

Sukup
Larson
Myers

HSB 757

WAYS AND MEANS

Succeeded By

HOUSE FILE _____ / HF _____ 48

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

A BILL FOR

1 An Act relating to the administration of the tax and related laws
2 by the department of revenue and finance, including
3 administration of state individual income, corporate income,
4 sales and use, hotel and motel, real estate transfer,
5 environmental protection charge on petroleum diminution,
6 property, motor fuel, special fuel, cigarette and tobacco
7 products, and inheritance taxes, treatment of motor fuel under
8 the local option taxes, and authorizing tax agreements with
9 Indian tribes, and including effective and retroactive
10 applicability date provisions.

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

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1 Section 1. Section 15.331A, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. The eligible business or a supporting business shall,
4 not more than ~~six-months~~ one year after project completion,
5 make application to the department for any refund of the
6 amount of the taxes paid pursuant to chapter 422 or 423 upon
7 any goods, wares, or merchandise, or services rendered,
8 furnished, or performed, including water, sewer, gas, and
9 electric utility services. The application shall be made in
10 the manner and upon forms to be provided by the department,
11 and the department shall audit the claim and, if approved,
12 issue a warrant to the eligible business or supporting
13 business in the amount of the sales or use tax which has been
14 paid to the state of Iowa under a contract. A claim filed by
15 the eligible business or a supporting business in accordance
16 with this section shall not be denied by reason of a
17 limitation provision set forth in chapter 421, 422, or 423.

18 Sec. 2. Section 404.4, unnumbered paragraph 2, Code 1999,
19 is amended to read as follows:

20 An application shall be filed for each new exemption
21 claimed. The first application for an exemption shall be
22 filed by the owner of the property with the governing body of
23 the city or county in which the property is located by
24 February 1 of the assessment year for which the exemption is
25 first claimed, but not later than the year in which all
26 improvements included in the project are first assessed for
27 taxation, unless, upon the request of the owner at any time,
28 the governing body of the city or county provides by
29 resolution that the owner may file an application by February
30 1 of any other assessment year selected by the governing body
31 in which case the exemption is allowed for the number of years
32 remaining in the exemption schedule selected. The application
33 shall contain, but not be limited to, the following
34 information: The nature of the improvement, its cost, the
35 estimated or actual date of completion, the tenants that

1 occupied the owner's building on the date the city or county
2 adopted the resolution referred to in section 404.2,
3 subsection 1, and which exemption in section 404.3 or in the
4 different schedule, if one has been adopted, will be elected.

5 Sec. 3. Section 421.17, subsection 16, Code Supplement
6 1999, is amended to read as follows:

7 16. To call upon any a state department agency or
8 institution for technical advice and data which may be of
9 value in connection with the work of ~~assessment-and-taxation~~
10 the department.

11 Sec. 4. NEW SECTION. 421.46 TAX AGREEMENTS WITH INDIAN
12 TRIBES.

13 1. "Indian country" means the Indian country as defined in
14 18 U.S.C. § 1151, and includes trust land as defined by the
15 United States secretary of the interior.

16 2. The department and the governing council of an Indian
17 tribe may enter into an agreement to provide for the
18 collection and distribution by the department within Indian
19 country of any tax or fee imposed by the state and
20 administered by the department.

21 An agreement may also provide for the collection and
22 distribution by the department of any tribal tax or fee
23 imposed by tribal ordinance. The agreement may provide for
24 the retention of an administrative fee by the department which
25 fee shall be an agreed upon percentage of the gross revenue of
26 the tribal tax or fee collected.

27 Sec. 5. Section 421.60, subsection 2, Code 1999, is
28 amended by adding the following new paragraph:

29 NEW PARAGRAPH. m. (1) The director may abate unpaid
30 state sales and use taxes and local sales and services taxes
31 owed by a retailer in the event that the retailer failed to
32 collect tax from the purchaser as a result of erroneous
33 written advice issued by the department that was specially
34 directed to the retailer by the department and the retailer is
35 unable to collect the tax, interest, or penalties from the

1 purchaser. Before the tax, interest, and penalties shall be
2 abated on the basis of erroneous written advice, the retailer
3 must present a copy of the retailer's request for written
4 advice to the department and a copy of the department's reply.
5 The department shall not maintain a position against the
6 retailer that is inconsistent with the erroneous written
7 advice, except on the basis of subsequent written advice sent
8 by the department to that retailer, or a change in state or
9 federal law, a reported court case to the contrary, a contrary
10 rule adopted by the department, a change in material facts or
11 circumstances relating to the retailer, or the retailer's
12 misrepresentation or incomplete or inadequate representation
13 of material facts and circumstances in requesting the written
14 advice.

15 (2) The director shall abate the unpaid state sales and
16 use taxes and any local sales and services taxes owed by a
17 retailer where the retailer failed to collect the tax from the
18 purchaser on the charges paid for access to on-line computer
19 services as a result of erroneous written advice issued by the
20 department regarding the taxability of charges paid for access
21 to on-line computer services. To qualify for the abatement
22 under this subparagraph, the erroneous written advice shall
23 have been issued by the department prior to July 1, 1999, and
24 shall have been specially directed to the retailer by the
25 department.

26 (3) The director shall prepare quarterly reports
27 summarizing each case in which abatement of tax, interest, or
28 penalties was made. However, the report shall not disclose
29 the identity of the taxpayer. An abatement authorized by this
30 paragraph to a retailer shall not preclude the department from
31 proceeding to collect the liability from a purchaser.

32 Sec. 6. Section 422.45, subsection 56, Code Supplement
33 1999, is amended to read as follows:

34 56. The gross receipts from charges paid to a provider for
35 access to on-line computer services. For purposes of this

1 subsection, "on-line computer service" means a service that
2 provides or enables computer access by multiple users to the
3 internet or to other information made available through a
4 computer server.

