

5.4/22/97 Amend/Do Pass W/ 53686

FEB 18 1997

WAYS & MEANS CALENDAR

HOUSE FILE 266
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 28)

Passed House, ^(P. 1312) Date 4-17-97
Vote: Ayes 96 Nays 0

Passed Senate, ^(P. 1494) Date 4-28-97
Vote: Ayes 49 Nays 0

^(P. 1741) Approved May 19, 1997
Passed 4-29-97
Vote 80-17

A BILL FOR

1 An Act relating to the administration of state individual income,
2 corporate, motor fuel, and other taxes; property taxes,
3 property tax credits and replacement claims; sales, services,
4 and use taxes; tax refund setoffs; and other duties of the
5 department and director of revenue and finance; providing a
6 penalty; and providing a retroactive applicability date
7 provision.

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

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HF 266

1 Section 1. Section 321.19, subsection 1, unnumbered
2 paragraph 2, Code 1997, is amended to read as follows:

3 The department shall furnish, on application, free of
4 charge, distinguishing plates for vehicles thus exempted,
5 which plates except plates on Iowa highway safety patrol
6 vehicles shall bear the word "official" and the department
7 shall keep a separate record. Registration plates issued for
8 Iowa highway safety patrol vehicles, except unmarked patrol
9 vehicles, shall bear two red stars on a yellow background, one
10 before and one following the registration number on the plate,
11 which registration number shall be the officer's badge number.
12 Registration plates issued for a county sheriff's patrol
13 vehicles shall display one seven-pointed gold star followed by
14 the letter "S" and the call number of the vehicle. However,
15 the director of general services or the director of
16 transportation may order the issuance of regular registration
17 plates for any exempted vehicle used by peace officers in the
18 enforcement of the law, persons enforcing chapter 124 and
19 other laws relating to controlled substances, persons in the
20 department of justice, the alcoholic beverages division of the
21 department of commerce, and the department of inspections and
22 appeals, and the department of revenue and finance, who are
23 regularly assigned to conduct investigations which cannot
24 reasonably be conducted with a vehicle displaying "official"
25 state registration plates, and persons in the lottery division
26 of the department of revenue and finance whose regularly
27 assigned duties relating to security or the carrying of
28 lottery tickets cannot reasonably be conducted with a vehicle
29 displaying "official" registration plates. For purposes of
30 sale of exempted vehicles, the exempted governmental body,
31 upon the sale of the exempted vehicle, may issue for in-
32 transit purposes a pasteboard card bearing the words "Vehicle
33 in Transit", the name of the official body from which the
34 vehicle was purchased, together with the date of the purchase
35 plainly marked in at least one-inch letters, and other

1 information required by the department. The in-transit card
2 is valid for use only within forty-eight hours after the
3 purchase date as indicated on the bill of sale which shall be
4 carried by the driver.

5 Sec. 2. Section 421.17, subsection 21, paragraph b,
6 subparagraph (3), Code 1997, is amended to read as follows:

7 (3) The child support recovery unit, the foster care
8 recovery unit, and the investigations division of the
9 department of inspections and appeals shall, at least
10 annually, submit to the department of revenue and finance for
11 setoff the debts described in this subsection, ~~which-are-at~~
12 least-fifty-dollars constituting a minimum amount determined
13 by rule of the department of revenue and finance, on a date to
14 be specified by the department of human services and the
15 department of inspections and appeals by rule.

16 Sec. 3. Section 421.17, subsection 23, paragraphs c, d,
17 and g, Code 1997, are amended to read as follows:

18 c. The college student aid commission shall, at least
19 annually, submit to the department of revenue and finance for
20 setoff the guaranteed student loan defaults, ~~which-are-at~~
21 least-fifty-dollars constituting a minimum amount set by rule
22 of the department of revenue and finance, on a date or dates
23 to be specified by the college student aid commission by rule.

24 d. Upon submission of a claim, the department of revenue
25 and finance shall notify the college student aid commission
26 whether the defaulter is entitled to a refund or rebate of ~~at~~
27 least-fifty-dollars the minimum amount set by rule of the
28 department and if so entitled shall notify the commission of
29 the amount of the refund or rebate and of the defaulter's
30 address on the income tax return. Section 422.72, subsection
31 1, does not apply to this paragraph.

32 g. The department of revenue and finance shall, after
33 notice has been sent to the defaulter by the college student
34 aid commission, set off the amount of the default against the
35 defaulter's income tax refund or rebate ~~if-both-the-amount-of~~

1 ~~the default and the refund or rebate are at least fifty~~
2 dollars constituting a minimum amount set by rule of the
3 department. The department shall refund any balance of the
4 income tax refund or rebate to the defaulter. The department
5 of revenue and finance shall periodically transfer the amount
6 set off to the college student aid commission. If the
7 defaulter gives written notice of intent to contest the claim,
8 the commission shall hold the refund or rebate until final
9 disposition of the contested claim pursuant to chapter 17A or
10 by court judgment. The commission shall notify the defaulter
11 in writing upon completion of setoff.

12 Sec. 4. Section 421.17, subsection 25, paragraph c, Code
13 1997, is amended to read as follows:

14 c. The clerk of the district court, on the first day of
15 February and August of each calendar year, shall submit to the
16 department for setoff the debts described in this subsection,
17 ~~which are at least fifty dollars~~ constituting a minimum amount
18 set by rule of the department.

19 Sec. 5. Section 421.17, subsection 29, paragraphs a and e,
20 Code 1997, are amended to read as follows:

21 a. For purposes of this subsection unless the context
22 requires otherwise:

23 (1) "State agency" means a board, commission, department,
24 including the department of revenue and finance, or other
25 administrative office or unit of the state of Iowa or any
26 other state entity reported in the Iowa comprehensive annual
27 financial report. The term "state agency" does not include
28 the general assembly, the governor, or any political
29 subdivision of the state, or its offices and units.

30 (2) "Department" means the department of revenue and
31 finance and any other state agency that maintains a separate
32 accounting system and elects to establish a debt collection
33 setoff procedure for collection of debts owed to the state or
34 its agencies.

35 (3) The term "person" does not include a state agency.

1 e. Before setoff, the amount of a person's claim on a
2 state agency and the amount of a person's liability to a state
3 agency shall ~~be-at-least-fifty-dollars~~ constitute a minimum
4 amount set by rule of the department.

5 Sec. 6. Section 422.5, subsection 1, paragraph j,
6 subparagraph (2), unnumbered paragraph 1, Code 1997, is
7 amended to read as follows:

8 The tax imposed upon the taxable income of a resident
9 shareholder in a value-added corporation which has in effect
10 for the tax year an election under subchapter S of the
11 Internal Revenue Code and carries on business within and
12 without the state may be computed by reducing the amount
13 determined pursuant to paragraphs "a" through "i" by the
14 amounts of nonrefundable credits under this division and by
15 multiplying this resulting amount by a fraction of which the
16 resident's net income allocated to Iowa, as determined in
17 section 422.8, subsection 2, paragraph "b", is the numerator
18 and the resident's total net income computed under section
19 422.7 is the denominator. If a resident shareholder has
20 elected to take advantage of this subparagraph, and for the
21 next tax year elects not to take advantage of this
22 subparagraph, the resident shareholder shall not reelect to
23 take advantage of this subparagraph for the three tax years
24 immediately following the first tax year for which the
25 shareholder elected not to take advantage of this
26 subparagraph, unless the director consents to the reelection.
27 This ~~paragraph~~ subparagraph also applies to individuals who
28 are residents of Iowa for less than the entire tax year.

29 Sec. 7. Section 422.32, subsection 4, Code 1997, is
30 amended to read as follows:

31 4. "Corporation" includes joint stock companies, and
32 associations organized for pecuniary profit, and ~~publicly~~
33 ~~traded~~ partnerships and limited liability companies taxed as
34 corporations under the Internal Revenue Code.

35 Sec. 8. Section 422.72, Code 1997, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 7. Notwithstanding subsection 3, the
3 director shall provide state tax returns and return
4 information in response to a subpoena issued by the court
5 pursuant to rule of criminal procedure 5 commanding the
6 appearance before the attorney general or an assistant
7 attorney general if the subpoena is accompanied by affidavits
8 from such person and from a sworn peace officer member of the
9 department of public safety affirming that the information is
10 necessary for the investigation of a felony violation of
11 chapter 124 or chapter 706B. The affidavits accompanying the
12 subpoenas and the information provided by the director shall
13 remain a confidential record which may be disseminated only to
14 a prosecutor or peace officer involved in the investigation,
15 or to the taxpayer who filed the information and to the court
16 in connection with the filing of criminal charges or
17 institution of a forfeiture action. A person who knowingly
18 files a false affidavit with the director to secure
19 information or who divulges information received under this
20 subsection in a manner prohibited by this subsection commits a
21 serious misdemeanor.

22 Sec. 9. Section 425.7, subsection 3, Code 1997, is amended
23 to read as follows:

24 3. If the director of revenue and finance determines that
25 a claim for homestead credit has been allowed by the board of
26 supervisors which is not justifiable under the law and not
27 substantiated by proper facts, the director may, at any time
28 within thirty-six months from July 1 of the year in which the
29 claim is allowed, set aside the allowance. Notice of the
30 disallowance shall be given to the county auditor of the
31 county in which the claim has been improperly granted and a
32 written notice of the disallowance shall also be addressed to
33 the claimant at the claimant's last known address. The
34 claimant or board of supervisors may appeal to the state board
35 of tax review pursuant to section 421.1, subsection 4. The

1 claimant or the board of supervisors may seek judicial review
2 of the action of the ~~director-of-revenue-and-finance state~~
3 board of tax review in accordance with ~~the-Iowa-administrative~~
4 procedure-Act chapter 17A.

5 If a claim is disallowed by the director of revenue and
6 finance and not appealed to the state board of tax review or
7 appealed to and upheld by the state board of tax review and a
8 petition for judicial review is not filed with respect to the
9 disallowance, any amounts of credits allowed and paid from the
10 homestead credit fund including the penalty, if any, become a
11 lien upon the property on which credit was originally granted,
12 if still in the hands of the claimant, and not in the hands of
13 a bona fide purchaser, and any amount so erroneously paid
14 including the penalty, if any, shall be collected by the
15 county treasurer in the same manner as other taxes and the
16 collections shall be returned to the department of revenue and
17 finance and credited to the homestead credit fund. The
18 director of revenue and finance may institute legal
19 proceedings against a homestead credit claimant for the
20 collection of payments made on disallowed credits and the
21 penalty, if any. If a homestead credit is disallowed and the
22 claimant failed to give written notice to the assessor as
23 required by section 425.2 when the property ceased to be used
24 as a homestead by the claimant, a civil penalty equal to fifty
25 percent of the amount of the disallowed credit is assessed
26 against the claimant.

27 Sec. 10. Section 426A.6, Code 1997, is amended to read as
28 follows:

29 426A.6 SETTING ASIDE ALLOWANCE.

30 If the director of revenue and finance determines that a
31 claim for military service tax exemption has been allowed by a
32 board of supervisors which is not justifiable under the law
33 and not substantiated by proper facts, the director may, at
34 any time within thirty-six months from July 1 of the year in
35 which the claim is allowed, set aside the allowance. Notice

1 of the disallowance shall be given to the county auditor of
2 the county in which the claim has been improperly granted and
3 a written notice of the disallowance shall also be addressed
4 to the claimant at the claimant's last known address. The
5 claimant or the board of supervisors may appeal to the state
6 board of tax review pursuant to section 421.1, subsection 4.
7 The claimant or the board of supervisors may seek judicial
8 review of the action of the ~~director-of-revenue-and-finance~~
9 state board of tax review in accordance with chapter 17A. If
10 a claim is disallowed by the director of revenue and finance
11 and not appealed to the state board of tax review or appealed
12 to and upheld by the state board of tax review and a petition
13 for judicial review is not filed with respect to the
14 disallowance, the credits allowed and paid from the general
15 fund of the state become a lien upon the property on which the
16 credit was originally granted, if still in the hands of the
17 claimant and not in the hands of a bona fide purchaser, the
18 amount so erroneously paid shall be collected by the county
19 treasurer in the same manner as other taxes, and the
20 collections shall be returned to the department of revenue and
21 finance and credited to the general fund of the state. The
22 director of revenue and finance may institute legal
23 proceedings against a military service tax exemption claimant
24 for the collection of payments made on disallowed exemptions.

25 Sec. 11. Section 426B.1, subsection 1, Code 1997, is
26 amended to read as follows:

27 1. A property tax relief fund is created in the state
28 treasury under the authority of the department of ~~revenue-and~~
29 ~~finance~~ human services. The fund shall be separate from the
30 general fund of the state and shall not be considered part of
31 the general fund of the state except in determining the cash
32 position of the state for payment of state obligations. The
33 moneys in the fund are not subject to the provisions of
34 section 8.33 and shall not be transferred, used, obligated,
35 appropriated, or otherwise encumbered except as provided in

1 this chapter. Moneys in the fund may be used for cash flow
2 purposes, provided that any moneys so allocated are returned
3 to the fund by the end of each fiscal year. However, the fund
4 shall be considered a special account for the purposes of
5 section 8.53, relating to elimination of any GAAP deficit.
6 For the purposes of this chapter, unless the context otherwise
7 requires, "property tax relief fund" means the property tax
8 relief fund created in this section.

9 Sec. 12. Section 426B.4, Code 1997, is amended to read as
10 follows:

11 426B.4 RULES.

12 The council on human services shall consult with the state-
13 county management committee created in section 331.438 and the
14 director of ~~revenue-and-finance~~ human services in prescribing
15 forms and adopting rules pursuant to chapter 17A to administer
16 this chapter.

17 Sec. 13. Section 427B.19, subsection 3, unnumbered
18 paragraph 1, Code 1997, is amended to read as follows:

19 On or before ~~July 17, 1996, and on or before July~~ September
20 1 of each ~~succeeding~~ fiscal year through June 30, 2006, the
21 county auditor shall prepare a statement, based upon the
22 report received pursuant to subsections 1 and 2, listing for
23 each taxing district in the county:

24 Sec. 14. Section 427B.19, subsection 4, Code 1997, is
25 amended to read as follows:

26 4. The county auditor shall certify and forward one copy
27 of the statement to the department of revenue and finance not
28 later than ~~July~~ September 1 of each year.

29 Sec. 15. Section 427B.19A, subsection 2, Code 1997, is
30 amended to read as follows:

31 2. If an amount appropriated for a fiscal year is
32 insufficient to pay all claims, the director shall prorate the
33 disbursements from the fund to the county treasurers and shall
34 notify the county auditors of the pro rata percentage on or
35 before ~~August 1~~ September 30.

1 Sec. 16. Section 440.1, Code 1997, is amended to read as
2 follows:

3 440.1 ASSESSMENT OF OMITTED PROPERTY.

4 When the director of revenue and finance is vested with
5 power and duty to assess property and ~~said~~ assessment has, for
6 any reason, been omitted, the director shall proceed to assess
7 ~~said~~ the property for each of the omitted years, not exceeding
8 five years last past. Chapter 429 shall apply to assessments
9 of omitted property.

10 Sec. 17. Section 441.8, unnumbered paragraphs 6 and 7,
11 Code 1997, are amended to read as follows:

12 Upon receiving credit equal to one hundred fifty hours of
13 classroom instruction during the assessor's current term of
14 office of which at least ninety of the one hundred fifty hours
15 are from courses requiring an examination upon conclusion of
16 the course, the director of revenue and finance shall certify
17 to the assessor's conference board that the assessor is
18 eligible to be reappointed to the position. For assessors
19 ~~whose-present-terms-of-office-expire-before-six-years-from~~
20 ~~January-17-1979-or-who-are~~ persons appointed to complete an
21 unexpired term, the number of credits required to be certified
22 as eligible for reappointment shall be prorated according to
23 the amount of time remaining in the present term of the
24 assessor. If the person was an assessor in another
25 jurisdiction, the assessor may carry forward any credit hours
26 received in the previous position in excess of the number that
27 would be necessary to be considered current in that position.

28 Within each six-year period following ~~January-17-1980-or~~
29 the appointment of a deputy assessor ~~appointed-after-January~~
30 ~~17-1979~~, the deputy assessor shall comply with this section
31 except that upon the successful completion of ninety hours of
32 classroom instruction of which at least sixty of the ninety
33 hours are from courses requiring an examination upon
34 conclusion of the course, the deputy assessor shall be
35 certified by the director of revenue and finance as being

1 eligible to remain in the position. If a deputy assessor
2 fails to comply with this section, the deputy assessor shall
3 be removed from the position until successful completion of
4 the required hours of credit. If a deputy is appointed to the
5 office of assessor, the hours of credit obtained as deputy
6 pursuant to this section shall be credited to that individual
7 as assessor and for the individual to be reappointed at the
8 expiration of the term as assessor, that individual must
9 obtain the credits which are necessary to total the number of
10 hours for reappointment.

11 Sec. 18. Section 441.11, Code 1997, is amended to read as
12 follows:

13 441.11 INCUMBENT DEPUTY ASSESSORS.

14 The director of revenue and finance shall grant a
15 restricted certificate to any deputy assessor holding office
16 as of January 1, 1976. A deputy assessor possessing such a
17 certificate shall be considered eligible to remain in the
18 deputy's present position provided continuing education
19 requirements are met. To become eligible for another deputy
20 assessor position, a deputy assessor presently holding office
21 is required to obtain certification as provided for in section
22 441.5 and 441.10. The number of credit hours required for
23 certification as eligible for appointment as a deputy in a
24 jurisdiction other than where the deputy is currently serving
25 shall be prorated according to the completed portion of the
26 deputy's six-year continuing education period.

27 Sec. 19. Section 452A.65, unnumbered paragraph 1, Code
28 1997, is amended to read as follows:

29 In addition to the tax or additional tax, the taxpayer
30 shall pay a penalty as provided in section 421.27. The
31 taxpayer shall also pay interest on the tax or additional tax
32 at the rate in effect under section 421.7 counting each
33 fraction of a month as an entire month, computed from the date
34 the return was required to be filed. If the amount of the tax
35 as determined by the appropriate state agency is less than the

1 amount paid, the excess shall be refunded with interest, the
2 interest to begin to accrue on the first day of the third
3 second calendar month following the date of payment or the
4 date the return was due to be filed or was filed, whichever is
5 the latest, at the rate in effect under section 421.7 counting
6 each fraction of a month as an entire month under the rules
7 prescribed by the appropriate state agency. ~~In-lieu-of-a~~
8 ~~refund-allowed-under-this-section, the licensee may request~~
9 ~~that the department allow the refund to be held as a credit~~
10 ~~for the licensee.~~ Claims for refund filed under sections
11 452A.17 and 452A.21 shall accrue interest beginning with the
12 first day of the second calendar month following the date the
13 refund claim is received by the department.

14 Sec. 20. Sections 236.15A, 440.2, 440.3, and 440.4, Code
15 1997, are repealed.

16 Sec. 21. The sections of this Act which amend sections
17 422.5 and 422.32 apply retroactively to January 1, 1997, for
18 tax years beginning on or after that date.

19 EXPLANATION

20 Code section 236.15A, the income tax checkoff for domestic
21 abuse services, is repealed to implement the requirement of
22 section 422.12E. Code section 422.12E requires that the
23 checkoff which collects the least amount of money over a
24 three-year period shall be repealed.

25 Code section 321.19 is amended to allow the department of
26 revenue and finance to request that certain vehicles be
27 registered with a regular registration plate rather than an
28 "official" plate for those persons who are regularly assigned
29 to conduct investigations which cannot reasonably be conducted
30 with a vehicle displaying "official" plates.

31 Code section 421.17 is amended to provide the minimum
32 amount for setoff to be determined by the department of
33 revenue and finance by rule. This will grant the department
34 greater flexibility by providing a means of amendment of the
35 minimum amount through the rulemaking process rather than

1 through the legislative process.

2 Code section 421.17, subsection 29, is amended to expand
3 the definition of "state agency" to include other state
4 entities as provided in the Iowa comprehensive annual
5 financial report which may not be included in the current
6 definition. This report sets forth the financial operations
7 and status of the various state funds to assure compliance and
8 accountability. Entities included in this definition of state
9 agency may enter into an agreement with the director of
10 revenue and finance to participate in the setoff program
11 provided in section 421.17. Amendment of this definition will
12 expand collection efforts and the base of participation in the
13 setoff program. The section also amends the term "department"
14 by broadening the definition to include other state agencies
15 who maintain a separate accounting system. Agencies included
16 in this definition may enter into an agreement with the
17 director of revenue and finance to participate in the setoff
18 debt collection program.

19 Code section 422.5, subsection 1, the new Code provision
20 enacted in 1996 that allows a resident shareholder of a "value
21 added" S corporation to elect to reduce state income tax by
22 apportioning income, is amended to provide that if the
23 taxpayer then elects not to apportion income in a later tax
24 year, the taxpayer could not reelect to apportion income for
25 four tax years without the approval of the director of revenue
26 and finance. The amendment is made retroactively applicable
27 to tax years beginning on or after January 1, 1997.

28 Code section 422.32 is amended to treat any partnership
29 which is taxed as a corporation for federal purposes as a
30 corporation for Iowa tax purposes rather than only publicly
31 traded partnerships as is presently provided in the current
32 law. The amendment is made retroactively applicable to tax
33 years beginning on or after January 1, 1997.

34 Code section 422.72 is amended to provide that the
35 department of public safety can gain access to tax records on

1 a restricted basis. The information would be restricted to
2 special highly complex drug or money laundering investigations
3 and would be released by court order after the request for the
4 information has been approved by the Iowa attorney general.

5 Code sections 425.7, subsection 3, and 426A.6 are amended
6 to require a taxpayer to file a protest of a homestead
7 property tax credit or military service property tax exemption
8 disallowance made by the director with the state board of tax
9 review prior to proceeding in district court. This is
10 consistent with the way similar property tax appeals are
11 handled.

12 Code sections 426B.1, subsection 1, and 426B.4 are amended
13 to provide that the mental health property tax relief fund
14 that is currently in the department of revenue and finance
15 will be in the department of human services because the claims
16 are filed with the department of human services.

17 Code sections 427B.19 and 427B.19A are amended to change
18 the date for the county auditor to file machinery and
19 equipment property tax replacement claims with the department
20 of revenue and finance from July 1 to September 1 and change
21 the date for the department to certify the pro rata percentage
22 to the county auditor from August 1 to September 30 if the
23 appropriation is insufficient to pay all claims.

24 Code section 440.1 is amended to provide for a taxpayer
25 hearing on an omitted assessment made by the director after
26 the making of the assessment rather than prior to the making
27 of the assessment. Code sections 440.2 through 440.4, which
28 contain obsolete provisions pertaining to holding hearings
29 prior to assessment, are repealed.

30 Code section 441.8 is amended to permit an assessor
31 changing assessment jurisdictions to carry forward continuing
32 education credit hours to the new position.

33 Code sections 441.8 and 441.11 are amended to require that
34 a deputy assessor complete continuing education requirements
35 in order to continue to serve in the capacity of a deputy.

1 Code section 452A.65 is amended to change the date for
2 interest to begin accruing on motor fuel tax refunds from the
3 first day of the third calendar month following payment or
4 filing to the first day of the second calendar month following
5 the date the claim for refund is received by the department of
6 revenue and finance. Refunds for taxes paid for nonhighway
7 use or in blending to produce ethanol shall accrue interest
8 beginning with the first day of the second calendar month
9 following the date the refund claim is received by the
10 department.

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**HOUSE FILE 266
FISCAL NOTE**

REQ. BY SENATOR DVORSKY

A fiscal note for Amendment S-3696 to House File 266 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.

Amendment S-3696 to HF 266 expands the definition of "agriculture" to include aquaculture. The primary issues containing a fiscal impact relate to the sales tax on inputs. These inputs include items such as machinery and equipment, chemicals, and replacement parts.

ASSUMPTIONS

There are approximately 20 aquaculture operations in the State of Iowa. Each operation is assumed to have an average of \$15,000 in taxable purchases that would be exempt under the terms of the Amendment.

FISCAL IMPACT

Amendment S-3686 is expected to result in a decrease in revenues to the General Fund of an amount less than \$15,000 in FY 1998. The impact in future years will increase or decrease depending on the level of growth in the Iowa aquaculture industry.

SOURCES

Department of Agriculture

(LSB 1114HV.4, JAM)

FILED APRIL 28, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 266
FISCAL NOTE**

A fiscal note for Amendment S-3704 to HF 266 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.

Amendment S-3704 defines as "computer" the fiber optic cable of a competitive long distance telephone company. The Amendment would have the effect of exempting all fiber optic cable put in place by at least six long-distance carriers, provided the cable is installed after January 1, 1996.

ASSUMPTIONS

1. The average tax rate is assumed to be \$30.00 per \$1,000 of valuation.
2. The total assessed value of cable owned by competitive long-distance telecommunications companies is estimated to be approximately \$151.0 million.
3. This estimate assumes that approximately \$34.0 million of fiber optic cable was installed in 1996, and will be first assessed in 1997. In subsequent years, it is assumed that 5.0% of existing cable will be replaced each year, approximately \$7.6 million worth of cable annually.
4. This estimate assumes the total amount of cable currently in the ground is fixed, and only replacement will occur in the future.

