standards.

3 The bill adds clarifying references to taxable enumerated  
4 services to sections of the use tax law which currently only  
5 mention tangible personal property, but which should also  
6 apply to services subject to use tax.

7 The bill amends the use tax statutes relating to the  
8 evasion of tax. The burden of proof is on the department so  
9 the 90 percent provision has no bearing. This also makes use  
10 tax consistent with section 422.58, subsections 3 and 5, of  
11 the sales tax law.

12 The bill specifically allows the disclosure of tax  
13 information to a representative of the department of revenue  
14 and finance when performing an audit or investigation of a tax  
15 preparer's client.

16 The bill repeals a number of property tax exemption  
17 statutes that are obsolete and makes clarifying technical  
18 corrections.

19 The bill significantly simplifies the calculation of the  
20 drug stamp tax by imposing an excise tax on unprocessed  
21 marijuana plants.

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HOUSE FILE 554

AN ACT

RELATING TO STATE AND LOCAL TAXES INCLUDING APPEALS OF

DEPARTMENT OF REVENUE AND FINANCE ACTIONS, THE PROHIBITION OF UNCONSTITUTIONAL OR ILLEGAL TAX COLLECTIONS, ASSESSMENT PROCEDURES PERTAINING TO AMENDED RETURNS, CORPORATE INCOME TAX RATES, SALES TAX ON TEST LABORATORY SERVICES, COLLECTION OF SALES TAX BY OUT-OF-STATE RETAILERS, INTEREST ACCRUAL ON SALES AND USE TAX REFUNDS, SALES TAX PERMIT DENIAL FOR DELINQUENT TAXES, BONDING PROVISIONS FOR SALES TAX AND ENVIRONMENTAL PROTECTION CHARGE CONTESTED CASE DECISIONS, COSTS ASSOCIATED WITH CONTESTED CASE HEARINGS, PENALTY FOR UNDERPAYMENT OF CORPORATION INCOME AND FRANCHISE TAXES, SERVICES SUBJECT TO USE TAX, PENALTY FOR UNDERPAYMENT OF USE TAX, THE REPEAL OF OBSOLETE PROPERTY TAX PROVISIONS, AND IMPOSITION OF THE DRUG EXCISE TAX ON UNPROCESSED MARIJUANA PLANTS AND PROVIDING EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 421.10, Code 1995, is amended to read as follows:

421.10 APPEAL PERIOD -- DENIAL OF TAXPAYER'S CLAIM.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, 422.54, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 2. Section 421.60, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. ILLEGAL TAX. A tax shall not be collected by the department if it is prohibited under the Constitution of the United States or laws of the United States, or under the Constitution of the State of Iowa.

Sec. 3. Section 422.25, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a taxpayer files an amended return within sixty days prior to the expiration of the applicable period of limitations described in subsection 1, the department has sixty days from the date of receipt of the amended return to issue an assessment for any applicable tax, interest, or penalty.

Sec. 4. Section 422.33, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

"Income from sources within this state" means income from real, or tangible, or intangible property located or having a situs in this state.

Sec. 5. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: alteration and garment repair; armored car; vehicle repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; limousine service, including driver; machine operator; machine



repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; taxidermy services; telephone answering service; test laboratories, except including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 6. Section 422.43, subsection 12, Code 1995, is amended by striking the subsection.

Sec. 7. Section 422.45, subsection 7, paragraph b, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Refunds authorized under this subsection shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month

following the date the refund claim is received by the department.

Sec. 8. Section 422.53, subsection 2, Code 1995, is amended to read as follows:

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

Sec. 9. Section 422.55, subsection 2, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.

Sec. 10. Section 422.70, subsection 2, Code 1995, is amended to read as follows:

2. Where the director finds the taxpayer has made a fraudulent return, the costs of ~~said any hearing, including a~~ contested case hearing, shall be taxed to the taxpayer. In all other cases the costs shall be paid by the state.

Sec. 11. Section 422.88, subsections 2 and 3, Code 1995, are amended to read as follows:

2. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be

paid if the estimated tax was equal to eighty ninety percent of the tax shown on the return of the taxpayer for the taxable year over any the amount of installments paid on or before the date prescribed for payment.

3. If the taxpayer did not file a return during the taxable year, the amount of the underpayment shall be equal to eighty ninety percent of the taxpayer's tax liability for the taxable year over any the amount of installments paid on or before the date prescribed for payment.