FISCAL IMPACT

Amendment S-3704 is expected to result in a decrease in property tax revenues to local governments of approximately \$1.1 million in FY 1999, \$1.3 million in FY 2000, and an additional \$170,000 annually for the next 18 years.

Of this amount, approximately 18.0% will be reimbursed by the State through the school aid formula. Thus, the net impact to local government would be approximately \$0.8 million in FY 1999, and the net impact to the General Fund would be approximately \$0.2 million.

SOURCES

Department of Revenue and Finance
McLeod USA

(LSB 1114HV.3, JAM)

FILED APRIL 24, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 266
FISCAL NOTE**

A fiscal note for Amendment S-3686 to HF 266 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.

House File 266 is the House version of the original Department of Revenue and Finance clean-up bill.

Amendment S-3686 amends HF 266 by striking everything after the enacting clause and replacing with language originally proposed by the Department of Revenue and Finance. There are twenty-nine provisions in the Amendment that are not expected to have a significant fiscal impact on the General Fund of the State. A section by section description of these provisions is available upon request.

Section 17 of Amendment S-3686 provides for a one-year moratorium on sales tax assessed on Internet service charges. Under current law, these charges are taxable under State sales and use tax law. The remainder of this fiscal note deals exclusively with this provision.

ASSUMPTIONS

1. Approximately 15.0% of Iowa households are paying for internet services. This estimate is extrapolated from national survey data.
2. Average yearly charges are assumed to be approximately \$240 per year.
3. There are approximately 1.1 million households in Iowa.
4. This estimate assumes that business purchases of Internet services are approximately equal to consumer purchases.

FISCAL IMPACT

Amendment S-3686 is expected to result in a decrease in revenues to the General Fund of approximately \$4.0 million in FY 1998.

SOURCES

Department of Revenue and Finance
Nielsen Internet Demographics Survey, April 1997

(LSB 1114HV.2, JAM)

FILED APRIL 24, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

H-1759

1 Amend House File 266 as follows:

2 1. Page 8, by inserting after line 16 the
3 following:4 "Sec. _____. Section 427B.17, Code 1997, is amended
5 by adding the following new subsection:6 NEW SUBSECTION. 7. For purposes of this section,
7 electronic and digital equipment and fiber optic cable
8 of a competitive long distance telephone company
9 assessed as provided in section 476.1D, subsection 10,
10 and first assessed for taxation in this state on or
11 after January 1, 1997, shall be included in the
12 definition of "computer" as defined in section 427A.1,
13 subsection 1, paragraph "j", subparagraph (1)."By LARSON of Linn
CHAPMAN of Linn
BARRY of Harrison
BLODGETT of Cerro Gordo
BRADLEY of Clinton
CARROLL of Poweshiek
DRAKE of Pottawattamie
HOLMES of Scott
JENKINS of Black HawkLAMBERTI of Polk
RANTS of Woodbury
THOMSON of Linn
VAN FOSSEN of Scott
TYRRELL of Iowa
WELTER of Jones
MERTZ of Kossuth
HANSEN of Pottawattamie
FOEGE of Linn

H-1759 FILED APRIL 16, 1997

WITHDRAWN 4-17-97 (P.1311)

HOUSE FILE 266

H-1571

1 Amend House File 266 as follows:

2 1. Page 5, by inserting after line 21 the
3 following:4 "Sec. _____. Section 422B.10, subsection 2, Code
5 1997, is amended to read as follows:6 2. a. The director of revenue and finance within
7 fifteen days of the beginning of each fiscal year
8 shall send to each city or county where the local
9 option tax is imposed, an estimate of the amount of
10 tax moneys each city or county will receive for the
11 year and for each quarter month of the year. At the
12 end of each quarter month, the director may revise the
13 estimates for the year and remaining quarters months.
14 b. The director of revenue and finance shall remit
15 ninety percent of the estimate tax receipts for the
16 city or county to the city or county ~~after-the-end-of~~
17 ~~each-quarter-no-later-than-the-following-dates:~~
18 November-10, February-10, May-10, and August-10 on or
19 before August 31 of the fiscal year and on or before
20 the last day of each following month.21 c. The director of revenue and finance shall remit
22 a final payment of the remainder of tax moneys due the
23 city or county for the fiscal year before ~~the-due-date~~
24 ~~for-the-payment-of-the-first-quarter~~ November 10 of
25 the next fiscal year. If an overpayment has resulted
26 during the previous fiscal year, the first payment of
27 the new fiscal year shall be adjusted to reflect any
28 overpayment."By SHOULTZ of Black Hawk
KOENIGS of Mitchell

H-1571 FILED APRIL 7, 1997

WITHDRAWN
4-17-97 P.1311

HOUSE FILE 266

S-3686

1 Amend House File 266, as passed by the House, as
2 follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. Section 321.19, subsection 1,
6 unnumbered paragraph 2, Code 1997, is amended to read
7 as follows:
8 The department shall furnish, on application, free
9 of charge, distinguishing plates for vehicles thus
10 exempted, which plates except plates on Iowa highway
11 safety patrol vehicles shall bear the word "official"
12 and the department shall keep a separate record.
13 Registration plates issued for Iowa highway safety
14 patrol vehicles, except unmarked patrol vehicles,
15 shall bear two red stars on a yellow background, one
16 before and one following the registration number on
17 the plate, which registration number shall be the
18 officer's badge number. Registration plates issued
19 for a county sheriff's patrol vehicles shall display
20 one seven-pointed gold star followed by the letter "S"
21 and the call number of the vehicle. However, the
22 director of general services or the director of
23 transportation may order the issuance of regular
24 registration plates for any exempted vehicle used by
25 peace officers in the enforcement of the law, persons
26 enforcing chapter 124 and other laws relating to
27 controlled substances, persons in the department of
28 justice, the alcoholic beverages division of the
29 department of commerce, and the department of
30 inspections and appeals, and the department of revenue
31 and finance, who are regularly assigned to conduct
32 investigations which cannot reasonably be conducted
33 with a vehicle displaying "official" state
34 registration plates, and persons in the lottery
35 division of the department of revenue and finance
36 whose regularly assigned duties relating to security
37 or the carrying of lottery tickets cannot reasonably
38 be conducted with a vehicle displaying "official"
39 registration plates. For purposes of sale of exempted
40 vehicles, the exempted governmental body, upon the
41 sale of the exempted vehicle, may issue for in-transit
42 purposes a pasteboard card bearing the words "Vehicle
43 in Transit", the name of the official body from which
44 the vehicle was purchased, together with the date of
45 the purchase plainly marked in at least one-inch
46 letters, and other information required by the
47 department. The in-transit card is valid for use only
48 within forty-eight hours after the purchase date as
49 indicated on the bill of sale which shall be carried
50 by the driver.

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1 Sec. 2. Section 331.427, subsection 1, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 Except as otherwise provided by state law, county
4 revenues from taxes and other sources for general
5 county services shall be credited to the general fund
6 of the county, including revenues received under
7 sections 101A.3, 101A.7, 123.36, 123.143, 142B.6,
8 176A.8, 321.105, 321.152, 321G.7, 331.554, subsection
9 6, 341A.20, 364.3, 368.21, ~~422.65~~, 422A.2, 428A.8,
10 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21,
11 483A.12, 533.24, 556B.1, 567.10, 583.6, 602.8108,
12 904.908, and 906.17, and chapter 405A, and the
13 following:

14 Sec. 3. NEW SECTION. 405A.10 FRANCHISE TAX
15 REVENUE ALLOCATION.

16 For the fiscal year beginning July 1, 1997, and
17 each subsequent fiscal year, there is appropriated
18 from the general fund of the state to the department
19 of revenue and finance the sum of eight million eight
20 hundred thousand dollars which shall be paid quarterly
21 on warrants by the director as allocated pursuant to
22 section 422.65.

23 Sec. 4. Section 421.4, Code 1997, is amended to
24 read as follows:

25 421.4 DEPUTIES.

26 The director may appoint deputy directors and may
27 designate one or more of the deputies as acting
28 director. A deputy designated to serve in the absence
29 of the director has all of the powers possessed by the
30 director. The director may employ certified public
31 accountants, engineering and technical assistants, and
32 other employees, or independent contractors necessary
33 to protect the interests of the state and any
34 political subdivision.

35 Sec. 5. Section 421.17, subsection 21, paragraph
36 b, subparagraph (3), Code 1997, is amended to read as
37 follows:

38 (3) The child support recovery unit, the foster
39 care recovery unit, and the investigations division of
40 the department of inspections and appeals shall, at
41 least annually, submit to the department of revenue
42 and finance for setoff the debts described in this
43 subsection, ~~which-are-at-least-fifty-dollars~~
44 constituting a minimum amount determined by rule of
45 the department of revenue and finance, on a date to be
46 specified by the department of human services and the
47 department of inspections and appeals by rule.

48 Sec. 6. Section 421.17, Code 1997, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 22A. To develop, modify, or

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1 contract with vendors to create or administer systems
2 or programs which identify nonfilers of returns or
3 nonpayers of taxes administered by the department.
4 Fees for services, reimbursements, or other
5 remuneration paid under contract may be funded from
6 the amount of tax, penalty, interest, or fees actually
7 collected and shall be paid only after the amount is
8 collected. An amount is appropriated from the amount
9 of tax, penalty, interest, and fees actually
10 collected, not to exceed the amount collected, which
11 are sufficient to pay for services, reimbursement, or
12 other remuneration pursuant to this subsection.
13 Vendors entering into a contract with the department
14 pursuant to this subsection are subject to the
15 requirements and penalties of the confidentiality laws
16 of this state regarding tax information.

17 Sec. 7. Section 421.17, subsection 23, paragraphs
18 c, d, and g, Code 1997, are amended to read as
19 follows:

20 c. The college student aid commission shall, at
21 least annually, submit to the department of revenue
22 and finance for setoff the guaranteed student loan
23 defaults, ~~which are at least fifty dollars~~
24 constituting a minimum amount set by rule of the
25 department of revenue and finance, on a date or dates
26 to be specified by the college student aid commission
27 by rule.

28 d. Upon submission of a claim, the department of
29 revenue and finance shall notify the college student
30 aid commission whether the defaulter is entitled to a
31 refund or rebate of ~~at least fifty dollars~~ the minimum
32 amount set by rule of the department and if so
33 entitled shall notify the commission of the amount of
34 the refund or rebate and of the defaulter's address on
35 the income tax return. Section 422.72, subsection 1,
36 does not apply to this paragraph.

37 g. The department of revenue and finance shall,
38 after notice has been sent to the defaulter by the
39 college student aid commission, set off the amount of
40 the default against the defaulter's income tax refund
41 or rebate ~~if both the amount of the default and the~~
42 ~~refund or rebate are at least fifty dollars~~
43 constituting a minimum amount set by rule of the
44 department. The department shall refund any balance
45 of the income tax refund or rebate to the defaulter.
46 The department of revenue and finance shall
47 periodically transfer the amount set off to the
48 college student aid commission. If the defaulter
49 gives written notice of intent to contest the claim,
50 the commission shall hold the refund or rebate until

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1 final disposition of the contested claim pursuant to
2 chapter 17A or by court judgment. The commission
3 shall notify the defaulter in writing upon completion
4 of setoff.

5 Sec. 8. Section 421.17, subsection 25, paragraph
6 c, Code 1997, is amended to read as follows:

7 c. The clerk of the district court, on the first
8 day of February and August of each calendar year,
9 shall submit to the department for setoff the debts
10 described in this subsection, which-are-at-least-fifty
11 dollars constituting a minimum amount set by rule of
12 the department.

13 Sec. 9. Section 421.17, subsection 29, paragraphs
14 a and e, Code 1997, are amended to read as follows:

15 a. For purposes of this subsection unless the
16 context requires otherwise:

17 (1) "State agency" means a board, commission,
18 department, including the department of revenue and
19 finance, or other administrative office or unit of the
20 state of Iowa or any other state entity reported in
21 the Iowa comprehensive annual financial report. The
22 term "state agency" does not include the general
23 assembly, the governor, or any political subdivision
24 of the state, or its offices and units.

25 (2) "Department" means the department of revenue
26 and finance and any other state agency that maintains
27 a separate accounting system and elects to establish a
28 debt collection setoff procedure for collection of
29 debts owed to the state or its agencies.

30 (3) The term "person" does not include a state
31 agency.

32 e. Before setoff, the amount of a person's claim
33 on a state agency and the amount of a person's
34 liability to a state agency shall be-at-least-fifty
35 dollars constitute a minimum amount set by rule of the
36 department.

37 Sec. 10. NEW SECTION. 421.61 UNCONSTITUTIONALLY
38 WITHHELD TAX BENEFITS.

39 If a provision in the Code grants a tax benefit to
40 taxpayers that is unconstitutionally withheld from
41 other taxpayers as expressed in an Iowa attorney
42 general's opinion based upon decisions of the Iowa
43 supreme court, United States supreme court, or other
44 courts of competent jurisdiction, the tax benefit
45 shall also be granted to the adversely affected
46 taxpayers as if the unconstitutional provision did not
47 exist.

48 Sec. 11. Section 422.5, subsection 1, paragraph j,
49 subparagraph (2), unnumbered paragraph 1, Code 1997,
50 is amended to read as follows:

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1 The tax imposed upon the taxable income of a
2 resident shareholder in a value-added corporation
3 which has in effect for the tax year an election under
4 subchapter S of the Internal Revenue Code and carries
5 on business within and without the state may be
6 computed by reducing the amount determined pursuant to
7 paragraphs "a" through "i" by the amounts of
8 nonrefundable credits under this division and by
9 multiplying this resulting amount by a fraction of
10 which the resident's net income allocated to Iowa, as
11 determined in section 422.8, subsection 2, paragraph
12 "b", is the numerator and the resident's total net
13 income computed under section 422.7 is the
14 denominator. If a resident shareholder has elected to
15 take advantage of this subparagraph, and for the next
16 tax year elects not to take advantage of this
17 subparagraph, the resident shareholder shall not
18 reelect to take advantage of this subparagraph for the
19 three tax years immediately following the first tax
20 year for which the shareholder elected not to take
21 advantage of this subparagraph, unless the director
22 consents to the reelection. This paragraph

23 subparagraph also applies to individuals who are
24 residents of Iowa for less than the entire tax year.

25 Sec. 12. Section 422.20, subsection 3, unnumbered
26 paragraph 1, Code 1997, is amended to read as follows:

27 Unless otherwise expressly permitted by section
28 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32,
29 sections 252B.9, 421.19, 421.28, 422.72, and 452A.63,
30 and this section, a tax return, return information, or
31 investigative or audit information shall not be
32 divulged to any person or entity, other than the
33 taxpayer, the department, or internal revenue service
34 for use in a matter unrelated to tax administration.

35 Sec. 13. Section 422.32, subsection 4, Code 1997,
36 is amended to read as follows:

37 4. "Corporation" includes joint stock companies,
38 and associations organized for pecuniary profit, and
39 publicly-traded partnerships and limited liability
40 companies taxed as corporations under the Internal
41 Revenue Code.

42 Sec. 14. Section 422.43, Code 1997, is amended by
43 adding the following new subsection:

44 NEW SUBSECTION. 12. A tax of five percent is
45 imposed upon the gross receipts from the sales of
46 prepaid telephone calling cards and prepaid
47 authorization numbers. For the purpose of this
48 division, the sales of prepaid telephone calling cards
49 and prepaid authorization numbers are sales of
50 tangible personal property.

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1 Sec. 15. Section 422.45, subsection 7, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

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

46 Sec. 16. Section 422.45, subsection 18, Code 1997,
47 is amended to read as follows:

48 18. Gross receipts from the sale of tangible
49 personal property, except vehicles subject to
50 registration, to a person regularly engaged in the

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1 business of leasing if the period of the lease is for
2 more than one-year five months, or in the consumer
3 rental purchase business if the property is to be
4 utilized in a transaction involving a consumer rental
5 purchase agreement as defined in section 537.3604,
6 subsection 8, and the leasing or consumer rental of
7 the property is subject to taxation under this
8 division. If tangible personal property exempt under
9 this subsection is made use of for any purpose other
10 than leasing, renting, or consumer rental purchase,
11 the person claiming the exemption under this
12 subsection is liable for the tax that would have been
13 due except for this subsection. The tax shall be
14 computed upon the original purchase price. The
15 aggregate of the tax paid on the leasing, renting, or
16 rental purchase of such tangible personal property,
17 not to exceed the amount of the sales tax owed, shall
18 be credited against the tax. This sales tax is in
19 addition to any sales or use tax that may be imposed
20 as a result of the disposal of such tangible personal
21 property.

22 Sec. 17. Section 422.45, Code 1997, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 52. The gross receipts from
25 charges for access to or use of internet computer
26 services and from charges for access to or use of
27 other contracted on-line computer services if access
28 or use is by way of a local or in-state long distance
29 telephone number and if the predominate on-line
30 computer service offered is two-way transmission and
31 receipt of information from one site to another.

32 This subsection is repealed July 1, 1998.

33 Sec. 18. Section 422.53, Code 1997, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 8. a. Except as provided in
36 paragraph "b", purchasers, users, and consumers of
37 tangible personal property or enumerated services
38 taxed pursuant to this division, chapter 423, or
39 chapter 422B, may be authorized, pursuant to rules
40 adopted by the director, to remit tax owed directly to
41 the department instead of the tax being collected and
42 paid by the seller. To qualify for a direct pay tax
43 permit, the purchaser, user, or consumer must accrue a
44 tax liability of more than four thousand dollars in
45 tax under this division and chapter 423, in a
46 semimonthly period and make deposits and file returns
47 pursuant to section 422.52. This authority shall not
48 be granted or exercised except upon application to the
49 director and then only after issuance by the director
50 of a direct pay tax permit.

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1 b. The granting of a direct pay tax permit is not
2 authorized for any of the following:

3 (1) Taxes imposed on the sales, furnishing, or
4 service of gas, electricity, water, heat, pay
5 television service, and communication service.

6 (2) Taxes imposed under sections 423.7 and 423.7A
7 and chapter 422C.

8 Sec. 19. Section 422.65, Code 1997, is amended to
9 read as follows:

10 422.65 ALLOCATION OF REVENUE.

11 All moneys received from the franchise tax shall be
12 deposited in the state general fund. ~~Commencing with~~
13 ~~the fiscal year beginning July 1, 1993, there is~~
14 ~~appropriated for each fiscal year from the franchise~~
15 ~~tax money received and deposited in the state general~~
16 ~~fund the sum of eight million eight hundred thousand~~
17 ~~dollars which shall be paid quarterly on warrants by~~
18 ~~the director, after certification by the director,~~
19 Franchise tax moneys appropriated in section 405A.10
20 are allocated as follows:

21 1. Sixty percent to the general fund of the city
22 from which the tax is collected.

23 2. Forty percent to the county from which the tax
24 is collected.

25 If the financial institution maintains one or more
26 offices for the transaction of business, other than
27 its principal office, a portion of its franchise tax
28 shall be allocated to each office, based upon a
29 reasonable measure of the business activity of each
30 office. The director shall prescribe, for each type
31 of financial institution, a method of measuring the
32 business activity of each office. Financial
33 institutions shall furnish all necessary information
34 for this purpose at the request of the director.

35 ~~Quarterly, the director shall certify to the~~
36 ~~treasurer of state the amounts to be paid to each city~~
37 ~~and county from the state general fund. All moneys~~
38 ~~received from the franchise tax are appropriated~~
39 ~~according to the provisions of this section.~~

40 Sec. 20. Section 422.72, subsection 3, unnumbered
41 paragraph 1, Code 1997, is amended to read as follows:

42 Unless otherwise expressly permitted by section
43 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32,
44 sections 252B.9, 421.19, 421.28, 422.20, and 452A.63,
45 and this section, a tax return, return information, or
46 investigative or audit information shall not be
47 divulged to any person or entity, other than the
48 taxpayer, the department, or internal revenue service
49 for use in a matter unrelated to tax administration.

50 Sec. 21. Section 422.72, Code 1997, is amended by

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1 adding the following new subsection:

2 NEW SUBSECTION. 7. Notwithstanding subsection 3,
3 the director shall provide state tax returns and
4 return information in response to a subpoena issued by
5 the court pursuant to rule of criminal procedure 5
6 commanding the appearance before the attorney general
7 or an assistant attorney general if the subpoena is
8 accompanied by affidavits from such person and from a
9 sworn peace officer member of the department of public
10 safety affirming that the information is necessary for
11 the investigation of a felony violation of chapter 124
12 or chapter 706B. The affidavits accompanying the
13 subpoenas and the information provided by the director
14 shall remain a confidential record which may be
15 disseminated only to a prosecutor or peace officer
16 involved in the investigation, or to the taxpayer who
17 filed the information and to the court in connection
18 with the filing of criminal charges or institution of
19 a forfeiture action. A person who knowingly files a
20 false affidavit with the director to secure
21 information or who divulges information received under
22 this subsection in a manner prohibited by this
23 subsection commits a serious misdemeanor.

24 Sec. 22. Section 423.1, subsection 8, Code 1997,
25 is amended to read as follows:

26 8. "Retailer maintaining a place of business in
27 this state" or any like term includes any retailer
28 having or maintaining within this state, directly or
29 by a subsidiary, an office, distribution house, sales
30 house, warehouse, or other place of business, or any
31 agent representative operating within this state under
32 the authority of the retailer or its subsidiary,
33 irrespective of whether such that place of business or
34 agent representative is located here permanently or
35 temporarily, or whether the retailer or subsidiary is
36 admitted to do business within this state pursuant to
37 chapter 490.

38 Sec. 23. Section 423.25, Code 1997, is amended to
39 read as follows:

40 423.25 TAXATION IN ANOTHER STATE.

41 If any person who causes tangible personal property
42 to be brought into this state or who uses in this
43 state services enumerated in section 422.43 has
44 already paid a tax in another state in respect to the
45 sale or use of the property or the performance of the
46 service, or an occupation tax in respect to the
47 property or service, in an amount less than the tax
48 imposed by this title, the provisions of this title
49 shall apply, but at a rate measured by the difference
50 only between the rate fixed in this title and the rate

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1 by which the previous tax on the sale or use, or the
2 occupation tax, was computed. If the tax imposed and
3 paid in the other state is equal to or more than the
4 tax imposed by this title, then a tax is not due in
5 this state on the personal property or service.

6 Sec. 24. Section 425.7, subsection 3, Code 1997,
7 is amended to read as follows:

8 3. If the director of revenue and finance
9 determines that a claim for homestead credit has been
10 allowed by the board of supervisors which is not
11 justifiable under the law and not substantiated by
12 proper facts, the director may, at any time within
13 thirty-six months from July 1 of the year in which the
14 claim is allowed, set aside the allowance. Notice of
15 the disallowance shall be given to the county auditor
16 of the county in which the claim has been improperly
17 granted and a written notice of the disallowance shall
18 also be addressed to the claimant at the claimant's
19 last known address. The claimant or board of
20 supervisors may appeal to the state board of tax
21 review pursuant to section 421.1, subsection 4. The
22 claimant or the board of supervisors may seek judicial
23 review of the action of the ~~director-of-revenue-and~~
24 ~~finance~~ state board of tax review in accordance with
25 ~~the-Iowa-administrative-procedure-Act~~ chapter 17A.

26 If a claim is disallowed by the director of revenue
27 and finance and not appealed to the state board of tax
28 review or appealed to and upheld by the state board of
29 tax review and a petition for judicial review is not
30 filed with respect to the disallowance, any amounts of
31 credits allowed and paid from the homestead credit
32 fund including the penalty, if any, become a lien upon
33 the property on which credit was originally granted,
34 if still in the hands of the claimant, and not in the
35 hands of a bona fide purchaser, and any amount so
36 erroneously paid including the penalty, if any, shall
37 be collected by the county treasurer in the same
38 manner as other taxes and the collections shall be
39 returned to the department of revenue and finance and
40 credited to the homestead credit fund. The director
41 of revenue and finance may institute legal proceedings
42 against a homestead credit claimant for the collection
43 of payments made on disallowed credits and the
44 penalty, if any. If a homestead credit is disallowed
45 and the claimant failed to give written notice to the
46 assessor as required by section 425.2 when the
47 property ceased to be used as a homestead by the
48 claimant, a civil penalty equal to fifty percent of
49 the amount of the disallowed credit is assessed
50 against the claimant.

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1 Sec. 25. Section 426A.6, Code 1997, is amended to
2 read as follows:

3 426A.6 SETTING ASIDE ALLOWANCE.