Sec. 12. Section 422.89, subsection 3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

An amount equal to eighty ninety percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

Sec. 13. Section 422B.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, ~~on-the-gross-receipts-upon which-sales-tax-is-imposed-only-under-section-422-43, subsection-12,~~ on the gross receipts from the sale of equipment by the state department of transportation, and on the gross receipts from the sale of a lottery ticket or share

in a lottery game conducted pursuant to chapter 99E. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 14. Section 423.1, subsection 7, Code 1995, is amended to read as follows:

7. "Retailer" means and includes every person engaged in the business of selling tangible personal property or services enumerated in section 422.43 for use within the meaning of this chapter; ~~provided, however, that.~~ However, when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such those dealers, distributors, supervisors, employers, or persons, the director may ~~so~~ regard them and ~~may regard~~ the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this chapter.

Sec. 15. Section 423.18, subsections 2 and 3, Code 1995, are amended to read as follows:

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment ~~of ninety-percent~~ of the tax, or a person who makes or causes to be made any false or fraudulent monthly deposit form or return with intent to evade the tax imposed by this chapter or the payment ~~of ninety-percent~~ of the tax is guilty of a class "D" felony.

3. A person required to pay tax, or to make, sign or file a monthly deposit form or return, who willfully makes a false or fraudulent monthly deposit form or return, or who willfully fails at the time required by law to pay at least ninety percent of the tax or fails to make, sign or file the monthly deposit form or return, is guilty of a fraudulent practice.

Sec. 16. Section 423.21, Code 1995, is amended to read as follows:

423.21 BOOKS -- EXAMINATION.

Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property, services, or the product of services shall keep such those records, receipts, invoices, and other pertinent papers as the director shall require, in such the form as that the director shall require. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or services or liable for the tax imposed by this chapter, and investigate the character of the business of any such person in order to verify the accuracy of any return made, or if no a return was not made by such the person, ascertain and determine the amount due under ~~the provisions of~~ this chapter. ~~Any such~~ These books, papers, and records shall be made available within this state for such examination upon reasonable notice when the director shall deem it advisable and shall so order. The preceding requirements shall likewise apply to users and persons rendering, furnishing, or performing service enumerated in section 422.43.

Sec. 17. Section 423.25, Code 1995, is amended to read as follows:

423.25 TAXATION IN ANOTHER STATE.

If any person who causes tangible personal property to be brought into this state or who uses in this state services enumerated in section 422.43 has already paid a tax in another

state in respect to the sale or use of the property or the performance of the service, or an occupation tax in respect to the property, in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate fixed in this title and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If the tax imposed and paid in the other state is equal to or more than the tax imposed by this title, then no a tax is not due in this state on the personal property or service.

Sec. 18. Section 424.13, subsection 2, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.

Sec. 19. Section 427.1, subsections 5, 14, 18, 19, and 22, Code 1995, are amended by striking the subsections.

Sec. 20. Section 428.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Every ~~inhabitant of this state, of full age and sound mind,~~ person shall list for the assessor all property subject to taxation in the state, of which the inhabitant person is the owner, or has the control or management, in the following manner ~~herein directed~~:

Sec. 21. Section 428.23, Code 1995, is amended to read as follows:

428.23 MANUFACTURER TO LIST.

Corporations organized ~~under the laws of this state~~ for pecuniary profit and engaged in manufacturing as defined in section 428.20 shall list their real property in the same manner as is required of individuals.

Sec. 22. Section 428.37, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Notwithstanding ~~sections~~ section 428.25 and ~~428-27~~, the taxable value of an electric power generating plant placed in commercial service after December 31, 1972, shall be apportioned by the director of revenue and finance, commencing with the year 1973, as follows:

Sec. 23. Section 433.4, Code 1995, is amended to read as follows:

433.4 ASSESSMENT.

The director of revenue and finance shall on the second Monday in July of each year, proceed to find the actual value of the property of such these companies in this state, taking into consideration the information obtained from the statements ~~above~~ required, and any further information the director can obtain, using the same as a means for determining the actual cash value of the property of ~~such these~~ companies within this state. The director shall also taking take into consideration the valuation of all property of such these companies, including franchises and the use of the property in connection with lines outside the state, and making such these deductions as may be necessary on account of extra value of property outside the state as compared with the value of property in the state, in order that the actual cash value of the property of the company within this state may be ascertained. ~~Said The~~ assessment shall include all property of every kind and character whatsoever, real, personal, or mixed, used by ~~said the~~ companies in the transaction of telegraph and telephone business; and the property so included in ~~said the~~ assessment shall not be taxed in any other manner than as provided in this chapter ~~and-section-427-17-subsection 19~~.

Sec. 24. Section 433.12, Code 1995, is amended to read as follows:

433.12 "COMPANY" DEFINED.