4 If the director of revenue and finance determines
5 that a claim for military service tax exemption has
6 been allowed by a board of supervisors which is not
7 justifiable under the law and not substantiated by
8 proper facts, the director may, at any time within
9 thirty-six months from July 1 of the year in which the
10 claim is allowed, set aside the allowance. Notice of
11 the disallowance shall be given to the county auditor
12 of the county in which the claim has been improperly
13 granted and a written notice of the disallowance shall
14 also be addressed to the claimant at the claimant's
15 last known address. The claimant or the board of
16 supervisors may appeal to the state board of tax
17 review pursuant to section 421.1, subsection 4. The
18 claimant or the board of supervisors may seek judicial
19 review of the action of the ~~director of revenue and~~
20 ~~finance~~ state board of tax review in accordance with
21 chapter 17A. If a claim is disallowed by the director
22 of revenue and finance and not appealed to the state
23 board of tax review or appealed to and upheld by the
24 state board of tax review and a petition for judicial
25 review is not filed with respect to the disallowance,
26 the credits allowed and paid from the general fund of
27 the state become a lien upon the property on which the
28 credit was originally granted, if still in the hands
29 of the claimant and not in the hands of a bona fide
30 purchaser, the amount so erroneously paid shall be
31 collected by the county treasurer in the same manner
32 as other taxes, and the collections shall be returned
33 to the department of revenue and finance and credited
34 to the general fund of the state. The director of
35 revenue and finance may institute legal proceedings
36 against a military service tax exemption claimant for
37 the collection of payments made on disallowed
38 exemptions.

39 Sec. 26. Section 426B.1, subsection 1, Code 1997,
40 is amended to read as follows:

41 1. A property tax relief fund is created in the
42 state treasury under the authority of the department
43 of ~~revenue and finance~~ human services. The fund shall
44 be separate from the general fund of the state and
45 shall not be considered part of the general fund of
46 the state except in determining the cash position of
47 the state for payment of state obligations. The
48 moneys in the fund are not subject to the provisions
49 of section 8.33 and shall not be transferred, used,
50 obligated, appropriated, or otherwise encumbered

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1 except as provided in this chapter. Moneys in the
2 fund may be used for cash flow purposes, provided that
3 any moneys so allocated are returned to the fund by
4 the end of each fiscal year. However, the fund shall
5 be considered a special account for the purposes of
6 section 8.53, relating to elimination of any GAAP
7 deficit. For the purposes of this chapter, unless the
8 context otherwise requires, "property tax relief fund"
9 means the property tax relief fund created in this
10 section.

11 Sec. 27. Section 426B.4, Code 1997, is amended to
12 read as follows:

13 426B.4 RULES.

14 The council on human services shall consult with
15 the state-county management committee created in
16 section 331.438 and the director of ~~revenue-and~~
17 finance human services in prescribing forms and
18 adopting rules pursuant to chapter 17A to administer
19 this chapter.

20 Sec. 28. Section 427.1, subsection 16, Code 1997,
21 is amended to read as follows:

22 16. REVOKING EXEMPTION. Any taxpayer or any
23 taxing district may make application to the director
24 of revenue and finance for revocation for any
25 exemption, based upon alleged violations of this
26 chapter. The director of revenue and finance may also
27 on the director's own motion set aside any exemption
28 which has been granted upon property for which
29 exemption is claimed under this chapter. The director
30 of revenue and finance shall give notice by mail to
31 the taxpayer or taxing district applicant and to the
32 societies or organizations claiming an exemption upon
33 property, exemption of which is questioned before or
34 by the director of revenue and finance, and shall hold
35 a hearing prior to issuing any order for revocation.
36 An order made by the director of revenue and finance
37 revoking or modifying an exemption is subject to
38 judicial review in accordance with chapter 17A, the
39 Iowa administrative procedure Act. Notwithstanding
40 the terms of that Act, petitions for judicial review
41 may be filed in the district court having jurisdiction
42 in the county in which the property is located, and
43 must be filed within thirty days after any order
44 revoking an exemption is made by the director of
45 revenue and finance.

46 Sec. 29. Section 427B.19, subsection 3, unnumbered
47 paragraph 1, Code 1997, is amended to read as follows:

48 ~~On or before July 17, 1997, and on or before July~~
49 September 1 of each succeeding fiscal year through
50 June 30, 2006, the county auditor shall prepare a

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1 statement, based upon the report received pursuant to
2 subsections 1 and 2, listing for each taxing district
3 in the county:

4 Sec. 30. Section 427B.19, subsection 4, Code 1997,
5 is amended to read as follows:

6 4. The county auditor shall certify and forward
7 one copy of the statement to the department of revenue
8 and finance not later than ~~July~~ September 1 of each
9 year.

10 Sec. 31. Section 427B.19A, subsection 2, Code
11 1997, is amended to read as follows:

12 2. If an amount appropriated for a fiscal year is
13 insufficient to pay all claims, the director shall
14 prorate the disbursements from the fund to the county
15 treasurers and shall notify the county auditors of the
16 pro rata percentage on or before ~~August-1~~ September
17 30.

18 Sec. 32. Section 428.4, unnumbered paragraph 3,
19 Code 1997, is amended to read as follows:

20 Any buildings erected, improvements made, or
21 buildings or improvements removed in a year after the
22 assessment of the class of real estate to which they
23 belong, shall be valued, listed, and assessed and
24 reported by the assessor to the county auditor after
25 approval of the valuations by the local board of
26 review, and ~~said~~ the auditor shall thereupon enter the
27 taxable value of such building or taxable improvement
28 on the tax list as a part of real estate to be taxed.
29 If such buildings or improvements are erected or made
30 by any person other than the owner of the land, they
31 shall be listed and assessed to the owner of the
32 buildings or improvements as real estate.

33 Sec. 33. Section 440.1, Code 1997, is amended to
34 read as follows:

35 440.1 ASSESSMENT OF OMITTED PROPERTY.

36 When the director of revenue and finance is vested
37 with the power and duty to assess property and ~~said~~ an
38 assessment has, for any reason, been omitted, the
39 director shall proceed to assess ~~said~~ the property for
40 each of the omitted years, ~~not exceeding five years~~
41 ~~last past~~. The omitted assessment shall only apply to
42 the assessment year in which the omitted assessment is
43 made and the four prior assessment years. Chapter 429
44 shall apply to assessments of omitted property.

45 Sec. 34. Section 441.8, unnumbered paragraphs 6
46 and 7, Code 1997, are amended to read as follows:

47 Upon receiving credit equal to one hundred fifty
48 hours of classroom instruction during the assessor's
49 current term of office of which at least ninety of the
50 one hundred fifty hours are from courses requiring an

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1 examination upon conclusion of the course, the
2 director of revenue and finance shall certify to the
3 assessor's conference board that the assessor is
4 eligible to be reappointed to the position. For
5 ~~assessors-whose-present-terms-of-office-expire-before~~
6 ~~six-years-from-January-17-1979,-or-who-are~~ persons
7 appointed to complete an unexpired term, the number of
8 credits required to be certified as eligible for
9 reappointment shall be prorated according to the
10 amount of time remaining in the present term of the
11 assessor. If the person was an assessor in another
12 jurisdiction, the assessor may carry forward any
13 credit hours received in the previous position in
14 excess of the number that would be necessary to be
15 considered current in that position.

16 Within each six-year period following ~~January-17~~
17 ~~1980-or~~ the appointment of a deputy assessor appointed
18 after-January-17-1979, the deputy assessor shall
19 comply with this section except that upon the
20 successful completion of ninety hours of classroom
21 instruction of which at least sixty of the ninety
22 hours are from courses requiring an examination upon
23 conclusion of the course, the deputy assessor shall be
24 certified by the director of revenue and finance as
25 being eligible to remain in the position. If a deputy
26 assessor fails to comply with this section, the deputy
27 assessor shall be removed from the position until
28 successful completion of the required hours of credit.
29 If a deputy is appointed to the office of assessor,
30 the hours of credit obtained as deputy pursuant to
31 this section shall be credited to that individual as
32 assessor and for the individual to be reappointed at
33 the expiration of the term as assessor, that
34 individual must obtain the credits which are necessary
35 to total the number of hours for reappointment.

36 Sec. 35. Section 441.11, Code 1997, is amended to
37 read as follows:

38 441.11 INCUMBENT DEPUTY ASSESSORS.

39 The director of revenue and finance shall grant a
40 restricted certificate to any deputy assessor holding
41 office as of January 1, 1976. A deputy assessor
42 possessing such a certificate shall be considered
43 eligible to remain in the deputy's present position
44 provided continuing education requirements are met.
45 To become eligible for another deputy assessor
46 position, a deputy assessor presently holding office
47 is required to obtain certification as provided for in
48 section 441.5 and 441.10. The number of credit hours
49 required for certification as eligible for appointment
50 as a deputy in a jurisdiction other than where the

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1 deputy is currently serving shall be prorated
2 according to the completed portion of the deputy's
3 six-year continuing education period.

4 Sec. 36. Section 444.26, Code 1997, is amended to
5 read as follows:

6 444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

7 Sections ~~444.25~~, 444.25A, and 444.25B shall not be
8 construed as removing or otherwise affecting the
9 property tax limitations otherwise provided by law for
10 any tax levy of the political subdivision, except
11 that, upon an appeal from the political subdivision,
12 the state appeal board may approve a tax levy
13 consistent with the provisions of section 24.48 or
14 331.426.

15 Sec. 37. Section 444.27, subsection 1, Code 1997,
16 is amended to read as follows:

17 1. ~~For purposes of section 444.25, sections 24.48~~
18 ~~and 331.426 are void for the fiscal years beginning~~
19 ~~July 1, 1993, and July 1, 1994.~~ For purposes of
20 section 444.25A, sections 24.48 and 331.426 are void
21 for the fiscal years beginning July 1, 1995, and July
22 1, 1996.

23 Sec. 38. Section 445.32, Code 1997, is amended to
24 read as follows:

25 445.32 LIENS ON BUILDINGS OR IMPROVEMENTS.

26 If a building or improvement is erected or made by
27 a person other than the owner of the land on which the
28 building or improvement is located, as provided for in
29 section 428.4, the taxes on the building or
30 improvement are and remain a lien on the building or
31 improvement from the date of levy until paid. If the
32 taxes on the building or improvement become
33 delinquent, as provided in section 445.37, the county
34 treasurer shall collect the tax as provided in
35 sections 445.3 and 445.4. This section does not apply
36 to special assessments, or rates or charges.

37 Sec. 39. Section 452A.65, unnumbered paragraph 1,
38 Code 1997, is amended to read as follows:

39 In addition to the tax or additional tax, the
40 taxpayer shall pay a penalty as provided in section
41 421.27. The taxpayer shall also pay interest on the
42 tax or additional tax at the rate in effect under
43 section 421.7 counting each fraction of a month as an
44 entire month, computed from the date the return was
45 required to be filed. If the amount of the tax as
46 determined by the appropriate state agency is less
47 than the amount paid, the excess shall be refunded
48 with interest, the interest to begin to accrue on the
49 first day of the ~~third~~ second calendar month following
50 the date of payment or the date the return was due to

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1 be filed or was filed, whichever is the latest, at the
2 rate in effect under section 421.7 counting each
3 fraction of a month as an entire month under the rules
4 prescribed by the appropriate state agency. ~~In lieu~~
5 ~~of a refund allowed under this section, the licensee~~
6 ~~may request that the department allow the refund to be~~
7 ~~held as a credit for the licensee.~~ Claims for refund
8 filed under sections 452A.17 and 452A.21 shall accrue
9 interest beginning with the first day of the second
10 calendar month following the date the refund claim is
11 received by the department.

12 Sec. 40. Section 99D.14, subsection 6, Code 1997,
13 as amended by 1997 Iowa Acts, House File 212, section
14 2, is amended to read as follows:

15 6. Real property used in the operation of a
16 racetrack or racetrack enclosure which is exempt from
17 property taxation under another provision of the law,
18 including being exempt because it is owned by a city,
19 county, state, or charitable or nonprofit entity, may
20 be subject to real property taxation by any taxing
21 district in which the real property used in the
22 operation of the racetrack or racetrack enclosure is
23 located. To subject such real property to taxation,
24 the taxing authority of the taxing district shall pass
25 a resolution imposing the tax and, if the resolution
26 is passed prior to September 1, 1997, shall notify the
27 county local assessor, director of revenue and
28 finance, and the owner of record of the real property
29 by September 1, 1997, preceding the fiscal year in
30 which the real property taxes are due and payable.
31 The assessed value shall be determined and notice of
32 the assessed value shall be provided to the county
33 auditor by the department of revenue and finance local
34 assessor by October 15, 1997, and the owner may
35 protest the assessed value to the state local board of
36 tax review by December 1, 1997. For resolutions
37 passed on or after September 1, 1997, the taxing
38 authority shall notify the local assessor and owner of
39 record prior to the next assessment year and the
40 valuation and appeal shall be done in the manner and
41 time as for other valuations. Property taxes due as a
42 result of this subsection shall be paid to the county
43 treasurer in the manner and time as other property
44 taxes. The county treasurer shall remit the tax
45 revenue to those taxing authorities imposing the
46 property tax under this subsection. Real property
47 subject to tax as provided in this subsection shall
48 continue to be taxed until such time as the taxing
49 authority of the taxing district repeals the
50 resolution subjecting the property to taxation.

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1 ~~Notwithstanding section 99B-77, the department of~~
2 ~~revenue and finance shall adopt rules to implement~~
3 ~~this subsection.~~

4 Sec. 41. Sections 236.15A, 427A.13, 440.2, 440.3,
5 440.4, 444.25, and 444.28, Code 1997, are repealed.

6 Sec. 42. Sections 11 and 13 of this Act which
7 amend sections 422.5 and 422.32 apply retroactively to
8 January 1, 1997, for tax years beginning on or after
9 that date.

10 Sec. 43. Section 16 of this Act, amending section
11 422.45, subsection 18, being deemed of immediate
12 importance, takes effect upon enactment.

13 Sec. 44. Sections 6, 12, and 20 of this Act,
14 enacting section 421.17, subsection 22A and amending
15 section 422.20 and section 422.72, subsection 3, and
16 relating to contractual agreements by the department
17 of revenue and finance, being deemed of immediate
18 importance, take effect upon enactment.

19 Sec. 45. Section 17 of this Act, enacting section
20 422.45, subsection 52, being deemed of immediate
21 importance, takes effect upon enactment.

22 Sec. 46. Section 18 of this Act, enacting section
23 422.53, subsection 8, takes effect January 1, 1998."

24 2. Title page, by striking lines 1 through 7 and
25 inserting the following: "An Act relating to the
26 administration of state individual income, corporate,
27 franchise, motor fuel, and other taxes; collection of
28 taxes and use of collection receipts; property taxes;
29 property tax credits and replacement claims; sales,
30 services, and use taxes and the imposition thereof on
31 sales of prepaid telephone calling cards and prepaid
32 authorization numbers; tax refund setoffs; and other
33 duties of the department and director of revenue and
34 finance; providing a penalty; and including effective
35 and retroactive applicability date provisions."

By COMMITTEE ON WAYS AND MEANS
JOANN DOUGLAS, Chairperson

S-3686 FILED APRIL 22, 1997

adapted 4-28-97
(p. 1494)

HOUSE FILE 266

S-3696

1 Amend the Committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 5, by inserting after line 41 the
4 following:
5 "Sec. ____ . Section 422.42, subsections 1 and 14,
6 Code 1997, are amended to read as follows:
7 1. "Agricultural production" includes the
8 production of flowering, ornamental, or vegetable
9 plants in commercial greenhouses or otherwise and
10 production from aquaculture. "Agricultural products"
11 include flowering, ornamental, or vegetable plants and
12 those products of aquaculture.
13 14. "Retail sale" or "sale at retail" means the
14 sale to a consumer or to any person for any purpose,
15 other than for processing, for resale of tangible
16 personal property or taxable services, or for resale
17 of tangible personal property in connection with
18 taxable services; and includes the sale of gas,
19 electricity, water, and communication service to
20 retail consumers or users; but does not include
21 agricultural breeding livestock and domesticated fowl;
22 and does not include commercial fertilizer,
23 agricultural limestone, herbicide, pesticide,
24 insecticide, food, medication, or agricultural drain
25 tile, including installation of agricultural drain
26 tile, any of which are to be used in disease control,
27 weed control, insect control, or health promotion of
28 plants or livestock produced as part of agricultural
29 production for market; and does not include
30 electricity, steam, or any taxable service when
31 purchased and used in the processing of tangible
32 personal property intended to be sold ultimately at
33 retail. When used by a manufacturer of food products,
34 carbon dioxide in a liquid, solid, or gaseous form,
35 electricity, steam, and other taxable services are
36 sold for processing when used to produce marketable
37 food products for human consumption, including but not
38 limited to, treatment of material to change its form,
39 context, or condition, in order to produce the food
40 product, maintenance of quality or integrity of the
41 food product, changing or maintenance of temperature
42 levels necessary to avoid spoilage or to hold the food
43 product in marketable condition, maintenance of
44 environmental conditions necessary for the safe or
45 efficient use of machinery and material used to
46 produce the food product, sanitation and quality
47 control activities, formation of packaging, placement
48 into shipping containers, and movement of the material
49 or food product until shipment from the building of
50 manufacture. Tangible personal property is sold for

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1 processing within the meaning of this subsection only
2 when it is intended that the property will, by means
3 of fabrication, compounding, manufacturing, or
4 germination become an integral part of other tangible
5 personal property intended to be sold ultimately at
6 retail; or will be consumed as fuel in creating heat,
7 power, or steam for processing including grain drying,
8 or for providing heat or cooling for livestock
9 buildings or for greenhouses or buildings or parts of
10 buildings dedicated to the production of flowering,
11 ornamental, or vegetable plants intended for sale in
12 the ordinary course of business, or for use in
13 cultivation of agricultural products by aquaculture,
14 or for generating electric current, or in implements
15 of husbandry engaged in agricultural production; or
16 the property is a chemical, solvent, sorbent, or
17 reagent, which is directly used and is consumed,
18 dissipated, or depleted, in processing personal
19 property which is intended to be sold ultimately at
20 retail or consumed in the maintenance or repair of
21 fabric or clothing, and which may not become a
22 component or integral part of the finished product.
23 The distribution to the public of free newspapers or
24 shoppers guides is a retail sale for purposes of the
25 processing exemption."

26 2. Page 7, by inserting after line 21 the
27 following:

28 "Sec. _____. Section 422.45, subsection 39,
29 paragraphs a and c, Code 1997, are amended to read as
30 follows:

31 a. The implement, machinery, or equipment is
32 directly and primarily used in livestock or dairy
33 production, use in aquaculture production, or in the
34 production of flowering, ornamental, or vegetable
35 plants.

36 c. The replacement part is essential to any repair
37 or reconstruction necessary to the farm machinery's or
38 equipment's exempt use in livestock or dairy
39 production, use in aquaculture production, or in the
40 production of flowering, ornamental, or vegetable
41 plants."

42 3. Page 7, by inserting after line 32 the
43 following:

44 "Sec. _____. Section 422.47, subsection 4, paragraph
45 f, Code 1997, is amended to read as follows:

46 f. In this section, "fuel" includes gas,
47 electricity, water, heat, steam, and any other
48 tangible personal property consumed in creating heat,
49 power, or steam. In this section, "fuel consumed in
50 processing" means fuel used or disposed of for

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1 processing including grain drying, for providing heat
 2 or cooling for livestock buildings or for greenhouses
 3 or buildings or parts of buildings dedicated to the
 4 production of flowering, ornamental, or vegetable
 5 plants intended for sale in the ordinary course of
 6 business, for use in aquaculture production, or for
 7 generating electric current, or in implements of
 8 husbandry engaged in agricultural production. In this
 9 subsection, "fuel exemption certificate" means an
 10 exemption certificate given by the purchaser under
 11 penalty of perjury to assist retailers in properly
 12 accounting for nontaxable sales of fuel consumed in
 13 processing. In this subsection, "substantial change"
 14 means a change in the use or disposition of tangible
 15 personal property and services by the purchaser such
 16 that the purchaser pays less than ninety percent of
 17 the purchaser's actual sales tax liability. A change
 18 includes a misstatement of facts in an application
 19 made pursuant to paragraph "c" or in a fuel exemption
 20 certificate."

By ROBERT E. DVORSKY

S-3696 FILED APRIL 23, 1997

HOUSE FILE

Adopted 4/25/97 (p. 1469)
Motion to Repeal 4-28-97
Adopted 4-28-97 (R 1494)
 266

S-3702

1 Amend the committee amendment, S-3686, to House
 2 File 266, as passed by the House, as follows:
 3 1. Page 15, by inserting after line 36 the
 4 following:
 5 "Sec. ____ . Section 445.60, Code 1997, is amended
 6 to read as follows:
 7 445.60 REFUNDING ERRONEOUS TAX.
 8 The board of supervisors shall direct the county
 9 treasurer to refund to the taxpayer any tax or portion
 10 of a tax found to have been erroneously or illegally
 11 paid, with all interest, fees, and costs actually
 12 paid. A refund shall not be ordered or made unless a
 13 claim for refund is presented to the board within one
 14 year five years of the date the tax was due, or if
 15 appealed to the board of review, the state board of
 16 tax review, or district court, within one-year five
 17 years of the final decision."

By WILLIAM D. PALMER

S-3702 FILED APRIL 23, 1997

WITHDRAWN

HOUSE FILE 266

S-3723

1 Amend the committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 16, by inserting after line 11 the
4 following:
5 "Sec. ____ . Section 633.699, subsection 7, Code
6 1997, is amended to read as follows:
7 7. To make any required division, allocation, or
8 distribution in whole or in part in money, securities,
9 or other property, and in undivided interests therein
10 pro rata, nonpro rata, or in combination of these
11 methods, and to continue to hold any remaining
12 undivided interest in trust.
13 Sec. ____ . Section 633.703A, subsection 1,
14 unnumbered paragraph 1, Code 1997, is amended to read
15 as follows:
16 In order to allow a trust to qualify as a marital
17 deduction trust for federal estate tax purposes, as a
18 qualified subchapter S trust for federal income tax
19 purposes, as separate trusts for federal generation-
20 skipping tax purposes, or for any other federal or
21 state income, estate, excise, or inheritance tax
22 benefit or to facilitate the administration of a trust
23 or trusts, the governing instrument of a trust may be
24 amended as follows to permit the trust to be divided
25 in cash or in kind, including in undivided interests,
26 by pro rata or nonpro rata division, or in any
27 combination thereof, into one or more separate trusts
28 or be consolidated with one or more other trusts into
29 a single trust:"
30 2. By renumbering as necessary.

By DONALD B. REDFERN

S-3723 FILED APRIL 23, 1997

Adopted 4/25/97 (p. 1471)

HOUSE FILE 266

S-3704

1 Amend the committee amendment, S-3686, to House
 2 File 266, as passed by the House, as follows:
 3 1. Page 12, by inserting after line 45 the
 4 following:
 5 "Sec. ____ . Section 427B.17, Code 1997, is amended
 6 by adding the following new subsection:
 7 NEW SUBSECTION. 7. For purposes of this section,
 8 electronic and digital equipment and fiber optic cable
 9 of a competitive long distance telephone company
 10 assessed as provided in section 476.1D, subsection 10,
 11 and first assessed for taxation in this state on or
 12 after January 1, 1997, shall be included in the
 13 definition of "computer" as defined in section 427A.1,
 14 subsection 1, paragraph "j", subparagraph (1)."
 By MARY A. LUNDBY WALLY E. HORN
 STEVE KING STEVEN D. HANSEN

S-3704 FILED APRIL 23, 1997

with 4/28/97 (p. 1486)
 HOUSE FILE 266

S-3720

1 Amend the Committee amendment, S-3686, to House
 2 File 266, as passed by the House, as follows:
 3 1. Page 15, by inserting after line 36 the
 4 following:
 5 "Sec. 201. Section 452A.17, subsection 1,
 6 paragraph a, Code 1997, is amended by adding the
 7 following new subparagraph:
 8 NEW SUBPARAGRAPH. (9) Undyed special fuel used in
 9 watercraft.
 10 Sec. 202. Section 452A.17, subsection 1, paragraph
 11 b, subparagraphs (4) and (5), Code 1997, are amended
 12 to read as follows:
 13 (4) The claim shall state the gallonage of motor
 14 fuel or undyed special fuel that was used or will be
 15 used by the claimant other than in ~~watercraft-or~~
 16 aircraft or to propel motor vehicles, the manner in
 17 which the motor fuel or undyed special fuel was used
 18 or will be used, and the equipment in which it was
 19 used or will be used.
 20 (5) The claim shall state whether the claimant
 21 used fuel for ~~watercraft-or~~ aircraft or to propel
 22 motor vehicles from the same tanks or receptacles in
 23 which the claimant kept the motor fuel or undyed
 24 special fuel on which the refund is claimed."
 25 2. Page 17, by inserting after line 23 the
 26 following:
 27 "Sec. ____ . Sections 201 and 202 of this Act,
 28 amending section 452A.17, subsection 1, being deemed
 29 of immediate importance, take effect upon enactment
 30 and apply retroactively to July 1, 1996."

By DONALD B. REDFERN

S-3720 FILED APRIL 23, 1997

Adopted 4/25/97 (p. 1471)

HOUSE FILE 266

S-3747

1 Amend the committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 15, by inserting after line 36 the
4 following:
5 "Sec. ____ . Section 445.60, Code 1997, is amended
6 to read as follows:
7 445.60 REFUNDING ERRONEOUS TAX.
8 The board of supervisors shall direct the county
9 treasurer to refund to the taxpayer any tax or portion
10 of a tax found to have been erroneously or illegally
11 paid, with all interest, fees, and costs actually
12 paid. A refund shall not be ordered or made unless a
13 claim for refund is presented to the board within one
14 year five years of the date the tax was due, or if
15 appealed to the board of review, the state board of
16 tax review, or district court, within one-year five
17 years of the final decision. For purposes of this
18 section, the payment of tax on property assessed to
19 the wrong person is an erroneous payment of tax."

By WILLIAM D. PALMER

S-3747 FILED APRIL 24, 1997

w/d 4/25/97 (p. 147D)

HOUSE FILE 266

S-3751

1 Amend the committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 1, by striking lines 5 through 50.
4 2. Page 2, line 1, by striking the word and
5 figure "Sec. 2." and inserting the following:
6 "Section 1."

By PATTY JUDGE

S-3751 FILED APRIL 24, 1997

Last 4/25/97 (p. 1469)

HOUSE FILE 266

S-3743

1 Amend the Committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 12, by inserting after line 45 the
4 following:
5 "Sec. ____ . Section 427.5, unnumbered paragraphs 1
6 and 2, Code 1997, are amended to read as follows:
7 A person named in section 427.3, who is a resident
8 of and domiciled in the state of Iowa, shall receive a
9 reduction equal to the exemption, to be made from any
10 property owned by the person or owned by a family farm
11 corporation of which the person is a shareholder and
12 who occupies the property and so designated by
13 proceeding as provided in the section. To be eligible
14 to receive the exemption the person claiming it shall
15 have recorded in the office of the county recorder of
16 the county in which is located the property designated
17 for the exemption, evidence of property ownership by
18 that person or the family farm corporation of which
19 the person is a shareholder and the military
20 certificate of satisfactory service, order
21 transferring to inactive status, reserve, retirement,
22 order of separation from service, honorable discharge
23 or a copy of any of these documents of the person
24 claiming or through whom is claimed the exemption.
25 The person shall file with the appropriate assessor
26 on forms obtained from the assessor the claim for
27 exemption for the year for which the person is first
28 claiming the exemption. The claim shall be filed not
29 later than July 1 of the year for which the person is
30 claiming the exemption. The claim shall set out the
31 fact that the person is a resident of and domiciled in
32 the state of Iowa, and a person within the terms of
33 section 427.3, and shall give the volume and page on
34 which the certificate of satisfactory service, order
35 of separation, retirement, furlough to reserve,
36 inactive status, or honorable discharge or certified
37 copy thereof is recorded in the office of the county
38 recorder, and may include the designation of the
39 property from which the exemption is to be made, and
40 shall further state that the claimant is the equitable
41 or legal owner of the property designated or if the
42 property is owned by a family farm corporation, that
43 the person is a shareholder of that corporation and
44 that the person occupies the property."

By WILLIAM D. PALMER

S-3743 FILED APRIL 24, 1997

Adopted 4/25/97 (p. 1471)

HOUSE FILE 266

S-3758

1 Amend the committee amendment, S-3686, to House
2 File 266, as passed by the House, as follows:
3 1. Page 9, by inserting after line 23 the
4 following:
5 "Sec. 401. Section 422.73, Code 1997, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 3. Notwithstanding subsection 2,
8 a claim for refund of individual income tax paid for
9 any tax year beginning on or after January 1, 1985,
10 and before January 1, 1989, is considered timely if
11 filed with the department on or before October 31,
12 1997, 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 refund of tax paid under
18 this subsection shall receive an amount equal to one
19 hundred percent of the refund without interest. The
20 claim for refund shall be filed separate from any
21 income tax return and shall not be allowed as a credit
22 for income taxes owed. A claim shall be filed between
23 the effective date of this Act and October 31, 1997.
24 An extension for filing shall not be allowed and
25 claims disallowed on the basis of timeliness shall not
26 be allowed upon appeal to any other state agency
27 notwithstanding any other provision of law.
28 The claim for refund shall be made on claim forms
29 to be made available by the department. In order for
30 a taxpayer to have a valid refund claim, the taxpayer
31 must supply legible copies of documents the director
32 deems necessary to show entitlement to the refund,
33 including but not limited to income tax forms and W-2P
34 forms, which will establish the state income tax that
35 was paid on the federal pension benefits for the tax
36 years in question. The burden of proof is on the
37 taxpayer to show that the claim for refund is valid.
38 Estates are not entitled to file a claim for refund
39 under this subsection, except a spouse of a deceased
40 taxpayer who was the spouse of the taxpayer when the
41 unconstitutional tax was imposed may file a claim for
42 refund without reopening the deceased taxpayer's
43 estate. If a taxpayer has filed a claim under this
44 subsection and subsequently dies before receipt of the
45 refund, the taxpayer's estate is entitled to receipt
46 of any valid refund claim.
47 The department shall make a reasonable attempt to
48 notify individuals who are entitled to a refund under
49 this subsection."

50 2. Page 17, by inserting after line 21 the

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1 following:

2 "Sec. ____ EFFECTIVE DATE. Section 401 of this
3 Act, being deemed of immediate importance, takes
4 effect upon enactment."

By PATTY JUDGE

S-3758 FILED APRIL 24, 1997

Last 4/25/97 (p. 1471)

HOUSE FILE 266

S-3801

1 Amend the committee amendment, S-3686, to House
2 File 266 as passed by the House, as follows:

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

5 ""Section 1. Section 97A.8, subsection 1,
6 paragraph i, Code 1997, is amended to read as follows:

7 i. (1) Notwithstanding paragraph "g" or other
8 provisions of this chapter, beginning January 1, 1995,
9 for federal income tax purposes, and beginning January
10 1, 1998, for state income tax purposes, member

11 contributions required under paragraph "f" or "h"
12 which are picked up by the department shall be
13 considered employer contributions for federal and
14 state income tax purposes, and the department shall
15 pick up the member contributions to be made under
16 paragraph "f" or "h" by its employees. The department
17 shall pick up these contributions by reducing the
18 salary of each of its employees covered by this
19 chapter by the amount which each employee is required
20 to contribute under paragraph "f" or "h" and shall
21 certify the amount picked up in lieu of the member
22 contributions to the department of revenue and
23 finance. The department of revenue and finance shall
24 forward the amount of the contributions picked up to
25 the board of trustees for recording and deposit in the
26 pension accumulation fund.

27 (2) Member contributions picked up by the
28 department under subparagraph (1) shall be treated as
29 employer contributions for federal and state income
30 tax purposes only and for all other purposes of this
31 chapter ~~and the laws of this state~~ shall be treated as
32 employee contributions and deemed part of the
33 employee's earnable compensation or salary.

34 Sec. 201. Section 97B.11A, Code 1997, is amended
35 to read as follows:

36 97B.11A PICKUP OF EMPLOYEE CONTRIBUTIONS.

37 1. Notwithstanding section 97B.11 or other
38 provisions of this chapter, beginning January 1, 1995,
39 for federal income tax purposes, and beginning January
40 1, 1998, for state income tax purposes, member

41 contributions required under section 97B.11 which are
42 picked up by the employer shall be considered employer
43 contributions for federal and state income tax
44 purposes, and each employer shall pick up the member
45 contributions to be made under section 97B.11 by its
46 employees. Each employer shall pick up these
47 contributions by reducing the salary of each of its
48 employees covered by this chapter by the amount which
49 each employee is required to contribute under section
50 97B.11 and shall pay the amount picked up in lieu of

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1 the member contributions as provided in section
2 97B.14.

3 2. Member contributions picked up by each employer
4 under subsection 1 shall be treated as employer
5 contributions for federal and state income tax
6 purposes only and for all other purposes of this
7 chapter ~~and the laws of this state~~ shall be treated as
8 employee contributions and deemed part of the
9 employee's wages or salary.

10 Sec. 301. Section 294.10A, Code 1997, is amended
11 to read as follows:

12 294.10A PICKUP OF TEACHER ASSESSMENTS.

13 1. Notwithstanding section 294.9 or other
14 provisions of this chapter, for federal income tax
15 purposes beginning January 1 following the submission
16 by a board of trustees of an application to the
17 federal internal revenue service requesting
18 qualification of a plan in accordance with the
19 requirements of the Internal Revenue Code, as defined
20 in section 422.3, and for state income tax purposes
21 beginning January 1, 1998, or January 1 following an
22 application for qualification, whichever is later,
23 teacher assessments required under section 294.9 which
24 are picked up by an employing school district shall be
25 considered employer contributions for federal and
26 state income tax purposes, and each employing school
27 district establishing a pension and annuity retirement
28 system pursuant to this chapter shall pick up the
29 teacher assessments to be made under section 294.9 by
30 its employees commencing on the January-1-following-an
31 application-for-qualification applicable date under
32 this subsection. Each employing school district shall
33 pick up these teacher assessments by reducing the
34 salary of each of the teachers covered by this chapter
35 by the amount which each teacher is required to
36 contribute through assessments under section 294.9 and
37 shall pay to the board of trustees the amount picked
38 up in lieu of the teacher assessments for recording
39 and deposit in the fund.

40 2. Teacher assessments picked up by each employing
41 school district under subsection 1 shall be treated as
42 employer contributions for federal and state income
43 tax purposes only and for all other purposes of this
44 chapter ~~and the laws of this state~~ shall be treated as
45 teacher assessments and deemed part of the teacher's
46 wages or salary."

47 2. Page 1, line 5, by striking the word and
48 figure ""Section 1." and inserting the following:
49 "Sec. 2."

50 3. Page 2, by inserting after line 22 the

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1 following
2 "Sec. 401. Section 411.8, subsection 1, paragraph
3 i, Code 1997, is amended to read as follows:
4 i. (1) Notwithstanding paragraph "g" or other
5 provisions of this chapter, beginning January 1, 1995,
6 for federal income tax purposes, and beginning January
7 1, 1998, for state income tax purposes, member
8 contributions required under paragraph "f" or "h"
9 which are picked up by the city shall be considered
10 employer contributions for federal and state income
11 tax purposes, and each city shall pick up the member
12 contributions to be made under paragraph "f" or "h" by
13 its employees. Each city shall pick up these
14 contributions by reducing the salary of each of its
15 employees covered by this chapter by the amount which
16 each employee is required to contribute under
17 paragraph "f" or "h" and shall pay the amount picked
18 up in lieu of the member contributions to the board of
19 trustees for recording and deposit in the fund.
20 (2) Member contributions picked up by each city
21 under subparagraph (1) shall be treated as employer
22 contributions for federal and state income tax
23 purposes only and for all other purposes of this
24 chapter ~~and the laws of this state~~ shall be treated as
25 employee contributions and deemed part of the
26 employee's earnable compensation or salary."
27 4. Page 5, by inserting after line 24 the
28 following:
29 "Sec. 501. Section 422.7, subsections 29 through
30 31, Code 1997, are amended by striking the
31 subsections."
32 5. Page 17, by inserting after line 5 the
33 following:
34 "Sec. 601. EFFECTIVE AND APPLICABILITY DATES.
35 Sections 1, 201, 301, 401, and 501 of this Act take
36 effect January 1, 1998, and apply to tax years
37 beginning on or after January 1, 1998."
38 6. By renumbering as necessary.

By JOHN P. KIBBIE
JOHNIE HAMMOND
MIKE CONNOLLY

S-3801 FILED APRIL 25, 1997

O/Order 4/28/97

HOUSE FILE 266

S-3791

- 1 Amend the Committee amendment, S-3686, to House
- 2 File 266, as passed by the House, as follows:
- 3 1. Page 7, by striking lines 22 through 32.
- 4 2. Page 17, by striking lines 19 through 21.

By DONALD B. REDFERN

S-3791 FILED APRIL 25, 1997

ADOPTED, MOTION TO RECONSIDER FILED

(p.1476) Horn, (p.1481)

Motion W/D 4-28-97
(p.1486)

HOUSE FILE 266

H-1971

1 Amend the Senate amendment, H-1957, to House File
 2 266, as passed by the House, as follows:
 3 1. Page 9, by inserting after line 5 the
 4 following:
 5 "Sec. 601. Section 422.45, Code 1997, is amended
 6 by adding the following new subsection:
 7 NEW SUBSECTION. 52. The gross receipts from
 8 charges for access to or use of internet computer
 9 services and from charges for access to or use of
 10 other contracted on-line computer services if access
 11 or use is by way of a local or in-state long distance
 12 telephone number and if the predominate on-line
 13 computer service offered is two-way transmission and
 14 receipt of information from one site to another.
 15 This subsection is repealed July 1, 1998."
 16 2. Page 21, by inserting after line 3 the
 17 following:
 18 "Sec. ____ . Section 601 of this Act, enacting
 19 section 422.45, subsection 52, being deemed of
 20 immediate importance, takes effect upon enactment."
 By RANTS of Woodbury LARSON of Linn
 VAN FOSSEN of Scott BRUNKHORST of Bremer

H-1971 FILED APRIL 28, 1997

Not German 4-29-97
(P. 1740)

HOUSE FILE 266

H-1972

1 Amend the Senate amendment, H-1957, to House File
 2 266, as passed by the House, as follows:
 3 1. By striking page 2, line 48, through page 3,
 4 line 16.
 5 2. Page 5, by striking lines 25 through 34.
 6 3. Page 10, by striking lines 40 through 49.
 7 4. By striking page 20, line 48, through page 21,
 8 line 3.

By TAYLOR of Linn

H-1972 FILED APRIL 28, 1997

Not 4-29-97
(P. 1740)

SENATE AMENDMENT TO HOUSE FILE 266

H-1957

1 Amend House File 266, as passed by the House, as
2 follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. Section 321.19, subsection 1,
6 unnumbered paragraph 2, Code 1997, is amended to read
7 as follows:
8 The department shall furnish, on application, free
9 of charge, distinguishing plates for vehicles thus
10 exempted, which plates except plates on Iowa highway
11 safety patrol vehicles shall bear the word "official"
12 and the department shall keep a separate record.
13 Registration plates issued for Iowa highway safety
14 patrol vehicles, except unmarked patrol vehicles,
15 shall bear two red stars on a yellow background, one
16 before and one following the registration number on
17 the plate, which registration number shall be the
18 officer's badge number. Registration plates issued
19 for a county sheriff's patrol vehicles shall display
20 one seven-pointed gold star followed by the letter "S"
21 and the call number of the vehicle. However, the
22 director of general services or the director of
23 transportation may order the issuance of regular
24 registration plates for any exempted vehicle used by
25 peace officers in the enforcement of the law, persons
26 enforcing chapter 124 and other laws relating to
27 controlled substances, persons in the department of
28 justice, the alcoholic beverages division of the
29 department of commerce, and the department of
30 inspections and appeals, and the department of revenue
31 and finance, who are regularly assigned to conduct
32 investigations which cannot reasonably be conducted
33 with a vehicle displaying "official" state
34 registration plates, and persons in the lottery
35 division of the department of revenue and finance
36 whose regularly assigned duties relating to security
37 or the carrying of lottery tickets cannot reasonably
38 be conducted with a vehicle displaying "official"
39 registration plates. For purposes of sale of exempted
40 vehicles, the exempted governmental body, upon the
41 sale of the exempted vehicle, may issue for in-transit
42 purposes a pasteboard card bearing the words "Vehicle
43 in Transit", the name of the official body from which
44 the vehicle was purchased, together with the date of
45 the purchase plainly marked in at least one-inch
46 letters, and other information required by the
47 department. The in-transit card is valid for use only
48 within forty-eight hours after the purchase date as
49 indicated on the bill of sale which shall be carried
50 by the driver.

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1 Sec. 2. Section 331.427, subsection 1, unnumbered
2 paragraph 1, Code 1997, is amended to read as follows:

3 Except as otherwise provided by state law, county
4 revenues from taxes and other sources for general
5 county services shall be credited to the general fund
6 of the county, including revenues received under
7 sections 101A.3, 101A.7, 123.36, 123.143, 142B.6,
8 176A.8, 321.105, 321.152, 321G.7, 331.554, subsection
9 6, 341A.20, 364.3, 368.21, ~~422.65~~, 422A.2, 428A.8,
10 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21,
11 483A.12, 533.24, 556B.1, 567.10, 583.6, 602.8108,
12 904.908, and 906.17, and chapter 405A, and the
13 following:

14 Sec. 3. NEW SECTION. 405A.10 FRANCHISE TAX
15 REVENUE ALLOCATION.

16 For the fiscal year beginning July 1, 1997, and
17 each subsequent fiscal year, there is appropriated
18 from the general fund of the state to the department
19 of revenue and finance the sum of eight million eight
20 hundred thousand dollars which shall be paid quarterly
21 on warrants by the director as allocated pursuant to
22 section 422.65.

23 Sec. 4. Section 421.4, Code 1997, is amended to
24 read as follows:

25 421.4 DEPUTIES.

26 The director may appoint deputy directors and may
27 designate one or more of the deputies as acting
28 director. A deputy designated to serve in the absence
29 of the director has all of the powers possessed by the
30 director. The director may employ certified public
31 accountants, engineering and technical assistants, and
32 other employees, or independent contractors necessary
33 to protect the interests of the state and any
34 political subdivision.

35 Sec. 5. Section 421.17, subsection 21, paragraph
36 b, subparagraph (3), Code 1997, is amended to read as
37 follows:

38 (3) The child support recovery unit, the foster
39 care recovery unit, and the investigations division of
40 the department of inspections and appeals shall, at
41 least annually, submit to the department of revenue
42 and finance for setoff the debts described in this
43 subsection, ~~which are at least fifty dollars~~
44 constituting a minimum amount determined by rule of
45 the department of revenue and finance, on a date to be
46 specified by the department of human services and the
47 department of inspections and appeals by rule.

48 Sec. 6. Section 421.17, Code 1997, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 22A. To develop, modify, or

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1 contract with vendors to create or administer systems
2 or programs which identify nonfilers of returns or
3 nonpayers of taxes administered by the department.
4 Fees for services, reimbursements, or other
5 remuneration paid under contract may be funded from
6 the amount of tax, penalty, interest, or fees actually
7 collected and shall be paid only after the amount is
8 collected. An amount is appropriated from the amount
9 of tax, penalty, interest, and fees actually
10 collected, not to exceed the amount collected, which
11 are sufficient to pay for services, reimbursement, or
12 other remuneration pursuant to this subsection.
13 Vendors entering into a contract with the department
14 pursuant to this subsection are subject to the
15 requirements and penalties of the confidentiality laws
16 of this state regarding tax information.

17 Sec. 7. Section 421.17, subsection 23, paragraphs
18 c, d, and g, Code 1997, are amended to read as
19 follows:

20 c. The college student aid commission shall, at
21 least annually, submit to the department of revenue
22 and finance for setoff the guaranteed student loan
23 defaults, ~~which are at least fifty dollars~~
24 constituting a minimum amount set by rule of the
25 department of revenue and finance, on a date or dates
26 to be specified by the college student aid commission
27 by rule.

28 d. Upon submission of a claim, the department of
29 revenue and finance shall notify the college student
30 aid commission whether the defaulter is entitled to a
31 refund or rebate of ~~at least fifty dollars~~ the minimum
32 amount set by rule of the department and if so
33 entitled shall notify the commission of the amount of
34 the refund or rebate and of the defaulter's address on
35 the income tax return. Section 422.72, subsection 1,
36 does not apply to this paragraph.

37 g. The department of revenue and finance shall,
38 after notice has been sent to the defaulter by the
39 college student aid commission, set off the amount of
40 the default against the defaulter's income tax refund
41 or rebate ~~if both the amount of the default and the~~
42 ~~refund or rebate are at least fifty dollars~~
43 constituting a minimum amount set by rule of the
44 department. The department shall refund any balance
45 of the income tax refund or rebate to the defaulter.
46 The department of revenue and finance shall
47 periodically transfer the amount set off to the
48 college student aid commission. If the defaulter
49 gives written notice of intent to contest the claim,
50 the commission shall hold the refund or rebate until

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1 final disposition of the contested claim pursuant to
2 chapter 17A or by court judgment. The commission
3 shall notify the defaulter in writing upon completion
4 of setoff.

5 Sec. 8. Section 421.17, subsection 25, paragraph
6 c, Code 1997, is amended to read as follows:

7 c. The clerk of the district court, on the first
8 day of February and August of each calendar year,
9 shall submit to the department for setoff the debts
10 described in this subsection, ~~which are at least fifty~~
11 ~~dollars~~ constituting a minimum amount set by rule of
12 the department.

13 Sec. 9. Section 421.17, subsection 29, paragraphs
14 a and e, Code 1997, are amended to read as follows:

15 a. For purposes of this subsection unless the
16 context requires otherwise:

17 (1) "State agency" means a board, commission,
18 department, including the department of revenue and
19 finance, or other administrative office or unit of the
20 state of Iowa or any other state entity reported in
21 the Iowa comprehensive annual financial report. The
22 term "state agency" does not include the general
23 assembly, the governor, or any political subdivision
24 of the state, or its offices and units.

25 (2) "Department" means the department of revenue
26 and finance and any other state agency that maintains
27 a separate accounting system and elects to establish a
28 debt collection setoff procedure for collection of
29 debts owed to the state or its agencies.

30 (3) The term "person" does not include a state
31 agency.

32 e. Before setoff, the amount of a person's claim
33 on a state agency and the amount of a person's
34 liability to a state agency shall ~~be at least fifty~~
35 ~~dollars~~ constitute a minimum amount set by rule of the
36 department.

37 Sec. 10. NEW SECTION. 421.61 UNCONSTITUTIONALLY
38 WITHHELD TAX BENEFITS.

39 If a provision in the Code grants a tax benefit to
40 taxpayers that is unconstitutionally withheld from
41 other taxpayers as expressed in an Iowa attorney
42 general's opinion based upon decisions of the Iowa
43 supreme court, United States supreme court, or other
44 courts of competent jurisdiction, the tax benefit
45 shall also be granted to the adversely affected
46 taxpayers as if the unconstitutional provision did not
47 exist.

48 Sec. 11. Section 422.5, subsection 1, paragraph j,
49 subparagraph (2), unnumbered paragraph 1, Code 1997,
50 is amended to read as follows:

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1 The tax imposed upon the taxable income of a
2 resident shareholder in a value-added corporation
3 which has in effect for the tax year an election under
4 subchapter S of the Internal Revenue Code and carries
5 on business within and without the state may be
6 computed by reducing the amount determined pursuant to
7 paragraphs "a" through "i" by the amounts of
8 nonrefundable credits under this division and by
9 multiplying this resulting amount by a fraction of
10 which the resident's net income allocated to Iowa, as
11 determined in section 422.8, subsection 2, paragraph
12 "b", is the numerator and the resident's total net
13 income computed under section 422.7 is the
14 denominator. If a resident shareholder has elected to
15 take advantage of this subparagraph, and for the next
16 tax year elects not to take advantage of this
17 subparagraph, the resident shareholder shall not
18 reelect to take advantage of this subparagraph for the
19 three tax years immediately following the first tax
20 year for which the shareholder elected not to take
21 advantage of this subparagraph, unless the director
22 consents to the reelection. This paragraph
23 subparagraph also applies to individuals who are
24 residents of Iowa for less than the entire tax year.

25 Sec. 12. Section 422.20, subsection 3, unnumbered
26 paragraph 1, Code 1997, is amended to read as follows:

27 Unless otherwise expressly permitted by section
28 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32,
29 sections 252B.9, 421.19, 421.28, 422.72, and 452A.63,
30 and this section, a tax return, return information, or
31 investigative or audit information shall not be
32 divulged to any person or entity, other than the
33 taxpayer, the department, or internal revenue service
34 for use in a matter unrelated to tax administration.

35 Sec. 13. Section 422.32, subsection 4, Code 1997,
36 is amended to read as follows:

37 4. "Corporation" includes joint stock companies,
38 and associations organized for pecuniary profit, and
39 ~~publicly-traded~~ partnerships and limited liability
40 companies taxed as corporations under the Internal
41 Revenue Code.

42 Sec. 14. Section 422.42, subsections 1 and 14,
43 Code 1997, are amended to read as follows:

44 1. "Agricultural production" includes the
45 production of flowering, ornamental, or vegetable
46 plants in commercial greenhouses or otherwise and
47 production from aquaculture. "Agricultural products"
48 include flowering, ornamental, or vegetable plants and
49 those products of aquaculture.