~~The word-"company"~~ "Company" as used in this chapter and ~~section-427-17-subsection-19-shall-be-deemed-and-considered-to~~ mean-and-include means any person, copartnership, association, corporation, or syndicate that ~~shall-own owns~~ or ~~operate~~ operates, or ~~be~~ is engaged in operating, any telegraph or telephone line, whether formed or organized under the laws of this state or elsewhere.

Sec. 25. Section 437.1, Code 1995, is amended to read as follows:

437.1 "COMPANY" DEFINED.

~~The word-"company"~~ "Company" as used in this chapter and ~~section-427-17-subsection-19-shall-be-deemed-and-considered~~ to-mean-and-include means any person, copartnership, association, corporation, or syndicate, ~~{except co-operative corporations or associations which are not organized or operated for profit}~~, that ~~shall-own owns~~ or ~~operate~~ operates a transmission line or lines for the conducting of electric energy located within the state and wholly or partly outside cities, whether formed or organized under the laws of this state or elsewhere.

Sec. 26. Section 437.12, Code 1995, is amended to read as follows:

437.12 ASSESSMENT EXCLUSIVE.

Every transmission line or part thereof of a transmission line, of which the director of revenue and finance is required by this chapter to find the value, shall be exempt from other assessment or taxation either under sections 428.24 to ~~428-27~~ 428.26, or under any other law of this state except as provided in this chapter.

Sec. 27. Section 437.13, Code 1995, is amended to read as follows:

437.13 LOCAL ASSESSMENT.

All lands, buildings, machinery, poles, towers, wires, station and substation equipment, and other construction owned or operated by any company referred to in section 437.2, and

where such this property is located within any city within this state, shall be listed and assessed for taxation in the same manner as provided in sections 428.24, 428.25, and 428.29, for the listing and assessment of that part of the lands, buildings, machinery, tracks, poles, and wires within the limits of any city belonging to individuals or corporations furnishing electric light or power, and where such this property, except the capital stock, is situated partly within and partly without the limits of a city. All personal property of every company owning or operating any such transmission line referred to in section 437.2, used or purchased by it for the purpose of such the transmission line, shall be listed and assessed in the assessment district where usually kept and housed and under sections 428.267-428-277 and 428.29.

Sec. 28. Section 441.21, subsection 9, paragraph b, Code 1995, is amended to read as follows:

b. ~~Notwithstanding paragraph "a" of this subsection, any construction or installation of gas production systems using waste or manure to produce gas completed on property classified as agricultural, residential, commercial, or industrial property shall not increase the actual assessed and taxable values of the property for assessment years beginning on January 1, 1979 and ending on or before December 31, 1985. In addition, notwithstanding paragraph "a" of this subsection, any construction or installation of a solar energy system on property so classified shall not increase the actual, assessed and taxable values of the property for five full assessment years.~~

Sec. 29. Section 453B.1, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. Forty-two and one-half grams or more of processed marijuana or of a substance consisting of or containing marijuana.

Sec. 30. Section 453B.1, subsection 3, Code 1995, is amended by adding the following new paragraph after paragraph b and relettering:

NEW PARAGRAPH. c. One or more unprocessed marijuana plants.

Sec. 31. Section 453B.1, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Processed marijuana" means all marijuana except unprocessed marijuana plants.

NEW SUBSECTION. 10. "Unprocessed marijuana plant" means any cannabis plant at any level of growth, whether wet, dry, harvested, or growing.

Sec. 32. Section 453B.7, Code 1995, is amended to read as follows:

453B.7 TAX IMPOSED -- RATE OF TAX.

An excise tax is imposed on dealers at the following rates:

1. On each gram of processed marijuana, or each portion of a gram, five dollars.

2. On each gram or portion of a gram of any taxable substance sold by weight other than marijuana, two hundred fifty dollars.

3. On each unprocessed marijuana plant, seven hundred fifty dollars.

~~3. 4.~~ On each ten dosage units of any taxable substance, other than unprocessed marijuana plants, that is not sold by weight, or portion thereof, four hundred dollars.

Sec. 33. Section 428.27, Code 1995, is repealed.

Sec. 34. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment, and applies or retroactively applies to April 1, 1995, for amended tax returns filed on or after that date.

Sec. 35. Section 4 of this Act applies retroactively to January 1, 1995, for tax years beginning on or after that date.

Sec. 36. Sections 11 and 12 of this Act are effective July 1, 1995, for tax years beginning on or after that date.

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RON J. CORBETT  
Speaker of the House

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LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 554, Seventy-sixth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 25, 1995

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TERRY E. BRANSTAD  
Governor