50 14. "Retail sale" or "sale at retail" means the

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1 sale to a consumer or to any person for any purpose,
2 other than for processing, for resale of tangible
3 personal property or taxable services, or for resale
4 of tangible personal property in connection with
5 taxable services; and includes the sale of gas,
6 electricity, water, and communication service to
7 retail consumers or users; but does not include
8 agricultural breeding livestock and domesticated fowl;
9 and does not include commercial fertilizer,
10 agricultural limestone, herbicide, pesticide,
11 insecticide, food, medication, or agricultural drain
12 tile, including installation of agricultural drain
13 tile, any of which are to be used in disease control,
14 weed control, insect control, or health promotion of
15 plants or livestock produced as part of agricultural
16 production for market; and does not include
17 electricity, steam, or any taxable service when
18 purchased and used in the processing of tangible
19 personal property intended to be sold ultimately at
20 retail. When used by a manufacturer of food products,
21 carbon dioxide in a liquid, solid, or gaseous form,
22 electricity, steam, and other taxable services are
23 sold for processing when used to produce marketable
24 food products for human consumption, including but not
25 limited to, treatment of material to change its form,
26 context, or condition, in order to produce the food
27 product, maintenance of quality or integrity of the
28 food product, changing or maintenance of temperature
29 levels necessary to avoid spoilage or to hold the food
30 product in marketable condition, maintenance of
31 environmental conditions necessary for the safe or
32 efficient use of machinery and material used to
33 produce the food product, sanitation and quality
34 control activities, formation of packaging, placement
35 into shipping containers, and movement of the material
36 or food product until shipment from the building of
37 manufacture. Tangible personal property is sold for
38 processing within the meaning of this subsection only
39 when it is intended that the property will, by means
40 of fabrication, compounding, manufacturing, or
41 germination become an integral part of other tangible
42 personal property intended to be sold ultimately at
43 retail; or will be consumed as fuel in creating heat,
44 power, or steam for processing including grain drying,
45 or for providing heat or cooling for livestock
46 buildings or for greenhouses or buildings or parts of
47 buildings dedicated to the production of flowering,
48 ornamental, or vegetable plants intended for sale in
49 the ordinary course of business, or for use in
50 cultivation of agricultural products by aquaculture,

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1 or for generating electric current, or in implements
2 of husbandry engaged in agricultural production; or
3 the property is a chemical, solvent, sorbent, or
4 reagent, which is directly used and is consumed,
5 dissipated, or depleted, in processing personal
6 property which is intended to be sold ultimately at
7 retail or consumed in the maintenance or repair of
8 fabric or clothing, and which may not become a
9 component or integral part of the finished product.

10 The distribution to the public of free newspapers or
11 shoppers guides is a retail sale for purposes of the
12 processing exemption.

13 Sec. 15. Section 422.43, Code 1997, is amended by
14 adding the following new subsection:

15 NEW SUBSECTION. 12. A tax of five percent is
16 imposed upon the gross receipts from the sales of
17 prepaid telephone calling cards and prepaid
18 authorization numbers. For the purpose of this
19 division, the sales of prepaid telephone calling cards
20 and prepaid authorization numbers are sales of
21 tangible personal property.

22 Sec. 16. Section 422.45, subsection 7, unnumbered
23 paragraph 1, Code 1997, is amended to read as follows:

24 A private nonprofit educational institution in this
25 state, nonprofit private museum in this state, tax-
26 certifying or tax-levying body or governmental
27 subdivision of the state, including the state board of
28 regents, state department of human services, state
29 department of transportation, a municipally owned
30 solid waste facility which sells all or part of its
31 processed waste as fuel to a municipally owned public
32 utility, and all divisions, boards, commissions,
33 agencies, or instrumentalities of state, federal,
34 county, or municipal government which do not have
35 earnings going to the benefit of an equity investor or
36 stockholder, may make application to the department
37 for the refund of the sales, services, or use tax upon
38 the gross receipts of all sales of goods, wares, or
39 merchandise, or from services rendered, furnished, or
40 performed, to a contractor, used in the fulfillment of
41 a written contract with the state of Iowa, any
42 political subdivision of the state, or a division,
43 board, commission, agency, or instrumentality of the
44 state or a political subdivision, a private nonprofit
45 educational institution in this state, or a nonprofit
46 private museum in this state if the property becomes
47 an integral part of the project under contract and at
48 the completion of the project becomes public property,
49 is devoted to educational uses, or becomes a nonprofit
50 private museum; except goods, wares, or merchandise,

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1 or services rendered, furnished, or performed used in
2 the performance of any contract in connection with the
3 operation of any municipal utility engaged in selling
4 gas, electricity, or heat to the general public or in
5 connection with the operation of a municipal pay
6 television system; and except goods, wares, and
7 merchandise used in the performance of a contract for
8 a "project" under chapter 419 as defined in that
9 chapter other than goods, wares, or merchandise used
10 in the performance of a contract for a "project" under
11 chapter 419 for which a bond issue was approved by a
12 municipality prior to July 1, 1968, or for which the
13 goods, wares, or merchandise becomes an integral part
14 of the project under contract and at the completion of
15 the project becomes public property or is devoted to
16 educational uses.

17 Sec. 17. Section 422.45, subsection 18, Code 1997,
18 is amended to read as follows:

19 18. Gross receipts from the sale of tangible
20 personal property, except vehicles subject to
21 registration, to a person regularly engaged in the
22 business of leasing if the period of the lease is for
23 more than one-year five months, or in the consumer
24 rental purchase business if the property is to be
25 utilized in a transaction involving a consumer rental
26 purchase agreement as defined in section 537.3604,
27 subsection 8, and the leasing or consumer rental of
28 the property is subject to taxation under this
29 division. If tangible personal property exempt under
30 this subsection is made use of for any purpose other
31 than leasing, renting, or consumer rental purchase,
32 the person claiming the exemption under this
33 subsection is liable for the tax that would have been
34 due except for this subsection. The tax shall be
35 computed upon the original purchase price. The
36 aggregate of the tax paid on the leasing, renting, or
37 rental purchase of such tangible personal property,
38 not to exceed the amount of the sales tax owed, shall
39 be credited against the tax. This sales tax is in
40 addition to any sales or use tax that may be imposed
41 as a result of the disposal of such tangible personal
42 property.

43 Sec. 18. Section 422.45, subsection 39, paragraphs
44 a and c, Code 1997, are amended to read as follows:

45 a. The implement, machinery, or equipment is
46 directly and primarily used in livestock or dairy
47 production, use in aquaculture production, or in the
48 production of flowering, ornamental, or vegetable
49 plants.

50 c. The replacement part is essential to any repair

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1 or reconstruction necessary to the farm machinery's or
2 equipment's exempt use in livestock or dairy
3 production, use in aquaculture production, or in the
4 production of flowering, ornamental, or vegetable
5 plants.

6 Sec. 19. Section 422.47, subsection 4, paragraph
7 f, Code 1997, is amended to read as follows:

8 f. In this section, "fuel" includes gas,
9 electricity, water, heat, steam, and any other
10 tangible personal property consumed in creating heat,
11 power, or steam. In this section, "fuel consumed in
12 processing" means fuel used or disposed of for
13 processing including grain drying, for providing heat
14 or cooling for livestock buildings or for greenhouses
15 or buildings or parts of buildings dedicated to the
16 production of flowering, ornamental, or vegetable
17 plants intended for sale in the ordinary course of
18 business, for use in aquaculture production, or for
19 generating electric current, or in implements of
20 husbandry engaged in agricultural production. In this
21 subsection, "fuel exemption certificate" means an
22 exemption certificate given by the purchaser under
23 penalty of perjury to assist retailers in properly
24 accounting for nontaxable sales of fuel consumed in
25 processing. In this subsection, "substantial change"
26 means a change in the use or disposition of tangible
27 personal property and services by the purchaser such
28 that the purchaser pays less than ninety percent of
29 the purchaser's actual sales tax liability. A change
30 includes a misstatement of facts in an application
31 made pursuant to paragraph "c" or in a fuel exemption
32 certificate.

33 Sec. 20. Section 422.53, Code 1997, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 8. a. Except as provided in
36 paragraph "b", purchasers, users, and consumers of
37 tangible personal property or enumerated services
38 taxed pursuant to this division, chapter 423, or
39 chapter 422B, may be authorized, pursuant to rules
40 adopted by the director, to remit tax owed directly to
41 the department instead of the tax being collected and
42 paid by the seller. To qualify for a direct pay tax
43 permit, the purchaser, user, or consumer must accrue a
44 tax liability of more than four thousand dollars in
45 tax under this division and chapter 423, in a
46 semimonthly period and make deposits and file returns
47 pursuant to section 422.52. This authority shall not
48 be granted or exercised except upon application to the
49 director and then only after issuance by the director
50 of a direct pay tax permit.

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1 b. The granting of a direct pay tax permit is not
2 authorized for any of the following:

3 (1) Taxes imposed on the sales, furnishing, or
4 service of gas, electricity, water, heat, pay
5 television service, and communication service.

6 (2) Taxes imposed under sections 423.7 and 423.7A
7 and chapter 422C.

8 Sec. 21. Section 422.65, Code 1997, is amended to
9 read as follows:

10 422.65 ALLOCATION OF REVENUE.

11 All moneys received from the franchise tax shall be
12 deposited in the state general fund. ~~Commencing with~~
13 ~~the fiscal year beginning July 1, 1993, there is~~
14 ~~appropriated for each fiscal year from the franchise~~
15 ~~tax money received and deposited in the state general~~
16 ~~fund the sum of eight million eight hundred thousand~~
17 ~~dollars which shall be paid quarterly on warrants by~~
18 ~~the director, after certification by the director,~~
19 Franchise tax moneys appropriated in section 405A.10
20 are allocated as follows:

21 1. Sixty percent to the general fund of the city
22 from which the tax is collected.

23 2. Forty percent to the county from which the tax
24 is collected.

25 If the financial institution maintains one or more
26 offices for the transaction of business, other than
27 its principal office, a portion of its franchise tax
28 shall be allocated to each office, based upon a
29 reasonable measure of the business activity of each
30 office. The director shall prescribe, for each type
31 of financial institution, a method of measuring the
32 business activity of each office. Financial
33 institutions shall furnish all necessary information
34 for this purpose at the request of the director.

35 ~~Quarterly, the director shall certify to the~~
36 ~~treasurer of state the amounts to be paid to each city~~
37 ~~and county from the state general fund. All moneys~~
38 ~~received from the franchise tax are appropriated~~
39 ~~according to the provisions of this section.~~

40 Sec. 22. Section 422.72, subsection 3, unnumbered
41 paragraph 1, Code 1997, is amended to read as follows:

42 Unless otherwise expressly permitted by section
43 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32,
44 sections 252B.9, 421.19, 421.28, 422.20, and 452A.63,
45 and this section, a tax return, return information, or
46 investigative or audit information shall not be
47 divulged to any person or entity, other than the
48 taxpayer, the department, or internal revenue service
49 for use in a matter unrelated to tax administration.

50 Sec. 23. Section 422.72, Code 1997, is amended by

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1 adding the following new subsection:

2 NEW SUBSECTION. 7. Notwithstanding subsection 3,
3 the director shall provide state tax returns and
4 return information in response to a subpoena issued by
5 the court pursuant to rule of criminal procedure 5
6 commanding the appearance before the attorney general
7 or an assistant attorney general if the subpoena is
8 accompanied by affidavits from such person and from a
9 sworn peace officer member of the department of public
10 safety affirming that the information is necessary for
11 the investigation of a felony violation of chapter 124
12 or chapter 706B. The affidavits accompanying the
13 subpoenas and the information provided by the director
14 shall remain a confidential record which may be
15 disseminated only to a prosecutor or peace officer
16 involved in the investigation, or to the taxpayer who
17 filed the information and to the court in connection
18 with the filing of criminal charges or institution of
19 a forfeiture action. A person who knowingly files a
20 false affidavit with the director to secure
21 information or who divulges information received under
22 this subsection in a manner prohibited by this
23 subsection commits a serious misdemeanor.

24 Sec. 24. Section 423.1, subsection 8, Code 1997,
25 is amended to read as follows:

26 8. "Retailer maintaining a place of business in
27 this state" or any like term includes any retailer
28 having or maintaining within this state, directly or
29 by a subsidiary, an office, distribution house, sales
30 house, warehouse, or other place of business, or any
31 agent representative operating within this state under
32 the authority of the retailer or its subsidiary,
33 irrespective of whether such that place of business or
34 agent representative is located here permanently or
35 temporarily, or whether the retailer or subsidiary is
36 admitted to do business within this state pursuant to
37 chapter 490.

38 Sec. 25. Section 423.25, Code 1997, is amended to
39 read as follows:

40 423.25 TAXATION IN ANOTHER STATE.

41 If any person who causes tangible personal property
42 to be brought into this state or who uses in this
43 state services enumerated in section 422.43 has
44 already paid a tax in another state in respect to the
45 sale or use of the property or the performance of the
46 service, or an occupation tax in respect to the
47 property or service, in an amount less than the tax
48 imposed by this title, the provisions of this title
49 shall apply, but at a rate measured by the difference
50 only between the rate fixed in this title and the rate

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1 by which the previous tax on the sale or use, or the
2 occupation tax, was computed. If the tax imposed and
3 paid in the other state is equal to or more than the
4 tax imposed by this title, then a tax is not due in
5 this state on the personal property or service.

6 Sec. 26. Section 425.7, subsection 3, Code 1997,
7 is amended to read as follows:

8 3. If the director of revenue and finance
9 determines that a claim for homestead credit has been
10 allowed by the board of supervisors which is not
11 justifiable under the law and not substantiated by
12 proper facts, the director may, at any time within
13 thirty-six months from July 1 of the year in which the
14 claim is allowed, set aside the allowance. Notice of
15 the disallowance shall be given to the county auditor
16 of the county in which the claim has been improperly
17 granted and a written notice of the disallowance shall
18 also be addressed to the claimant at the claimant's
19 last known address. The claimant or board of
20 supervisors may appeal to the state board of tax
21 review pursuant to section 421.1, subsection 4. The
22 claimant or the board of supervisors may seek judicial
23 review of the action of the ~~director of revenue and~~
24 ~~finance~~ state board of tax review in accordance with
25 ~~the Iowa administrative procedure Act~~ chapter 17A.

26 If a claim is disallowed by the director of revenue
27 and finance and not appealed to the state board of tax
28 review or appealed to and upheld by the state board of
29 tax review and a petition for judicial review is not
30 filed with respect to the disallowance, any amounts of
31 credits allowed and paid from the homestead credit
32 fund including the penalty, if any, become a lien upon
33 the property on which credit was originally granted,
34 if still in the hands of the claimant, and not in the
35 hands of a bona fide purchaser, and any amount so
36 erroneously paid including the penalty, if any, shall
37 be collected by the county treasurer in the same
38 manner as other taxes and the collections shall be
39 returned to the department of revenue and finance and
40 credited to the homestead credit fund. The director
41 of revenue and finance may institute legal proceedings
42 against a homestead credit claimant for the collection
43 of payments made on disallowed credits and the
44 penalty, if any. If a homestead credit is disallowed
45 and the claimant failed to give written notice to the
46 assessor as required by section 425.2 when the
47 property ceased to be used as a homestead by the
48 claimant, a civil penalty equal to fifty percent of
49 the amount of the disallowed credit is assessed
50 against the claimant.

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1 Sec. 27. Section 426A.6, Code 1997, is amended to
2 read as follows:

3 426A.6 SETTING ASIDE ALLOWANCE.

4 If the director of revenue and finance determines
5 that a claim for military service tax exemption has
6 been allowed by a board of supervisors which is not
7 justifiable under the law and not substantiated by
8 proper facts, the director may, at any time within
9 thirty-six months from July 1 of the year in which the
10 claim is allowed, set aside the allowance. Notice of
11 the disallowance shall be given to the county auditor
12 of the county in which the claim has been improperly
13 granted and a written notice of the disallowance shall
14 also be addressed to the claimant at the claimant's
15 last known address. The claimant or the board of
16 supervisors may appeal to the state board of tax
17 review pursuant to section 421.1, subsection 4. The
18 claimant or the board of supervisors may seek judicial
19 review of the action of the ~~director of revenue and~~
20 ~~finance~~ state board of tax review in accordance with
21 chapter 17A. If a claim is disallowed by the director
22 of revenue and finance and not appealed to the state
23 board of tax review or appealed to and upheld by the
24 state board of tax review and a petition for judicial
25 review is not filed with respect to the disallowance,
26 the credits allowed and paid from the general fund of
27 the state become a lien upon the property on which the
28 credit was originally granted, if still in the hands
29 of the claimant and not in the hands of a bona fide
30 purchaser, the amount so erroneously paid shall be
31 collected by the county treasurer in the same manner
32 as other taxes, and the collections shall be returned
33 to the department of revenue and finance and credited
34 to the general fund of the state. The director of
35 revenue and finance may institute legal proceedings
36 against a military service tax exemption claimant for
37 the collection of payments made on disallowed
38 exemptions.

39 Sec. 28. Section 426B.1, subsection 1, Code 1997,
40 is amended to read as follows:

41 1. A property tax relief fund is created in the
42 state treasury under the authority of the department
43 of ~~revenue and finance~~ human services. The fund shall
44 be separate from the general fund of the state and
45 shall not be considered part of the general fund of
46 the state except in determining the cash position of
47 the state for payment of state obligations. The
48 moneys in the fund are not subject to the provisions
49 of section 8.33 and shall not be transferred, used,
50 obligated, appropriated, or otherwise encumbered

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1 except as provided in this chapter. Moneys in the
2 fund may be used for cash flow purposes, provided that
3 any moneys so allocated are returned to the fund by
4 the end of each fiscal year. However, the fund shall
5 be considered a special account for the purposes of
6 section 8.53, relating to elimination of any GAAP
7 deficit. For the purposes of this chapter, unless the
8 context otherwise requires, "property tax relief fund"
9 means the property tax relief fund created in this
10 section.

11 Sec. 29. Section 426B.4, Code 1997, is amended to
12 read as follows:

13 426B.4 RULES.

14 The council on human services shall consult with
15 the state-county management committee created in
16 section 331.438 and the director of ~~revenue-and~~
17 ~~finance~~ human services in prescribing forms and
18 adopting rules pursuant to chapter 17A to administer
19 this chapter.

20 Sec. 30. Section 427.1, subsection 16, Code 1997,
21 is amended to read as follows:

22 16. REVOKING EXEMPTION. Any taxpayer or any
23 taxing district may make application to the director
24 of revenue and finance for revocation for any
25 exemption, based upon alleged violations of this
26 chapter. The director of revenue and finance may also
27 on the director's own motion set aside any exemption
28 which has been granted upon property for which
29 exemption is claimed under this chapter. The director
30 of revenue and finance shall give notice by mail to
31 the taxpayer or taxing district applicant and to the
32 societies or organizations claiming an exemption upon
33 property, exemption of which is questioned before or
34 by the director of revenue and finance, and shall hold
35 a hearing prior to issuing any order for revocation.
36 An order made by the director of revenue and finance
37 revoking or modifying an exemption is subject to
38 judicial review in accordance with chapter 17A, the
39 Iowa administrative procedure Act. Notwithstanding
40 the terms of that Act, petitions for judicial review
41 may be filed in the district court having jurisdiction
42 in the county in which the property is located, and
43 must be filed within thirty days after any order
44 revoking an exemption is made by the director of
45 revenue and finance.

46 Sec. 31. Section 427.5, unnumbered paragraphs 1
47 and 2, Code 1997, are amended to read as follows:

48 A person named in section 427.3, who is a resident
49 of and domiciled in the state of Iowa, shall receive a
50 reduction equal to the exemption, to be made from any

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1 property owned by the person or owned by a family farm
2 corporation of which the person is a shareholder and
3 who occupies the property and so designated by
4 proceeding as provided in the section. To be eligible
5 to receive the exemption the person claiming it shall
6 have recorded in the office of the county recorder of
7 the county in which is located the property designated
8 for the exemption, evidence of property ownership by
9 that person or the family farm corporation of which
10 the person is a shareholder and the military
11 certificate of satisfactory service, order
12 transferring to inactive status, reserve, retirement,
13 order of separation from service, honorable discharge
14 or a copy of any of these documents of the person
15 claiming or through whom is claimed the exemption.

16 The person shall file with the appropriate assessor
17 on forms obtained from the assessor the claim for
18 exemption for the year for which the person is first
19 claiming the exemption. The claim shall be filed not
20 later than July 1 of the year for which the person is
21 claiming the exemption. The claim shall set out the
22 fact that the person is a resident of and domiciled in
23 the state of Iowa, and a person within the terms of
24 section 427.3, and shall give the volume and page on
25 which the certificate of satisfactory service, order
26 of separation, retirement, furlough to reserve,
27 inactive status, or honorable discharge or certified
28 copy thereof is recorded in the office of the county
29 recorder, and may include the designation of the
30 property from which the exemption is to be made, and
31 shall further state that the claimant is the equitable
32 or legal owner of the property designated or if the
33 property is owned by a family farm corporation, that
34 the person is a shareholder of that corporation and
35 that the person occupies the property.

36 Sec. 32. Section 427B.19, subsection 3, unnumbered
37 paragraph 1, Code 1997, is amended to read as follows:

38 On or before ~~July 1, 1996, and on or before July~~
39 September 1 of each succeeding fiscal year through
40 June 30, 2006, the county auditor shall prepare a
41 statement, based upon the report received pursuant to
42 subsections 1 and 2, listing for each taxing district
43 in the county:

44 Sec. 33. Section 427B.19, subsection 4, Code 1997,
45 is amended to read as follows:

46 4. The county auditor shall certify and forward
47 one copy of the statement to the department of revenue
48 and finance not later than ~~July~~ September 1 of each
49 year.

50 Sec. 34. Section 427B.19A, subsection 2, Code

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1 1997, is amended to read as follows:

2 2. If an amount appropriated for a fiscal year is
3 insufficient to pay all claims, the director shall
4 prorate the disbursements from the fund to the county
5 treasurers and shall notify the county auditors of the
6 pro rata percentage on or before ~~August-1~~ September
7 30.

8 Sec. 35. Section 428.4, unnumbered paragraph 3,
9 Code 1997, is amended to read as follows:

10 Any buildings erected, improvements made, or
11 buildings or improvements removed in a year after the
12 assessment of the class of real estate to which they
13 belong, shall be valued, listed, and assessed and
14 reported by the assessor to the county auditor after
15 approval of the valuations by the local board of
16 review, and ~~said~~ the auditor shall thereupon enter the
17 taxable value of such building or taxable improvement
18 on the tax list as a part of real estate to be taxed.
19 If such buildings or improvements are erected or made
20 by any person other than the owner of the land, they
21 shall be listed and assessed to the owner of the
22 buildings or improvements as real estate.

23 Sec. 36. Section 440.1, Code 1997, is amended to
24 read as follows:

25 440.1 ASSESSMENT OF OMITTED PROPERTY.

26 When the director of revenue and finance is vested
27 with the power and duty to assess property and ~~said~~ an
28 assessment has, for any reason, been omitted, the
29 director shall proceed to assess ~~said~~ the property for
30 each of the omitted years, ~~not-exceeding-five-years~~
31 ~~last-past~~. The omitted assessment shall only apply to
32 the assessment year in which the omitted assessment is
33 made and the four prior assessment years. Chapter 429
34 shall apply to assessments of omitted property.

35 Sec. 37. Section 441.8, unnumbered paragraphs 6
36 and 7, Code 1997, are amended to read as follows:

37 Upon receiving credit equal to one hundred fifty
38 hours of classroom instruction during the assessor's
39 current term of office of which at least ninety of the
40 one hundred fifty hours are from courses requiring an
41 examination upon conclusion of the course, the
42 director of revenue and finance shall certify to the
43 assessor's conference board that the assessor is
44 eligible to be reappointed to the position. For
45 ~~assessors-whose-present-terms-of-office-expire-before~~
46 ~~six-years-from-January-1, 1979, or who are persons~~
47 appointed to complete an unexpired term, the number of
48 credits required to be certified as eligible for
49 reappointment shall be prorated according to the
50 amount of time remaining in the present term of the

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1 assessor. If the person was an assessor in another
2 jurisdiction, the assessor may carry forward any
3 credit hours received in the previous position in
4 excess of the number that would be necessary to be
5 considered current in that position.

6 Within each six-year period following ~~January-17~~
7 ~~1980~~ or the appointment of a deputy assessor appointed
8 ~~after-January-17-1979~~, the deputy assessor shall
9 comply with this section except that upon the
10 successful completion of ninety hours of classroom
11 instruction of which at least sixty of the ninety
12 hours are from courses requiring an examination upon
13 conclusion of the course, the deputy assessor shall be
14 certified by the director of revenue and finance as
15 being eligible to remain in the position. If a deputy
16 assessor fails to comply with this section, the deputy
17 assessor shall be removed from the position until
18 successful completion of the required hours of credit.
19 If a deputy is appointed to the office of assessor,
20 the hours of credit obtained as deputy pursuant to
21 this section shall be credited to that individual as
22 assessor and for the individual to be reappointed at
23 the expiration of the term as assessor, that
24 individual must obtain the credits which are necessary
25 to total the number of hours for reappointment.

26 Sec. 38. Section 441.11, Code 1997, is amended to
27 read as follows:

28 441.11 INCUMBENT DEPUTY ASSESSORS.

29 The director of revenue and finance shall grant a
30 restricted certificate to any deputy assessor holding
31 office as of January 1, 1976. A deputy assessor
32 possessing such a certificate shall be considered
33 eligible to remain in the deputy's present position
34 provided continuing education requirements are met.
35 To become eligible for another deputy assessor
36 position, a deputy assessor presently holding office
37 is required to obtain certification as provided for in
38 section 441.5 and 441.10. The number of credit hours
39 required for certification as eligible for appointment
40 as a deputy in a jurisdiction other than where the
41 deputy is currently serving shall be prorated
42 according to the completed portion of the deputy's
43 six-year continuing education period.

44 Sec. 39. Section 444.26, Code 1997, is amended to
45 read as follows:

46 444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

47 Sections ~~444.257~~ 444.25A7 and 444.25B shall not be
48 construed as removing or otherwise affecting the
49 property tax limitations otherwise provided by law for
50 any tax levy of the political subdivision, except

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1 that, upon an appeal from the political subdivision,
2 the state appeal board may approve a tax levy
3 consistent with the provisions of section 24.48 or
4 331.426.

5 Sec. 40. Section 444.27, subsection 1, Code 1997,
6 is amended to read as follows:

7 ~~1. For purposes of section 444.25, sections 24.48~~
8 ~~and 331.426 are void for the fiscal years beginning~~
9 ~~July 1, 1993, and July 1, 1994.~~ For purposes of
10 section 444.25A, sections 24.48 and 331.426 are void
11 for the fiscal years beginning July 1, 1995, and July
12 1, 1996.

13 Sec. 41. Section 445.32, Code 1997, is amended to
14 read as follows:

15 445.32 LIENS ON BUILDINGS OR IMPROVEMENTS.

16 If a building or improvement is erected or made by
17 a person other than the owner of the land on which the
18 building or improvement is located, as provided for in
19 section 428.4, the taxes on the building or
20 improvement are and remain a lien on the building or
21 improvement from the date of levy until paid. If the
22 taxes on the building or improvement become
23 delinquent, as provided in section 445.37, the county
24 treasurer shall collect the tax as provided in
25 sections 445.3 and 445.4. This section does not apply
26 to special assessments, or rates or charges.

27 Sec. 42. Section 452A.17, subsection 1, paragraph
28 a, Code 1997, is amended by adding the following new
29 subparagraph:

30 NEW SUBPARAGRAPH. (9) Undyed special fuel used in
31 watercraft.

32 Sec. 43. Section 452A.17, subsection 1, paragraph
33 b, subparagraphs (4) and (5), Code 1997, are amended
34 to read as follows:

35 (4) The claim shall state the gallonage of motor
36 fuel or undyed special fuel that was used or will be
37 used by the claimant other than in ~~watercraft or~~
38 aircraft or to propel motor vehicles, the manner in
39 which the motor fuel or undyed special fuel was used
40 or will be used, and the equipment in which it was
41 used or will be used.

42 (5) The claim shall state whether the claimant
43 used fuel for ~~watercraft or~~ aircraft or to propel
44 motor vehicles from the same tanks or receptacles in
45 which the claimant kept the motor fuel or undyed
46 special fuel on which the refund is claimed.

47 Sec. 44. Section 452A.65, unnumbered paragraph 1,
48 Code 1997, is amended to read as follows:

49 In addition to the tax or additional tax, the
50 taxpayer shall pay a penalty as provided in section

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1 421.27. The taxpayer shall also pay interest on the
2 tax or additional tax at the rate in effect under
3 section 421.7 counting each fraction of a month as an
4 entire month, computed from the date the return was
5 required to be filed. If the amount of the tax as
6 determined by the appropriate state agency is less
7 than the amount paid, the excess shall be refunded
8 with interest, the interest to begin to accrue on the
9 first day of the ~~third~~ second calendar month following
10 the date of payment or the date the return was due to
11 be filed or was filed, whichever is the latest, at the
12 rate in effect under section 421.7 counting each
13 fraction of a month as an entire month under the rules
14 prescribed by the appropriate state agency. ~~In lieu~~
15 ~~of a refund allowed under this section, the licensee~~
16 ~~may request that the department allow the refund to be~~
17 ~~held as a credit for the licensee.~~ Claims for refund
18 filed under sections 452A.17 and 452A.21 shall accrue
19 interest beginning with the first day of the second
20 calendar month following the date the refund claim is
21 received by the department.

22 Sec. 45. Section 633.699, subsection 7, Code 1997,
23 is amended to read as follows:

24 7. To make any required division, allocation, or
25 distribution in whole or in part in money, securities,
26 or other property, and in undivided interests therein
27 pro rata, nonpro rata, or in combination of these
28 methods, and to continue to hold any remaining
29 undivided interest in trust.

30 Sec. 46. Section 633.703A, subsection 1,
31 unnumbered paragraph 1, Code 1997, is amended to read
32 as follows:

33 In order to allow a trust to qualify as a marital
34 deduction trust for federal estate tax purposes, as a
35 qualified subchapter S trust for federal income tax
36 purposes, as separate trusts for federal generation-
37 skipping tax purposes, or for any other federal or
38 state income, estate, excise, or inheritance tax
39 benefit or to facilitate the administration of a trust
40 or trusts, the governing instrument of a trust may be
41 amended as follows to permit the trust to be divided
42 in cash or in kind, including in undivided interests,
43 by pro rata or nonpro rata division, or in any
44 combination thereof, into one or more separate trusts
45 or be consolidated with one or more other trusts into
46 a single trust:

47 Sec. 47. Section 99D.14, subsection 6, Code 1997,
48 as amended by 1997 Iowa Acts, House File 212, section
49 2, is amended to read as follows:

50 6. Real property used in the operation of a

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1 racetrack or racetrack enclosure which is exempt from
2 property taxation under another provision of the law,
3 including being exempt because it is owned by a city,
4 county, state, or charitable or nonprofit entity, may
5 be subject to real property taxation by any taxing
6 district in which the real property used in the
7 operation of the racetrack or racetrack enclosure is
8 located. To subject such real property to taxation,
9 the taxing authority of the taxing district shall pass
10 a resolution imposing the tax and, if the resolution
11 is passed prior to September 1, 1997, shall notify the
12 county local assessor, ~~director of revenue and~~
13 finance, and the owner of record of the real property
14 by September 1, 1997, preceding the fiscal year in
15 which the real property taxes are due and payable.
16 The assessed value shall be determined and notice of
17 the assessed value shall be provided to the county
18 auditor by the department of revenue and finance local
19 assessor by October 15, 1997, and the owner may
20 protest the assessed value to the state local board of
21 tax review by December 1, 1997. For resolutions
22 passed on or after September 1, 1997, the taxing
23 authority shall notify the local assessor and owner of
24 record prior to the next assessment year and the
25 valuation and appeal shall be done in the manner and
26 time as for other valuations. Property taxes due as a
27 result of this subsection shall be paid to the county
28 treasurer in the manner and time as other property
29 taxes. The county treasurer shall remit the tax
30 revenue to those taxing authorities imposing the
31 property tax under this subsection. Real property
32 subject to tax as provided in this subsection shall
33 continue to be taxed until such time as the taxing
34 authority of the taxing district repeals the
35 resolution subjecting the property to taxation.
36 ~~Notwithstanding section 99B.7, the department of~~
37 ~~revenue and finance shall adopt rules to implement~~
38 ~~this subsection.~~

39 Sec. 48. Sections 236.15A, 427A.13, 440.2, 440.3,
40 440.4, 444.25, and 444.28, Code 1997, are repealed.

41 Sec. 49. Sections 11 and 13 of this Act which
42 amend sections 422.5 and 422.32 apply retroactively to
43 January 1, 1997, for tax years beginning on or after
44 that date.

45 Sec. 50. Section 17 of this Act, amending section
46 422.45, subsection 18, being deemed of immediate
47 importance, takes effect upon enactment.

48 Sec. 51. Sections 6, 12, and 22 of this Act,
49 enacting section 421.17, subsection 22A and amending
50 section 422.20 and section 422.72, subsection 3, and

H-1957

-20-

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1 relating to contractual agreements by the department
2 of revenue and finance, being deemed of immediate
3 importance, take effect upon enactment.

4 Sec. 52. Section 20 of this Act, enacting section
5 422.53, subsection 8, takes effect January 1, 1998.

6 Sec. 53. Sections 42 and 43 of this Act, amending
7 section 452A.17, subsection 1, being deemed of
8 immediate importance, take effect upon enactment and
9 apply retroactively to July 1, 1996."

10 2. Title page, by striking lines 1 through 7 and
11 inserting the following: "An Act relating to the
12 administration of state individual income, corporate,
13 franchise, motor fuel, and other taxes; collection of
14 taxes and use of collection receipts; property taxes;
15 property tax credits and replacement claims; sales,
16 services, and use taxes and the imposition thereof on
17 sales of prepaid telephone calling cards and prepaid
18 authorization numbers; tax refund setoffs; and other
19 duties of the department and director of revenue and
20 finance; providing a penalty; and including effective
21 and retroactive applicability date provisions."

RECEIVED FROM THE SENATE

H-1957 FILED APRIL 28, 1997

*House Concurred 4-29-97
(P. 194)*

HOUSE FILE 266

H-1969

1 Amend the Senate amendment, H-1957, to House File
2 266, as passed by the House, as follows:

3 1. Page 5, by inserting after line 24 the
4 following:

5 "Sec. 651. Section 422.7, Code 1997, is amended by
6 adding the following new subsection:

7 NEW SUBSECTION. 35. The amount of salary paid by
8 a business to a nonproduction worker which exceeds
9 thirty times the average annual wage paid to the
10 production workers of that business shall not be
11 allowed as a deduction in determining net income under
12 this section."

13 2. Page 20, by inserting after line 44 the
14 following:

15 "Sec. _____. Section 651 of this Act, enacting
16 section 422.7, subsection 35, applies retroactively to
17 January 1, 1997."

By FALCK of Fayette
DOTZLER of Black Hawk
BRAND of Tama

MURPHY of Dubuque
WHITEAD of Woodbury
KINZER of Scott

H-1969 FILED APRIL 28, 1997

*Pat Hermone
4/29/97
(P. 170)*

Jenkins, Chair
Drake
Weigel

HSB 28

WAYS AND MEANS

Succeeded By
SF (HF) 2366

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
REVENUE AND FINANCE BILL)

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the administration of state individual income,
2 corporate, franchise, motor fuel, and other taxes; property
3 taxes, property tax credits and replacement claims; sales,
4 services, and use taxes; tax refund setoffs; and other duties
5 of the department and director of revenue and finance;
6 providing a penalty; and providing a retroactive applicability
7 date provision.

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

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1 Section 1. Section 321.19, subsection 1, unnumbered
2 paragraph 2, Code 1997, is amended to read as follows:
3 The department shall furnish, on application, free of
4 charge, distinguishing plates for vehicles thus exempted,
5 which plates except plates on Iowa highway safety patrol
6 vehicles shall bear the word "official" and the department
7 shall keep a separate record. Registration plates issued for
8 Iowa highway safety patrol vehicles, except unmarked patrol
9 vehicles, shall bear two red stars on a yellow background, one
10 before and one following the registration number on the plate,
11 which registration number shall be the officer's badge number.
12 Registration plates issued for a county sheriff's patrol
13 vehicles shall display one seven-pointed gold star followed by
14 the letter "S" and the call number of the vehicle. However,
15 the director of general services or the director of
16 transportation may order the issuance of regular registration
17 plates for any exempted vehicle used by peace officers in the
18 enforcement of the law, persons enforcing chapter 124 and
19 other laws relating to controlled substances, persons in the
20 department of justice, the alcoholic beverages division of the
21 department of commerce, and the department of inspections and
22 appeals, and the department of revenue and finance, who are
23 regularly assigned to conduct investigations which cannot
24 reasonably be conducted with a vehicle displaying "official"
25 state registration plates, and persons in the lottery division
26 of the department of revenue and finance whose regularly
27 assigned duties relating to security or the carrying of
28 lottery tickets cannot reasonably be conducted with a vehicle
29 displaying "official" registration plates. For purposes of
30 sale of exempted vehicles, the exempted governmental body,
31 upon the sale of the exempted vehicle, may issue for in-
32 transit purposes a pasteboard card bearing the words "Vehicle
33 in Transit", the name of the official body from which the
34 vehicle was purchased, together with the date of the purchase
35 plainly marked in at least one-inch letters, and other

1 information required by the department. The in-transit card
2 is valid for use only within forty-eight hours after the
3 purchase date as indicated on the bill of sale which shall be
4 carried by the driver.

5 Sec. 2. Section 421.17, subsection 21, paragraph b,
6 subparagraph (3), Code 1997, is amended to read as follows:

7 (3) The child support recovery unit, the foster care
8 recovery unit, and the investigations division of the
9 department of inspections and appeals shall, at least
10 annually, submit to the department of revenue and finance for
11 setoff the debts described in this subsection, ~~which-are-at~~
12 ~~least-fifty-dollars~~ constituting a minimum amount determined
13 by rule of the department of revenue and finance, on a date to
14 be specified by the department of human services and the
15 department of inspections and appeals by rule.

16 Sec. 3. Section 421.17, subsection 23, paragraphs c, d,
17 and g, Code 1997, are amended to read as follows:

18 c. The college student aid commission shall, at least
19 annually, submit to the department of revenue and finance for
20 setoff the guaranteed student loan defaults, ~~which-are-at~~
21 ~~least-fifty-dollars~~ constituting a minimum amount set by rule
22 of the department of revenue and finance, on a date or dates
23 to be specified by the college student aid commission by rule.

24 d. Upon submission of a claim, the department of revenue
25 and finance shall notify the college student aid commission
26 whether the defaulter is entitled to a refund or rebate of ~~at~~
27 ~~least-fifty-dollars~~ the minimum amount set by rule of the
28 department and if so entitled shall notify the commission of
29 the amount of the refund or rebate and of the defaulter's
30 address on the income tax return. Section 422.72, subsection
31 1, does not apply to this paragraph.

32 g. The department of revenue and finance shall, after
33 notice has been sent to the defaulter by the college student
34 aid commission, set off the amount of the default against the
35 defaulter's income tax refund or rebate ~~if-both-the-amount-of~~

1 ~~the default and the refund or rebate are at least fifty~~
2 dollars constituting a minimum amount set by rule of the
3 department. The department shall refund any balance of the
4 income tax refund or rebate to the defaulter. The department
5 of revenue and finance shall periodically transfer the amount
6 set off to the college student aid commission. If the
7 defaulter gives written notice of intent to contest the claim,
8 the commission shall hold the refund or rebate until final
9 disposition of the contested claim pursuant to chapter 17A or
10 by court judgment. The commission shall notify the defaulter
11 in writing upon completion of setoff.

12 Sec. 4. Section 421.17, subsection 25, paragraph c, Code
13 1997, is amended to read as follows:

14 c. The clerk of the district court, on the first day of
15 February and August of each calendar year, shall submit to the
16 department for setoff the debts described in this subsection,
17 which are at least fifty dollars constituting a minimum amount
18 set by rule of the department.

19 Sec. 5. Section 421.17, subsection 29, paragraphs a and e,
20 Code 1997, are amended to read as follows:

21 a. For purposes of this subsection unless the context
22 requires otherwise:

23 (1) "State agency" means a board, commission, department,
24 including the department of revenue and finance, or other
25 administrative office or unit of the state of Iowa or any
26 other state entity reported in the Iowa comprehensive annual
27 financial report. The term "state agency" does not include
28 the general assembly, the governor, or any political
29 subdivision of the state, or its offices and units.

30 (2) "Department" means the department of revenue and
31 finance and any other state agency that maintains a separate
32 accounting system and elects to establish a debt collection
33 setoff procedure for collection of debts owed to the state or
34 its agencies.

35 (3) The term "person" does not include a state agency.

1 e. Before setoff, the amount of a person's claim on a
2 state agency and the amount of a person's liability to a state
3 agency shall ~~be-at-least-fifty-dollars~~ constitute a minimum
4 amount set by rule of the department.

5 Sec. 6. NEW SECTION. 421.61 UNCONSTITUTIONALLY WITHHELD
6 TAX BENEFITS.

7 If a provision in the Code grants a tax benefit to
8 taxpayers that is unconstitutionally withheld from other
9 taxpayers as determined by the Iowa supreme court or expressed
10 in an Iowa attorney general's opinion based upon a United
11 States supreme court decision, the tax benefit shall also be
12 granted to the adversely affected taxpayers as if the
13 unconstitutional provision did not exist.

14 Sec. 7. Section 422.5, subsection 1, paragraph j,
15 subparagraph (2), unnumbered paragraph 1, Code 1997, is
16 amended to read as follows:

17 The tax imposed upon the taxable income of a resident
18 shareholder in a value-added corporation which has in effect
19 for the tax year an election under subchapter S of the
20 Internal Revenue Code and carries on business within and
21 without the state may be computed by reducing the amount
22 determined pursuant to paragraphs "a" through "i" by the
23 amounts of nonrefundable credits under this division and by
24 multiplying this resulting amount by a fraction of which the
25 resident's net income allocated to Iowa, as determined in
26 section 422.8, subsection 2, paragraph "b", is the numerator
27 and the resident's total net income computed under section
28 422.7 is the denominator. If a resident shareholder has
29 elected to take advantage of this subparagraph, and for the
30 next tax year elects not to take advantage of this
31 subparagraph, the resident shareholder shall not reelect to
32 take advantage of this subparagraph for the three tax years
33 immediately following the first tax year for which the
34 shareholder elected not to take advantage of this
35 subparagraph, unless the director consents to the reelection.

1 This paragraph subparagraph also applies to individuals who
2 are residents of Iowa for less than the entire tax year.

3 Sec. 8. Section 422.7, Code 1997, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 35. Subtract the income and expenses of
6 and add the cash dividend or value of a property distribution
7 from a financial institution as defined in section 581 of the
8 Internal Revenue Code where the financial institution is not
9 subject to income tax and the shareholders of the financial
10 institution are taxed on the financial institution's income
11 under the provisions of the Internal Revenue Code.

12 Sec. 9. Section 422.32, subsection 4, Code 1997, is
13 amended to read as follows:

14 4. "Corporation" includes joint stock companies, and
15 associations organized for pecuniary profit, and publicly
16 traded partnerships and limited liability companies taxed as
17 corporations under the Internal Revenue Code.

18 Sec. 10. Section 422.45, subsection 7, unnumbered
19 paragraph 1, Code 1997, is amended to read as follows:

20 A private nonprofit educational institution in this state,
21 nonprofit private museum in this state, tax-certifying or tax-
22 levying body or governmental subdivision of the state,
23 including the state board of regents, state department of
24 human services, state department of transportation, a
25 municipally owned solid waste facility which sells all or part
26 of its processed waste as fuel to a municipally owned public
27 utility, and all divisions, boards, commissions, agencies, or
28 instrumentalities of state, federal, county, or municipal
29 government which do not have earnings going to the benefit of
30 an equity investor or stockholder, may make application to the
31 department for the refund of the sales, services, or use tax
32 upon the gross receipts of all sales of goods, wares, or
33 merchandise, or from services rendered, furnished, or
34 performed, to a contractor, used in the fulfillment of a
35 written contract with the state of Iowa, any political

1 subdivision of the state, or a division, board, commission,
2 agency, or instrumentality of the state or a political
3 subdivision, a private nonprofit educational institution in
4 this state, or a nonprofit private museum in this state if the
5 property becomes an integral part of the project under
6 contract and at the completion of the project becomes public
7 property, is devoted to educational uses, or becomes a
8 nonprofit private museum; except goods, wares, or merchandise,
9 or services rendered, furnished, or performed used in the
10 performance of any contract in connection with the operation
11 of any municipal utility engaged in selling gas, electricity,
12 or heat to the general public or in connection with the
13 operation of a municipal pay television system; and except
14 goods, wares, and merchandise used in the performance of a
15 contract for a "project" under chapter 419 as defined in that
16 chapter other than goods, wares, or merchandise used in the
17 performance of a contract for a "project" under chapter 419
18 for which a bond issue was approved by a municipality prior to
19 July 1, 1968, or for which the goods, wares, or merchandise
20 becomes an integral part of the project under contract and at
21 the completion of the project becomes public property or is
22 devoted to educational uses.

23 Sec. 11. Section 422.61, subsection 3, Code 1997, is
24 amended by adding the following new paragraph:

25 NEW PARAGRAPH. g. Where a financial institution as
26 defined in section 581 of the Internal Revenue Code is not
27 subject to income tax and the shareholders of the financial
28 institution are taxed on the financial institution's income
29 under the provisions of the Internal Revenue Code, such tax
30 treatment shall be disregarded and the financial institution
31 shall compute its net income for franchise tax purposes in the
32 same manner under this subsection as a financial institution
33 that is subject to or liable for federal income tax under the
34 Internal Revenue Code in effect for the applicable year.

35 Sec. 12. Section 422.72, Code 1997, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 7. Notwithstanding subsection 3, the
3 director shall provide state tax returns and return
4 information in response to a subpoena issued by the court
5 pursuant to rule of criminal procedure 5 commanding the
6 appearance before the attorney general or an assistant
7 attorney general if the subpoena is accompanied by affidavits
8 from such person and from a sworn peace officer member of the
9 department of public safety affirming that the information is
10 necessary for the investigation of a felony violation of
11 chapter 124 or chapter 706B. The affidavits accompanying the
12 subpoenas and the information provided by the director shall
13 remain a confidential record which may be disseminated only to
14 a prosecutor or peace officer involved in the investigation,
15 or to the taxpayer who filed the information and to the court
16 in connection with the filing of criminal charges or
17 institution of a forfeiture action. A person who knowingly
18 files a false affidavit with the director to secure
19 information or who divulges information received under this
20 subsection in a manner prohibited by this subsection commits a
21 serious misdemeanor.

22 Sec. 13. Section 423.1, subsection 8, Code 1997, is
23 amended to read as follows:

24 8. "Retailer maintaining a place of business in this
25 state" or any like term includes any retailer having or
26 maintaining within this state, directly or by a subsidiary, an
27 office, distribution house, sales house, warehouse, or other
28 place of business, or any agent representative operating
29 within this state under the authority of the retailer or its
30 subsidiary, irrespective of whether such that place of
31 business or agent representative is located here permanently
32 or temporarily, or whether the retailer or subsidiary is
33 admitted to do business within this state pursuant to chapter
34 490.

35 Sec. 14. Section 425.7, subsection 3, Code 1997, is

1 amended to read as follows:

2 3. If the director of revenue and finance determines that
3 a claim for homestead credit has been allowed by the board of
4 supervisors which is not justifiable under the law and not
5 substantiated by proper facts, the director may, at any time
6 within thirty-six months from July 1 of the year in which the
7 claim is allowed, set aside the allowance. Notice of the
8 disallowance shall be given to the county auditor of the
9 county in which the claim has been improperly granted and a
10 written notice of the disallowance shall also be addressed to
11 the claimant at the claimant's last known address. The
12 claimant or board of supervisors may appeal to the state board
13 of tax review pursuant to section 421.1, subsection 4. The
14 claimant or the board of supervisors may seek judicial review
15 of the action of the ~~director-of-revenue-and-finance state~~
16 board of tax review in accordance with ~~the-Iowa-administrative~~
17 procedure-Act chapter 17A.

18 If a claim is disallowed by the director of revenue and
19 finance and not appealed to the state board of tax review or
20 appealed to and upheld by the state board of tax review and a
21 petition for judicial review is not filed with respect to the
22 disallowance, any amounts of credits allowed and paid from the
23 homestead credit fund including the penalty, if any, become a
24 lien upon the property on which credit was originally granted,
25 if still in the hands of the claimant, and not in the hands of
26 a bona fide purchaser, and any amount so erroneously paid
27 including the penalty, if any, shall be collected by the
28 county treasurer in the same manner as other taxes and the
29 collections shall be returned to the department of revenue and
30 finance and credited to the homestead credit fund. The
31 director of revenue and finance may institute legal
32 proceedings against a homestead credit claimant for the
33 collection of payments made on disallowed credits and the
34 penalty, if any. If a homestead credit is disallowed and the
35 claimant failed to give written notice to the assessor as

1 required by section 425.2 when the property ceased to be used
2 as a homestead by the claimant, a civil penalty equal to fifty
3 percent of the amount of the disallowed credit is assessed
4 against the claimant.

5 Sec. 15. Section 426A.6, Code 1997, is amended to read as
6 follows:

7 426A.6 SETTING ASIDE ALLOWANCE.

8 If the director of revenue and finance determines that a
9 claim for military service tax exemption has been allowed by a
10 board of supervisors which is not justifiable under the law
11 and not substantiated by proper facts, the director may, at
12 any time within thirty-six months from July 1 of the year in
13 which the claim is allowed, set aside the allowance. Notice
14 of the disallowance shall be given to the county auditor of
15 the county in which the claim has been improperly granted and
16 a written notice of the disallowance shall also be addressed
17 to the claimant at the claimant's last known address. The
18 claimant or the board of supervisors may appeal to the state
19 board of tax review pursuant to section 421.1, subsection 4.
20 The claimant or the board of supervisors may seek judicial
21 review of the action of the ~~director of revenue and finance~~
22 state board of tax review in accordance with chapter 17A. If
23 a claim is disallowed by the director of revenue and finance
24 and not appealed to the state board of tax review or appealed
25 to and upheld by the state board of tax review and a petition
26 for judicial review is not filed with respect to the
27 disallowance, the credits allowed and paid from the general
28 fund of the state become a lien upon the property on which the
29 credit was originally granted, if still in the hands of the
30 claimant and not in the hands of a bona fide purchaser, the
31 amount so erroneously paid shall be collected by the county
32 treasurer in the same manner as other taxes, and the
33 collections shall be returned to the department of revenue and
34 finance and credited to the general fund of the state. The
35 director of revenue and finance may institute legal

1 proceedings against a military service tax exemption claimant
2 for the collection of payments made on disallowed exemptions.

3 Sec. 16. Section 426B.1, subsection 1, Code 1997, is
4 amended to read as follows:

5 1. A property tax relief fund is created in the state
6 treasury under the authority of the department of ~~revenue-and~~
7 finance human services. The fund shall be separate from the
8 general fund of the state and shall not be considered part of
9 the general fund of the state except in determining the cash
10 position of the state for payment of state obligations. The
11 moneys in the fund are not subject to the provisions of
12 section 8.33 and shall not be transferred, used, obligated,
13 appropriated, or otherwise encumbered except as provided in
14 this chapter. Moneys in the fund may be used for cash flow
15 purposes, provided that any moneys so allocated are returned
16 to the fund by the end of each fiscal year. However, the fund
17 shall be considered a special account for the purposes of
18 section 8.53, relating to elimination of any GAAP deficit.
19 For the purposes of this chapter, unless the context otherwise
20 requires, "property tax relief fund" means the property tax
21 relief fund created in this section.

22 Sec. 17. Section 426B.4, Code 1997, is amended to read as
23 follows:

24 426B.4 RULES.

25 The council on human services shall consult with the state-
26 county management committee created in section 331.438 and the
27 director of ~~revenue-and-finance~~ human services in prescribing
28 forms and adopting rules pursuant to chapter 17A to administer
29 this chapter.

30 Sec. 18. Section 427B.19, subsection 3, unnumbered
31 paragraph 1, Code 1997, is amended to read as follows:

32 On or before ~~July 17, 1996, and on or before July~~ September
33 1 of each ~~succeeding~~ fiscal year through June 30, 2006, the
34 county auditor shall prepare a statement, based upon the
35 report received pursuant to subsections 1 and 2, listing for

1 each taxing district in the county:

2 Sec. 19. Section 427B.19, subsection 4, Code 1997, is
3 amended to read as follows:

4 4. The county auditor shall certify and forward one copy
5 of the statement to the department of revenue and finance not
6 later than ~~July~~ September 1 of each year.

7 Sec. 20. Section 427B.19A, subsection 2, Code 1997, is
8 amended to read as follows:

9 2. If an amount appropriated for a fiscal year is
10 insufficient to pay all claims, the director shall prorate the
11 disbursements from the fund to the county treasurers and shall
12 notify the county auditors of the pro rata percentage on or
13 before ~~August-1~~ September 30.

14 Sec. 21. Section 440.1, Code 1997, is amended to read as
15 follows:

16 440.1 ASSESSMENT OF OMITTED PROPERTY.

17 When the director of revenue and finance is vested with
18 power and duty to assess property and ~~said~~ assessment has, for
19 any reason, been omitted, the director shall proceed to assess
20 ~~said~~ the property for each of the omitted years, not exceeding
21 five years last past. Chapter 429 shall apply to assessments
22 of omitted property.

23 Sec. 22. Section 441.8, unnumbered paragraphs 6 and 7,
24 Code 1997, are amended to read as follows:

25 Upon receiving credit equal to one hundred fifty hours of
26 classroom instruction during the assessor's current term of
27 office of which at least ninety of the one hundred fifty hours
28 are from courses requiring an examination upon conclusion of
29 the course, the director of revenue and finance shall certify
30 to the assessor's conference board that the assessor is
31 eligible to be reappointed to the position. For assessors
32 ~~whose-present-terms-of-office-expire-before-six-years-from~~
33 ~~January-1, 1979, or who are~~ persons appointed to complete an
34 unexpired term, the number of credits required to be certified
35 as eligible for reappointment shall be prorated according to

1 the amount of time remaining in the present term of the
2 assessor. If the person was an assessor in another
3 jurisdiction, the assessor may carry forward any credit hours
4 received in the previous position in excess of the number that
5 would be necessary to be considered current in that position.

6 Within each six-year period following ~~January 17, 1980~~ or
7 the appointment of a deputy assessor ~~appointed after January~~
8 ~~17, 1979~~, the deputy assessor shall comply with this section
9 except that upon the successful completion of ninety hours of
10 classroom instruction of which at least sixty of the ninety
11 hours are from courses requiring an examination upon
12 conclusion of the course, the deputy assessor shall be
13 certified by the director of revenue and finance as being
14 eligible to remain in the position. If a deputy assessor
15 fails to comply with this section, the deputy assessor shall
16 be removed from the position until successful completion of
17 the required hours of credit. If a deputy is appointed to the
18 office of assessor, the hours of credit obtained as deputy
19 pursuant to this section shall be credited to that individual
20 as assessor and for the individual to be reappointed at the
21 expiration of the term as assessor, that individual must
22 obtain the credits which are necessary to total the number of
23 hours for reappointment.

24 Sec. 23. Section 441.11, Code 1997, is amended to read as
25 follows:

26 441.11 INCUMBENT DEPUTY ASSESSORS.

27 The director of revenue and finance shall grant a
28 restricted certificate to any deputy assessor holding office
29 as of January 1, 1976. A deputy assessor possessing such a
30 certificate shall be considered eligible to remain in the
31 deputy's present position provided continuing education
32 requirements are met. To become eligible for another deputy
33 assessor position, a deputy assessor presently holding office
34 is required to obtain certification as provided for in section
35 441.5 and 441.10. The number of credit hours required for

1 certification as eligible for appointment as a deputy in a
2 jurisdiction other than where the deputy is currently serving
3 shall be prorated according to the completed portion of the
4 deputy's six-year continuing education period.

5 Sec. 24. Section 452A.65, unnumbered paragraph 1, Code
6 1997, is amended to read as follows:

7 In addition to the tax or additional tax, the taxpayer
8 shall pay a penalty as provided in section 421.27. The
9 taxpayer shall also pay interest on the tax or additional tax
10 at the rate in effect under section 421.7 counting each
11 fraction of a month as an entire month, computed from the date
12 the return was required to be filed. If the amount of the tax
13 as determined by the appropriate state agency is less than the
14 amount paid, the excess shall be refunded with interest, the
15 interest to begin to accrue on the first day of the ~~third~~
16 second calendar month following the date of payment or the
17 date the return was due to be filed or was filed, whichever is
18 the latest, at the rate in effect under section 421.7 counting
19 each fraction of a month as an entire month under the rules
20 prescribed by the appropriate state agency. ~~In-lieu-of-a~~
21 ~~refund-allowed-under-this-section, the licensee may request~~
22 ~~that the department allow the refund to be held as a credit~~
23 ~~for the licensee.~~ Claims for refund filed under sections
24 452A.17 and 452A.21 shall accrue interest beginning with the
25 first day of the second calendar month following the date the
26 refund claim is received by the department.

27 Sec. 25. Sections 236.15A, 440.2, 440.3, and 440.4, Code
28 1997, are repealed.

29 Sec. 26. The sections of this Act which amend sections
30 422.5, 422.7, 422.32, and 422.61 apply retroactively to
31 January 1, 1997, for tax years beginning on or after that
32 date.

33 EXPLANATION

34 Code section 236.15A, the income tax checkoff for domestic
35 abuse services, is repealed to implement the requirement of

1 section 422.12E. Code section 422.12E requires that the
2 checkoff which collects the least amount of money over a
3 three-year period shall be repealed.

4 Code section 321.19 is amended to allow the department of
5 revenue and finance to request that certain vehicles be
6 registered with a regular registration plate rather than an
7 "official" plate for those persons who are regularly assigned
8 to conduct investigations which cannot reasonably be conducted
9 with a vehicle displaying "official" plates.

10 Code section 421.17 is amended to provide the minimum
11 amount for setoff to be determined by the department of
12 revenue and finance by rule. This will grant the department
13 greater flexibility by providing a means of amendment of the
14 minimum amount through the rulemaking process rather than
15 through the legislative process.

16 Code section 421.17(29) is amended to expand the definition
17 of "state agency" to include other state entities as provided
18 in the Iowa comprehensive annual financial report which may
19 not be included in the current definition. This report sets
20 forth the financial operations and status of the various state
21 funds to assure compliance and accountability. Entities
22 included in this definition of state agency may enter into an
23 agreement with the director of revenue and finance to
24 participate in the setoff program provided in section 421.17.
25 Amendment of this definition will expand collection efforts
26 and the base of participation in the setoff program. The
27 section also amends the term "department" by broadening the
28 definition to include other state agencies who maintain a
29 separate accounting system. Agencies included in this
30 definition may enter into an agreement with the director of
31 revenue and finance to participate in the setoff debt
32 collection program.

33 Code section 421.61 is created to provide that if a
34 provision of the Iowa law grants a tax benefit, whether in the
35 form of a tax exemption, deduction, credit, or otherwise, to

1 some taxpayers but withholds the tax benefit from other
2 taxpayers with the result that such withholding is
3 unconstitutional, the tax benefit shall be extended to the
4 other taxpayers in a manner which removes the
5 unconstitutionality.

6 Code section 422.5(1), the new Code provision enacted in
7 1996 that allows a resident shareholder of a "value added" S
8 corporation to elect to reduce state income tax by
9 apportioning income, is amended to provide that if the
10 taxpayer then elects not to apportion income in a later tax
11 year, the taxpayer could not reelect to apportion income for
12 four tax years without the approval of the director of revenue
13 and finance. The amendment is made retroactively applicable
14 to tax years beginning on or after January 1, 1997.

15 Code section 422.7 is amended to remove from the
16 computation of individual income tax the items of income and
17 expenses from a financial institution that is treated as an S
18 corporation for federal income tax purposes and includes in
19 income the cash dividend or value of a property distribution
20 from the financial institution. For Iowa tax purposes, the S
21 corporation which operates a financial institution would file
22 an Iowa franchise tax return. The amendment is made
23 retroactively applicable to tax years beginning on or after
24 January 1, 1997.

25 Code section 422.32 is amended to treat any partnership
26 which is taxed as a corporation for federal purposes as a
27 corporation for Iowa tax purposes rather than only publicly
28 traded partnerships as is presently provided in the current
29 law. The amendment is made retroactively applicable to tax
30 years beginning on or after January 1, 1997.

31 Code section 422.45(7) is amended to provide for the
32 additional language of "in this state" to be added after the
33 term "nonprofit private museum" in order to acquire uniformity
34 in the application of the sales tax exemption and refund
35 provision. It makes the exemption consistent with other

1 exemptions available only to entities located in this state.

2 Code section 422.61 is amended to disallow the federal
3 treatment for Iowa individual income tax purposes where a
4 financial institution, as defined in section 581 of the
5 Internal Revenue Code, is not subject to income tax and where
6 the shareholders of the financial institution are taxed on the
7 financial institution's income on the shareholder's federal
8 individual income tax return. This federal provision is known
9 as an S corporation election. This provision should prevent
10 any discrimination in the taxation of federal obligation
11 income of all financial institutions because income of
12 financial institutions would only be taxed under the state
13 franchise tax. The amendment is made retroactively applicable
14 to tax years beginning on or after January 1, 1997.

15 Code section 422.72 is amended to provide that the
16 department of public safety can gain access to tax records on
17 a restricted basis. The information would be restricted to
18 special highly complex drug or money laundering investigations
19 and would be released by court order after the request for the
20 information has been approved by the Iowa attorney general.

21 Code section 423.1(8) is amended to define "retailer
22 maintaining a place of business in this state" under the use
23 tax law to include a retailer having a representative
24 operating in Iowa under the retailer's authority. Present law
25 requires the person be an agent of the retailer. This change
26 would include independent contractors hired by the retailer to
27 act on the retailer's behalf.

28 Code sections 425.7(3) and 426A.6 are amended to require a
29 taxpayer to file a protest of a homestead property tax credit
30 or military service property tax exemption disallowance made
31 by the director with the state board of tax review prior to
32 proceeding in district court. This is consistent with the way
33 similar property tax appeals are handled.

34 Code sections 426B.1(1) and 426B.4 are amended to provide
35 that the mental health property tax relief fund that is

1 currently in the department of revenue and finance will be in
2 the department of human services because the claims are filed
3 with the department of human services.

4 Code sections 427B.19 and 427B.19A are amended to change
5 the date for the county auditor to file machinery and
6 equipment property tax replacement claims with the department
7 of revenue and finance from July 1 to September 1 and change
8 the date for the department to certify the pro rata percentage
9 to the county auditor from August 1 to September 30 if the
10 appropriation is insufficient to pay all claims.

11 Code section 440.1 is amended to provide for a taxpayer
12 hearing on an omitted assessment made by the director after
13 the making of the assessment rather than prior to the making
14 of the assessment. Code sections 440.2 through 440.4, which
15 contain obsolete provisions pertaining to holding hearings
16 prior to assessment, are repealed.

17 Code section 441.8 is amended to permit an assessor
18 changing assessment jurisdictions to carry forward continuing
19 education credit hours to the new position.

20 Code sections 441.8 and 441.11 are amended to require that
21 a deputy assessor complete continuing education requirements
22 in order to continue to serve in the capacity of a deputy.

23 Code section 452A.65 is amended to change the date for
24 interest to begin accruing on motor fuel tax refunds from the
25 first day of the third calendar month following payment or
26 filing to the first day of the second calendar month following
27 the date the claim for refund is received by the department of
28 revenue and finance. Refunds for taxes paid for nonhighway
29 use or in blending to produce ethanol shall accrue interest
30 beginning with the first day of the second calendar month
31 following the date the refund claim is received by the
32 department.

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MEMORANDUM

TO: Members of the 1997 General Assembly
FROM: The Iowa Department of Revenue and Finance
DATE: January 13, 1997
RE: The Department's Bill Relating to Technical Corrections to the Iowa Code and Providing an Effective and Retroactive Applicability Date.

The Department's Bill makes technical corrections and deletes obsolete sections of the Code and provides for a retroactive effective date of January 1, 1997 for tax years beginning on or after that date for some of the amendments.

Section 1 of the Bill amends Code section 321.19, to allow some members of the Department's audit staff to use cars that do not have "official" registration plates.

One unit of the Department's audit staff conducts audits for failure to file or failure to pay the correct amount of tax with the intent to evade tax. If intent to evade tax is proven that person is subject to prosecution. Many of these persons are "tax protesters" and can be very anti-government. To complete these audits, banks and other lending associations are contacted as well as third parties. Many times these cases are in smaller Iowa towns and it becomes more difficult to secure information when the auditor is driving an "official" car. Likewise, many of the cases involving drug stamps are in less than desirable areas and not the most favorable persons to work with, again, the use of "official" cars are a red flag that revenue personnel are involved.

For the above reasons, it is felt that regularly registered vehicles would be beneficial in performing the duties of the audit staff.

Sections 2, 3, 4, and 5 of the Bill amend various subsections of Code section 421.17, to allow the Director of the Department to set the amount of debt, refund or rebate for setoff by rule. Present statute requires debt, refund or rebate to exceed \$50 to qualify for offset.

Amending the minimum amount of debt, refund or rebate to exercise setoff to an amount to be determined by the Department's rules will grant the Department greater flexibility to amend the definition by virtue of the rule making process. This in turn, will assist the program in becoming more cost efficient and improve collections by allowing the Department to apply a minimum for set off that is situation appropriate.

In addition section 5 of the Bill amends Code subsection 421.17(29) to expand the definition of "state agency" to include other state entities as provided in the Iowa Comprehensive Annual

Financial Report which may not be included in the current definition found in 421.17(29)(a)(1). The Iowa Comprehensive Annual Financial Report is a reporting requirement found in Iowa Code section 421.31(5). This report sets forth the financial operations and status of the various state funds to assure compliance and accountability. Entities included in this definition of state agency may enter into an agreement with the Director of Revenue and Finance to participate in the setoff program provided in 421.17. Amendment of this definition will expand collection efforts and the base of participation in the setoff program.

Also section 5 of the Bill amends the definition of "Department" as found in 421.17(29)(a)(2) to include other state agencies who maintain a separate accounting system. Any state agency may enter into an agreement with the Director of the Department of Revenue and Finance to participate in the setoff program by reducing any amount owed, to be refunded or rebated by a participating state agency to a person or entity by any amount owed, to be refunded or rebated by the person or entity to a defined state agency. Under the current definition, only the Department of Revenue and Finance may exercise the right of setoff. Expansion of this definition will allow additional state agencies as defined in the rules of the Department of Revenue and Finance and who elect to participate, to exercise setoff. Amendment of this definition will improve debt collection by broadening the base of defined state agencies who may elect to participate in the setoff program.

Section 6 of the Bill creates Code section 421.61. This amendment assures the constitutional application of the tax provisions of the Iowa Code. This Act provides that when the Iowa Code grants a tax benefit, exemption, deduction, credit or otherwise to taxpayers but withholds the tax benefit from other taxpayers with the result that such withholding is unconstitutional, then the tax benefit shall be extended to the other taxpayers in a manner which removes the unconstitutionality. This language was recommended by the Attorney's General staff assigned to the Department.

Section 7 of the Bill amends Code section 422.5, subsection 1, to allow a shareholder in a "value-added" S corporation to elect to apportion income and then elect not to in a later year and then could not elect not to apportion income for 4 tax years.

Resident shareholders of value-added S corporations can elect to apportion income one year and not distribute income which would be subject to tax and then the next year elect not to apportion and distribute two years of income in one thereby partially defeating some of the S corporation apportionment provisions because most of the income from the first year would escape taxation.

The proposal will allow a resident shareholder in a value-added S corporation to make an election to apportion income and later make an election not to apportion income, but then the shareholder will not be able to elect to apportion income again for 4 years without permission of the Director. This will prevent resident shareholders from switching back and forth between apportioning income and nonapportioning to avoid the payment of Iowa tax. This provision is retroactive to tax years which begin on or after January 1, 1997.

Section 8 of the Bill amends Code section 422.7 and section 11 of the Bill amends Code section 422.61. Section 8 removes income and expenses from a financial institution that elects to be an S corporation for federal income tax purposes from federal adjusted income. Section 11 of the Bill amends Code section 422.61 disallow S corporation status for Iowa franchise tax purposes and to require an S corporation financial institution to compute and pay Iowa franchise tax. This provision is offered to protect the constitutionality of the Iowa franchise tax and the taxability of interest from federal securities which can not be taxed under a state income tax structure.

The Small Jobs Protection Act of 1996 (H. R. 3446) contains a provision which directly impacts on the Iowa franchise tax. This provision allows a financial institution as defined in section 581 of the Internal Revenue Code (banks) to elect to be a S corporation and have all income taxed directly to the shareholder. Under the definition of a financial institution in the Iowa Code, a financial institution that elected federal S corporation status would still be considered to be a financial institution subject to the franchise tax but would not have a tax liability because as an S corporation it would not have a federal taxable income for a starting point to compute an Iowa franchise tax. The proposal would deduct from the individual shareholder's adjusted gross income the items of income and expenses from the S corporation financial institution but would require the inclusion of any cash dividend or the value of any property distribution from the S corporation financial institution in the shareholder's adjusted gross income. The proposal would disallow S corporation treatment for Iowa tax purposes and also require the financial institution to compute an amount of income as though it was subject to federal income tax and report that amount of income for computation of Iowa franchise tax. This provision is retroactive to tax years which begin on or after January 1, 1997.

Section 9 of the Bill amends section 422.32, subsection 4, to treat any partnership which is taxed as a corporation for federal tax purposes as a corporation for Iowa tax purposes.

Proposed Treasury regulations 301.7701-1 through 301.7701-3 allow partnerships to elect to be taxed as corporations for federal tax purposes even though they do not meet the criteria to be considered to be associations which under past practice have been taxed as corporations. The Iowa Code currently only taxes a publicly traded partnership as a corporation if it is taxed as a corporation for federal tax purposes. This provision amends the Iowa Code to treat any partnership which is taxed as a corporation for federal purposes as a corporation for Iowa tax purposes. This provision is retroactive to tax years which begin on or after January 1, 1997.

Section 10 of the Bill amends Code section 422.45, subsection 7, to provide for the additional language "in this state" to be added after the term "nonprofit museum."

Presently, the statute allows for a refund of sales tax paid on construction materials used in the performance of a construction contract for a private nonprofit educational institution in this state and a tax-certifying or tax-leiving body or governmental subdivision in this state. The additional language of "in this state" after the term "nonprofit private museum" in this subdivision will assist in the application of this exemption and refund provision by providing clarity and uniformity in the

statues, as it makes the exemption consistent with other exemptions available only to entities located in this state.

Section 12 of the Bill adds a new subsection to Code section 422.72, to provide access to tax records to the Department of Public Safety on a restricted basis.

The Division of Narcotics Enforcement of the Department of Public Safety becomes involved in complex investigations in the development and prosecution of subjects involved in the illegal sale or use of controlled substances. Financial conspiracy cases involving money laundering and controlled substances are generally time consuming and require special expertise. The type of information that would be subpoenaed can currently be obtained through the federal government under existing exchange agreements. However, since the federal government does not become involved in all-state level drug investigations, the Department of Public Safety is requesting separate access to state tax return information. In order to place restrictions on the release of tax return information, the request must be approved by the Iowa Attorney General who will then petition the Iowa District Court who in turn would issue a subpoena for the tax information. It is anticipated that such requests would be used sparingly due to the complexity of the investigations.

Section 13 of the Bill amends Code section 423.1, subsection 8 to substitute the term "representative" for the term "agent".

Code section 423.1(8) defines "Retailer maintaining a place of business in this state" to include a retailer having an agent operate in Iowa under the retailer's authority. Questions can arise whether various independent contractors are agents of the retailer, even though they represent the retailer and act in the retailer's behalf. The United States Supreme Court has upheld the constitutionality of a state use tax statute which required retailers to collect state use tax from in-state retailers who otherwise had no physical connection with the taxing state. Scripto, Inc. v. Carson, 360 U.S. 207, 4 L. Ed. 2d 660, 80 S. Ct. 619 (1960). This amendment makes clear that a non-Iowa retailer, who engages independent contractors to act on the retailer's behalf in Iowa, will be required to collect Iowa use tax from Iowa purchasers. Such an amendment aids retailers who collect Iowa sales and use taxes from purchasers by placing them on a competitive level, vis-a-vis Iowa use tax, with non-Iowa retailers who employ independent contractors to act for such retailers in Iowa.

Sections 14 and 15 of the Bill amend Code sections 425.7, subsection 3 and 426A.6 respectively to require that a person that wishes to protest the disallowance of a homestead property tax credit or a military property tax credit appeal to the State Board of Tax Review.

The State Board of Tax Review conducts contested case hearings on most property tax matters between taxpayers and the Department. This change authorizes an administrative remedy of appeal to the State Board of Tax Review prior to any judicial review with respect to homestead property tax credit and the military service property tax exemption disallowances made by the

Members of the 1997 General Assembly

January 13, 1997

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Director. This change is consistent with the appeal process contained in Iowa Code section 425.31 for protests of property tax credit and rent reimbursement disallowances made by the Director.

Section 16 of the Bill amends Code section 426B.1, subsection 1 and section 17 amends 426B.4 to move the mental health fund from the Department of Revenue and Finance to the Department of Human Services.

Currently the counties submit their requests for reimbursement to the Department of Human Services. Together with the Department of Management, the two agencies determine the amount of county reimbursement. Since the fund is in the Department of Revenue and Finance, they notify the Department of Revenue and Finance of the amount to pay each county and the Department of Revenue and Finance drafts the warrants. The fund should be in the Department of Human Services because they have the responsibility to approve the claims submitted by the counties. The Department of Human Services would still submit the claims through the accounting unit just as the Department of Revenue and Finance does currently.

Section 18 of the Bill amends Code sections 427B.19, subsection 3; and section 19 amends section 427B.19, subsection 4; to change the date for the county auditor to file machinery and equipment property replacement claims to September 1. Section 20 amends 427B.19A, subsection 2 to change the date for the Department of Revenue and Finance to certify the pro rata percentage to the county auditor from August 1 to September 30.

County auditors can not complete machinery and equipment property tax replacement claims until the Department of Management certifies to them the applicable tax rates. This certification does not take place until after July 1 of each year and as a result the date for the auditor to submit the completed claims to the Department of Revenue and Finance is being extended from July 1 to September 1 so the auditor can meet the statutory deadline.

Also, because of the suggested change in the filing deadline, the date for the Director of the Department of Revenue and Finance to notify the county auditor of the pro rata percentage of reimbursement to be paid in instances where the amount of the appropriation is insufficient to pay all claims is extended from August 1 to September 30.

Section 21 of the Bill amends Code section 440.1 to provide for a taxpayer hearing on an omitted assessment made by the Director after making the assessment.

Regular property tax assessments are made first and any hearing on the assessment is held later. Currently, section 440.2 provides for a hearing prior to the making of the omitted assessment. The amendment conforms the hearing procedures for omitted assessments with the hearing procedures for regular assessments.

Section 22 of the Bill amends Code section 441.8, unnumbered paragraph 6 to permit an assessor changing assessment jurisdictions to carry forward continuing education credit hours to the new position.

The statute presently penalizes an assessor changing assessment jurisdictions by requiring the assessor to obtain additional continuing education credit hours in the jurisdiction to which the assessor moves even though the assessor has met the educational requirements in the jurisdiction from which the assessor moved. The amendment corrects this inequity.

Sections 22 and 23 amend Code sections 441.8, unnumbered paragraph 7 and section 441.11 respectively to require that a deputy assessor complete continuing education requirements in order to continue to serve in the capacity of a deputy.

Currently a county assessor may reappoint a deputy assessor to the position of deputy even though the deputy failed to meet continuing education requirements and was decertified by the Department of Revenue and Finance. This change in the statute will prevent "skirting" of the continuing education requirements and is supported by the county assessor's association.

Section 24 of the Bill amends Code section 452A.65, unnumbered paragraph 1 to make the payment of interest on refunds of motor vehicle fuel tax consistent with refunds of sales and use taxes.

The refund provisions for sales and use taxes paid by contractors and refundable to governmental entities provide for the accrual of interest on refund claims beginning with the first day of the second month following the date the claim for refund is received by the Department. The motor fuel tax refund statute provides for the accrual of interest beginning with the first day of the third calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest. This change will make the motor fuel tax refund provisions pertaining to refund claims filed under a refund permit and the accrual of interest consistent with the refund provisions for sales and use taxes refundable to governmental entities. It also resolves difficulties associated with the computation of interest when purchases in various months are combined on in single refund request.

Section 25 of the Bill repeals Code section 236.15A, the income tax checkoff for domestic abuse services, to implement the requirement of Code section 422.12E. This Code section requires that the checkoff which collects the least amount of money over a three-year period shall be repealed. Also section 25 of the Bill repeals Code sections 440.2, 440.3, and 440.4 which become obsolete with the amendment to Code section 440.1. The amendment to section 440.1 requires that hearings be held after rather than prior to the making of an omitted assessment. Sections 440.2, 440.3, and 440.4 are repealed because they refer to hearings held prior to the making of omitted assessments.

Section 26 of the Bill creates a retroactive effective date to January 1, 1997 for tax years beginning on or after that date for amendments to Code sections 422.5, 422.7, 422.32, and 422.61.

HOUSE FILE 266

AN ACT

RELATING TO THE ADMINISTRATION OF STATE INDIVIDUAL INCOME, CORPORATE, FRANCHISE, MOTOR FUEL, AND OTHER TAXES; COLLECTION OF TAXES AND USE OF COLLECTION RECEIPTS; PROPERTY TAXES; PROPERTY TAX CREDITS AND REPLACEMENT CLAIMS; SALES, SERVICES, AND USE TAXES AND THE IMPOSITION THEREOF ON SALES OF PREPAID TELEPHONE CALLING CARDS AND PREPAID AUTHORIZATION NUMBERS; TAX REFUND SETOFFS; AND OTHER DUTIES OF THE DEPARTMENT AND DIRECTOR OF REVENUE AND FINANCE; PROVIDING A PENALTY; AND INCLUDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 321.19, subsection 1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official" and the department

shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven-pointed gold star followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, and the department of inspections and appeals, and the department of revenue and finance, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates, and persons in the lottery division of the department of revenue and finance whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 2. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, ~~422-657~~ 422A.2, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 567.10, 583.6, 602.8108, 904.908, and 906.17, and chapter 405A, and the following:

Sec. 3. NEW SECTION. 405A.10 FRANCHISE TAX REVENUE ALLOCATION.

For the fiscal year beginning July 1, 1997, and each subsequent fiscal year, there is appropriated from the general fund of the state to the department of revenue and finance the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director as allocated pursuant to section 422.65.

Sec. 4. Section 421.4, Code 1997, 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, or independent contractors necessary to protect the interests of the state and any political subdivision.

Sec. 5. Section 421.17, subsection 21, paragraph b, subparagraph (3), Code 1997, is amended to read as follows:

(3) The child support recovery unit, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, ~~which-are-at~~

~~least-fifty-dollars~~ constituting a minimum amount determined by rule of the department of revenue and finance, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

Sec. 6. Section 421.17, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, or other remuneration paid under contract may be funded from the amount of tax, penalty, interest, or fees actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, interest, and fees actually collected, not to exceed the amount collected, which are sufficient to pay for services, reimbursement, or other remuneration pursuant to this subsection. Vendors entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information.

Sec. 7. Section 421.17, subsection 23, paragraphs c, d, and g, Code 1997, are amended to read as follows:

c. The college student aid commission shall, at least annually, submit to the department of revenue and finance for setoff the guaranteed student loan defaults, ~~which-are-at least-fifty-dollars~~ constituting a minimum amount set by rule of the department of revenue and finance, on a date or dates to be specified by the college student aid commission by rule.

d. Upon submission of a claim, the department of revenue and finance shall notify the college student aid commission whether the defaulter is entitled to a refund or rebate of ~~at least-fifty-dollars~~ the minimum amount set by rule of the department and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's

address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

g. The department of revenue and finance shall, after notice has been sent to the defaulter by the college student aid commission, set off the amount of the default against the defaulter's income tax refund or rebate ~~if both the amount of the default and the refund or rebate are at least fifty dollars~~ constituting a minimum amount set by rule of the department. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue and finance shall periodically transfer the amount set off to the college student aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

Sec. 8. Section 421.17, subsection 25, paragraph c, Code 1997, is amended to read as follows:

c. The clerk of the district court, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, ~~which are at least fifty dollars~~ constituting a minimum amount set by rule of the department.

Sec. 9. Section 421.17, subsection 29, paragraphs a and e, Code 1997, are amended to read as follows:

a. For purposes of this subsection unless the context requires otherwise:

(1) "State agency" means a board, commission, department, including the department of revenue and finance, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report. The term "state agency" does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.

(2) "Department" means the department of revenue and finance and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

(3) The term "person" does not include a state agency.

e. Before setoff, the amount of a person's claim on a state agency and the amount of a person's liability to a state agency shall ~~be at least fifty dollars~~ constitute a minimum amount set by rule of the department.

Sec. 10. NEW SECTION. 421.61 UNCONSTITUTIONALLY WITHHELD TAX BENEFITS.

If a provision in the Code grants a tax benefit to taxpayers that is unconstitutionally withheld from other taxpayers as expressed in an Iowa attorney general's opinion based upon decisions of the Iowa supreme court, United States supreme court, or other courts of competent jurisdiction, the tax benefit shall also be granted to the adversely affected taxpayers as if the unconstitutional provision did not exist.

Sec. 11. Section 422.5, subsection 1, paragraph j, subparagraph (2), unnumbered paragraph 1, Code 1997, is amended to read as follows:

The tax imposed upon the taxable income of a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the

next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This paragraph subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.

Sec. 12. Section 422.20, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32, sections 252B.9, 421.19, 421.28, 422.72, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 13. Section 422.32, subsection 4, Code 1997, is amended to read as follows:

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

Sec. 14. Section 422.42, subsections 1 and 14, Code 1997, are amended to read as follows:

1. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise and production from aquaculture. "Agricultural products" include flowering, ornamental, or vegetable plants and those products of aquaculture.

14. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services; and includes the sale of

gas, electricity, water, and communication service to retail consumers or users; but does not include agricultural breeding livestock and domesticated fowl; and does not include commercial fertilizer, agricultural limestone, herbicide, pesticide, insecticide, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market; and does not include electricity, steam, or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail; or will be consumed as fuel in creating heat, power, or steam for processing including grain drying, or for providing heat or cooling for livestock buildings or for greenhouses or

buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for use in cultivation of agricultural products by aquaculture, or for generating electric current, or in implements of husbandry engaged in agricultural production; or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption.

Sec. 15. Section 422.43, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A tax of five percent is imposed upon the gross receipts from the sales of prepaid telephone calling cards and prepaid authorization numbers. For the purpose of this division, the sales of prepaid telephone calling cards and prepaid authorization numbers are sales of tangible personal property.

Sec. 16. Section 422.45, subsection 7, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A private nonprofit educational institution in this state, nonprofit private museum in this state, tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder, may make application to the

department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency, or instrumentality of the state or a political subdivision, a private nonprofit educational institution in this state, or a nonprofit private museum in this state if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, is devoted to educational uses, or becomes a nonprofit private museum; except goods, wares, or merchandise, or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public or in connection with the operation of a municipal pay television system; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares, or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

Sec. 17. Section 422.45, subsection 18, Code 1997, is amended to read as follows:

18. Gross receipts from the sale of tangible personal property, except vehicles subject to registration, to a person regularly engaged in the business of leasing if the period of the lease is for more than ~~one-year~~ five months, or in the consumer rental purchase business if the property is to be utilized in a transaction involving a consumer rental purchase

agreement as defined in section 537.3604, subsection 8, and the leasing or consumer rental of the property is subject to taxation under this division. If tangible personal property exempt under this subsection is made use of for any purpose other than leasing, renting, or consumer rental purchase, the person claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price. The aggregate of the tax paid on the leasing, renting, or rental purchase of such tangible personal property, not to exceed the amount of the sales tax owed, shall be credited against the tax. This sales tax is in addition to any sales or use tax that may be imposed as a result of the disposal of such tangible personal property.

Sec. 18. Section 422.45, subsection 39, paragraphs a and c, Code 1997, are amended to read as follows:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production, use in aquaculture production, or in the production of flowering, ornamental, or vegetable plants.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production, use in aquaculture production, or in the production of flowering, ornamental, or vegetable plants.

Sec. 19. Section 422.47, subsection 4, paragraph f, Code 1997, is amended to read as follows:

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale

in the ordinary course of business, for use in aquaculture production, or for generating electric current, or in implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Sec. 20. Section 422.53, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. Except as provided in paragraph "b", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to this division, chapter 423, or chapter 422B, may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under this division and chapter 423, in a semimonthly period and make deposits and file returns pursuant to section 422.52. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

b. The granting of a direct pay tax permit is not authorized for any of the following:

(1) Taxes imposed on the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service.

(2) Taxes imposed under sections 423.7 and 423.7A and chapter 422C.

Sec. 21. Section 422.65, Code 1997, is amended to read as follows:

422.65 ALLOCATION OF REVENUE.

All moneys received from the franchise tax shall be deposited in the state general fund. ~~Commencing with the fiscal year beginning July 1, 1993, there is appropriated for each fiscal year from the franchise tax money received and deposited in the state general fund the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director, after certification by the director, Franchise tax moneys appropriated in section 405A.10~~ are allocated as follows:

1. Sixty percent to the general fund of the city from which the tax is collected.
2. Forty percent to the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director.

~~Quarterly, the director shall certify to the treasurer of state the amounts to be paid to each city and county from the state general fund. All moneys received from the franchise tax are appropriated according to the provisions of this section.~~

Sec. 22. Section 422.72, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 22A, 23, 25, 29, and 32, sections 252B.9, 421.19, 421.28, 422.20, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 23. Section 422.72, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding subsection 3, the director shall provide state tax returns and return information in response to a subpoena issued by the court pursuant to rule of criminal procedure 5 commanding the appearance before the attorney general or an assistant attorney general if the subpoena is accompanied by affidavits from such person and from a sworn peace officer member of the department of public safety affirming that the information is necessary for the investigation of a felony violation of chapter 124 or chapter 706B. The affidavits accompanying the subpoenas and the information provided by the director shall remain a confidential record which may be disseminated only to a prosecutor or peace officer involved in the investigation, or to the taxpayer who filed the information and to the court in connection with the filing of criminal charges or institution of a forfeiture action. A person who knowingly files a false affidavit with the director to secure information or who divulges information received under this subsection in a manner prohibited by this subsection commits a serious misdemeanor.

Sec. 24. Section 423.1, subsection 8, Code 1997, is amended to read as follows:

8. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other

place of business, or any agent representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such that place of business or agent representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

Sec. 25. Section 423.25, Code 1997, 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 or service, 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 a tax is not due in this state on the personal property or service.

Sec. 26. Section 425.7, subsection 3, Code 1997, is amended to read as follows:

3. If the director of revenue and finance determines that a claim for homestead credit has been allowed by the board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to

the claimant at the claimant's last known address. The claimant or board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4. The claimant or the board of supervisors may seek judicial review of the action of the director-of-revenue-and-finance state board of tax review in accordance with the-Iowa-administrative procedure-Act chapter 17A.

If a claim is disallowed by the director of revenue and finance and not appealed to the state board of tax review or appealed to and upheld by the state board of tax review and a petition for judicial review is not filed with respect to the disallowance, any amounts of credits allowed and paid from the homestead credit fund including the penalty, if any, become a lien upon the property on which credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the homestead credit fund. The director of revenue and finance may institute legal proceedings against a homestead credit claimant for the collection of payments made on disallowed credits and the penalty, if any. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the property ceased to be used as a homestead by the claimant, a civil penalty equal to fifty percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 27. Section 426A.6, Code 1997, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that a claim for military service tax exemption has been allowed by a board of supervisors which is not justifiable under the law

and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4. The claimant or the board of supervisors may seek judicial review of the action of the ~~director-of-revenue-and-finance state board of tax review~~ in accordance with chapter 17A. If a claim is disallowed by the director of revenue and finance and not appealed to the state board of tax review or appealed to and upheld by the state board of tax review and a petition for judicial review is not filed with respect to the disallowance, the credits allowed and paid from the general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant and not in the hands of a bona fide purchaser, the amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes, and the collections shall be returned to the department of revenue and finance and credited to the general fund of the state. The director of revenue and finance may institute legal proceedings against a military service tax exemption claimant for the collection of payments made on disallowed exemptions.

Sec. 28. Section 426B.1, subsection 1, Code 1997, is amended to read as follows:

1. A property tax relief fund is created in the state treasury under the authority of the department of ~~revenue-and-finance~~ human services. The fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state except in determining the cash position of the state for payment of state obligations. The

moneys in the fund are not subject to the provisions of section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this chapter. Moneys in the fund may be used for cash flow purposes, provided that any moneys so allocated are returned to the fund by the end of each fiscal year. However, the fund shall be considered a special account for the purposes of section 8.53, relating to elimination of any GAAP deficit. For the purposes of this chapter, unless the context otherwise requires, "property tax relief fund" means the property tax relief fund created in this section.

Sec. 29. Section 426B.4, Code 1997, is amended to read as follows:

426B.4 RULES.

The council on human services shall consult with the state-county management committee created in section 331.438 and the director of ~~revenue-and-finance~~ human services in prescribing forms and adopting rules pursuant to chapter 17A to administer this chapter.

Sec. 30. Section 427.1, subsection 16, Code 1997, is amended to read as follows:

16. REVOKING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance, and shall hold a hearing prior to issuing any order for revocation. An order made by the director of revenue and finance revoking or modifying an exemption is

subject to judicial review in accordance with chapter 17A, the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking an exemption is made by the director of revenue and finance.

Sec. 31. Section 427.5, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

A person named in section 427.3, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person or owned by a family farm corporation of which the person is a shareholder and who occupies the property and so designated by proceeding as provided in the section. To be eligible to receive the exemption the person claiming it shall have recorded in the office of the county recorder of the county in which is located the property designated for the exemption, evidence of property ownership by that person or the family farm corporation of which the person is a shareholder and the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, order of separation from service, honorable discharge or a copy of any of these documents of the person claiming or through whom is claimed the exemption.

The person shall file with the appropriate assessor on forms obtained from the assessor the claim for exemption for the year for which the person is first claiming the exemption. The claim shall be filed not later than July 1 of the year for which the person is claiming the exemption. The claim shall set out the fact that the person is a resident of and domiciled in the state of Iowa, and a person within the terms of section 427.3, and shall give the volume and page on which the certificate of satisfactory service, order of separation, retirement, furlough to reserve, inactive status, or honorable

discharge or certified copy thereof is recorded in the office of the county recorder, and may include the designation of the property from which the exemption is to be made, and shall further state that the claimant is the equitable or legal owner of the property designated or if the property is owned by a family farm corporation, that the person is a shareholder of that corporation and that the person occupies the property.

Sec. 32. Section 427B.19, subsection 3, unnumbered paragraph 1, Code 1997, is amended to read as follows:

On or before ~~July 17, 1997~~ and on or before July September 1 of each ~~succeeding~~ fiscal year through June 30, 2006, the county auditor shall prepare a statement, based upon the report received pursuant to subsections 1 and 2, listing for each taxing district in the county:

Sec. 33. Section 427B.19, subsection 4, Code 1997, is amended to read as follows:

4. The county auditor shall certify and forward one copy of the statement to the department of revenue and finance not later than July September 1 of each year.

Sec. 34. Section 427B.19A, subsection 2, Code 1997, is amended to read as follows:

2. If an amount appropriated for a fiscal year is insufficient to pay all claims, the director shall prorate the disbursements from the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before ~~August 1~~ September 30.

Sec. 35. Section 428.4, unnumbered paragraph 3, Code 1997, is amended to read as follows:

Any buildings erected, improvements made, or buildings or improvements removed in a year after the assessment of the class of real estate to which they belong, shall be valued, listed, and assessed and reported by the assessor to the county auditor after approval of the valuations by the local board of review, and ~~said~~ the auditor shall thereupon enter the taxable value of such building or taxable improvement on

the tax list as a part of real estate to be taxed. If such buildings or improvements are erected or made by any person other than the owner of the land, they shall be listed and assessed to the owner of the buildings or improvements as real estate.

Sec. 36. Section 440.1, Code 1997, is amended to read as follows:

440.1 ASSESSMENT OF OMITTED PROPERTY.

When the director of revenue and finance is vested with the power and duty to assess property and ~~said~~ an assessment has, for any reason, been omitted, the director shall proceed to assess ~~said~~ the property for each of the omitted years ~~not exceeding five years last past~~. The omitted assessment shall only apply to the assessment year in which the omitted assessment is made and the four prior assessment years. Chapter 429 shall apply to assessments of omitted property.

Sec. 37. Section 441.8, unnumbered paragraphs 6 and 7, Code 1997, are amended to read as follows:

Upon receiving credit equal to one hundred fifty hours of classroom instruction during the assessor's current term of office of which at least ninety of the one hundred fifty hours are from courses requiring an examination upon conclusion of the course, the director of revenue and finance shall certify to the assessor's conference board that the assessor is eligible to be reappointed to the position. ~~For assessors whose present terms of office expire before six years from January 1, 1979, or who are~~ persons appointed to complete an unexpired term, the number of credits required to be certified as eligible for reappointment shall be prorated according to the amount of time remaining in the present term of the assessor. If the person was an assessor in another jurisdiction, the assessor may carry forward any credit hours received in the previous position in excess of the number that would be necessary to be considered current in that position.

Within each six-year period following ~~January 1, 1980~~ or the appointment of a deputy assessor ~~appointed after January 1, 1979~~, the deputy assessor shall comply with this section except that upon the successful completion of ninety hours of classroom instruction of which at least sixty of the ninety hours are from courses requiring an examination upon conclusion of the course, the deputy assessor shall be certified by the director of revenue and finance as being eligible to remain in the position. If a deputy assessor fails to comply with this section, the deputy assessor shall be removed from the position until successful completion of the required hours of credit. If a deputy is appointed to the office of assessor, the hours of credit obtained as deputy pursuant to this section shall be credited to that individual as assessor and for the individual to be reappointed at the expiration of the term as assessor, that individual must obtain the credits which are necessary to total the number of hours for reappointment.

Sec. 38. Section 441.11, Code 1997, is amended to read as follows:

441.11 INCUMBENT DEPUTY ASSESSORS.

The director of revenue and finance shall grant a restricted certificate to any deputy assessor holding office as of January 1, 1976. A deputy assessor possessing such a certificate shall be considered eligible to remain in the deputy's present position provided continuing education requirements are met. To become eligible for another deputy assessor position, a deputy assessor presently holding office is required to obtain certification as provided for in section 441.5 and 441.10. The number of credit hours required for certification as eligible for appointment as a deputy in a jurisdiction other than where the deputy is currently serving shall be prorated according to the completed portion of the deputy's six-year continuing education period.

Sec. 39. Section 444.26, Code 1997, is amended to read as follows:

444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

Sections ~~444.25~~, 444.25A, and 444.25B shall not be construed as removing or otherwise affecting the property tax limitations otherwise provided by law for any tax levy of the political subdivision, except that, upon an appeal from the political subdivision, the state appeal board may approve a tax levy consistent with the provisions of section 24.48 or 331.426.

Sec. 40. Section 444.27, subsection 1, Code 1997, is amended to read as follows:

1. ~~For purposes of section 444.25, sections 24.48 and 331.426 are void for the fiscal years beginning July 1, 1993, and July 1, 1994.~~ For purposes of section 444.25A, sections 24.48 and 331.426 are void for the fiscal years beginning July 1, 1995, and July 1, 1996.

Sec. 41. Section 445.32, Code 1997, is amended to read as follows:

445.32 LIENS ON BUILDINGS OR IMPROVEMENTS.

If a building or improvement is erected or made by a person other than the owner of the land on which the building or improvement is located, as provided for in section 428.4, the taxes on the building or improvement are and remain a lien on the building or improvement from the date of levy until paid. If the taxes on the building or improvement become delinquent, as provided in section 445.37, the county treasurer shall collect the tax as provided in sections 445.3 and 445.4. This section does not apply to special assessments, or rates or charges.

Sec. 42. Section 452A.17, subsection 1, paragraph a, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) Undyed special fuel used in watercraft.

Sec. 43. Section 452A.17, subsection 1, paragraph b, subparagraphs (4) and (5), Code 1997, are amended to read as follows:

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

(5) The claim shall state whether the claimant used fuel for ~~watercraft or~~ aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel or undyed special fuel on which the refund is claimed.

Sec. 44. Section 452A.65, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed. If the amount of the tax as determined by the appropriate state agency is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the ~~third~~ second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the appropriate state agency. ~~In lieu of a refund under this section, the licensee may request that the department allow the refund to be held as a credit for the licensee.~~ Claims for refund filed under sections 452A.17 and 452A.21 shall accrue interest beginning with the first day of the second calendar month following the date the refund claim is received by the department.

Sec. 45. Section 633.699, subsection 7, Code 1997, is amended to read as follows:

7. To make any required division, allocation, or distribution in whole or in part in money, securities, or other property, and in undivided interests therein pro rata, nonpro rata, or in combination of these methods, and to continue to hold any remaining undivided interest in trust.

Sec. 46. Section 633.703A, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

In order to allow a trust to qualify as a marital deduction trust for federal estate tax purposes, as a qualified subchapter S trust for federal income tax purposes, as separate trusts for federal generation-skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit or to facilitate the administration of a trust or trusts, the governing instrument of a trust may be amended as follows to permit the trust to be divided in cash or in kind, including in undivided interests, by pro rata or nonpro rata division, or in any combination thereof, into one or more separate trusts or be consolidated with one or more other trusts into a single trust:

Sec. 47. Section 99D.14, subsection 6, Code 1997, as amended by 1997 Iowa Acts, House File 212, section 2, is amended to read as follows:

6. Real property used in the operation of a racetrack or racetrack enclosure which is exempt from property taxation under another provision of the law, including being exempt because it is owned by a city, county, state, or charitable or nonprofit entity, may be subject to real property taxation by any taxing district in which the real property used in the operation of the racetrack or racetrack enclosure is located. To subject such real property to taxation, the taxing authority of the taxing district shall pass a resolution imposing the tax and, if the resolution is passed prior to September 1, 1997, shall notify the county local assessor

~~director-of-revenue-and-finance,~~ and the owner of record of the real property by September 1, 1997, preceding the fiscal year in which the real property taxes are due and payable. The assessed value shall be determined and notice of the assessed value shall be provided to the county auditor by the ~~department-of-revenue-and-finance~~ local assessor by October 15, 1997, and the owner may protest the assessed value to the state local board of tax review by December 1, 1997. For resolutions passed on or after September 1, 1997, the taxing authority shall notify the local assessor and owner of record prior to the next assessment year and the valuation and appeal shall be done in the manner and time as for other valuations. Property taxes due as a result of this subsection shall be paid to the county treasurer in the manner and time as other property taxes. The county treasurer shall remit the tax revenue to those taxing authorities imposing the property tax under this subsection. Real property subject to tax as provided in this subsection shall continue to be taxed until such time as the taxing authority of the taxing district repeals the resolution subjecting the property to taxation. ~~Notwithstanding section 99B.77, the department of revenue and finance shall adopt rules to implement this subsection.~~

Sec. 48. Sections 236.15A, 427A.13, 440.2, 440.3, 440.4, 444.25, and 444.28, Code 1997, are repealed.

Sec. 49. Sections 11 and 13 of this Act which amend sections 422.5 and 422.32 apply retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 50. Section 17 of this Act, amending section 422.45, subsection 18, being deemed of immediate importance, takes effect upon enactment.

Sec. 51. Sections 6, 12, and 22 of this Act, enacting section 421.17, subsection 22A and amending section 422.20 and section 422.72, subsection 3, and relating to contractual agreements by the department of revenue and finance, being deemed of immediate importance, take effect upon enactment.

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Sec. 52. Section 20 of this Act, enacting section 422.53, subsection 8, takes effect January 1, 1998.

Sec. 53. Sections 42 and 43 of this Act, amending section 452A.17, subsection 1, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 1996.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 266, Seventy-seventh General Assembly.

Approved

May 19

, 1997

ELIZABETH ISAACSON
Chief Clerk of the House

TERRY E. BRANSTAD
Governor

HF 266