5 Sec. 7. Section 422.47, subsection 2, Code Supplement
6 1999, is amended by striking the subsection.

7 Sec. 8. Section 422.52, subsection 6, paragraph a, Code
8 Supplement 1999, is amended to read as follows:

9 a. If a purchaser fails to pay tax imposed by this
10 division to the retailer required to collect the tax, then in
11 addition to all of the rights, obligations, and remedies
12 provided, the tax is payable by the purchaser directly to the
13 department, and sections 422.50, 422.51, 422.52, 422.54,
14 422.55, 422.56, 422.57, 422.58, and 422.59 apply to the
15 purchaser. For failure, the retailer and purchaser are
16 liable, unless the circumstances described in section 421.60,
17 subsection 2, paragraph "m", or section 422.47, subsection 3,
18 paragraph "b" or "e", or subsection 4, paragraph "b" or "d",
19 are applicable.

20 Sec. 9. Section 422.110, unnumbered paragraph 1, Code
21 Supplement 1999, is amended to read as follows:

22 In lieu of the fuel tax refund provided in section 452A.17,
23 a person or corporation subject to taxation under divisions II
24 or III of this chapter may elect to receive an income tax
25 credit. The person or corporation which elects to receive an
26 income tax credit shall cancel its refund permit obtained
27 under section 452A.18 within thirty days after the first day
28 of its tax year or the permit becomes invalid at that time.
29 For the purposes of this section, "person" includes a person
30 claiming a tax credit based upon the person's pro rata share
31 of the earnings from a partnership, limited liability company,
32 or corporation which is not subject to a tax under division II
33 or III of this chapter as a partnership, limited liability
34 company, or corporation. If the election to receive an income
35 tax credit has been made, it remains effective for at least

1 one tax year, and for subsequent tax years unless a change is
2 requested and a new refund permit applied for within thirty
3 days after the first day of the person's or corporation's tax
4 year. The income tax credit shall be the amount of the Iowa
5 fuel tax paid on fuel purchased by the person or corporation
6 and is subject to the conditions provided in section 452A.17
7 with the exception that the income tax credit is not available
8 for refunds relating to casualty losses, transport diversions,
9 pumping credits, blending errors, idle time, power takeoffs,
10 reefer units, and exports by ~~eligible-purchasers~~ distributors.

11 Sec. 10. Section 422A.1, Code 1999, is amended by adding
12 the following new unnumbered paragraph after unnumbered
13 paragraph 1:

14 NEW UNNUMBERED PARAGRAPH. Within ten days of the election
15 at which a majority of those voting on the question favors the
16 imposition, repeal, or change in the rate of the hotel and
17 motel tax, the county auditor shall give written notice by
18 sending a copy of the abstract of votes from the favorable
19 election to the director of revenue and finance.

20 Sec. 11. Section 422B.8, unnumbered paragraph 1, Code
21 Supplement 1999, is amended to read as follows:

22 A local sales and services tax at the rate of not more than
23 one percent may be imposed by a county on the gross receipts
24 taxed by the state under chapter 422, division IV. A local
25 sales and services tax shall be imposed on the same basis as
26 the state sales and services tax or in the case of the use of
27 natural gas, natural gas service, electricity, or electric
28 service on the same basis as the state use tax and shall not
29 be imposed on the sale of any property or on any service not
30 taxed by the state, except the tax shall not be imposed on the
31 gross receipts from the sale of motor fuel or special fuel as
32 defined in chapter 452A which is consumed for highway use or
33 in watercraft or aircraft if the fuel tax is paid on the
34 transaction and a refund has not or will not be allowed, on
35 the gross receipts from the rental of rooms, apartments, or

1 sleeping quarters which are taxed under chapter 422A during
2 the period the hotel and motel tax is imposed, on the gross
3 receipts from the sale of equipment by the state department of
4 transportation, on the gross receipts from the sale of self-
5 propelled building equipment, pile drivers, motorized
6 scaffolding, or attachments customarily drawn or attached to
7 self-propelled building equipment, pile drivers, and motorized
8 scaffolding, including auxiliary attachments which improve the
9 performance, safety, operation, or efficiency of the equipment
10 and replacement parts and are directly and primarily used by
11 contractors, subcontractors, and builders for new
12 construction, reconstruction, alterations, expansion, or
13 remodeling of real property or structures, and on the gross
14 receipts from the sale of a lottery ticket or share in a
15 lottery game conducted pursuant to chapter 99E and except the
16 tax shall not be imposed on the gross receipts from the sale
17 or use of natural gas, natural gas service, electricity, or
18 electric service in a city or county where the gross receipts
19 from the sale of natural gas or electric energy are subject to
20 a franchise fee or user fee during the period the franchise or
21 user fee is imposed. A local sales and services tax is
22 applicable to transactions within those incorporated and
23 unincorporated areas of the county where it is imposed and
24 shall be collected by all persons required to collect state
25 gross receipts taxes. However, a person required to collect
26 state retail sales tax under chapter 422, division IV, is not
27 required to collect local sales and services tax on
28 transactions delivered within the area where the local sales
29 and services tax is imposed unless the person has physical
30 presence in that taxing area. All cities contiguous to each
31 other shall be treated as part of one incorporated area and
32 the tax would be imposed in each of those contiguous cities
33 only if the majority of those voting in the total area covered
34 by the contiguous cities favor its imposition.

35 Sec. 12. Section 422E.3, subsection 2, Code Supplement

1 1999, is amended to read as follows:

2 2. The tax shall be imposed on the same basis as the state
3 sales and services tax or in the case of the use of natural
4 gas, natural gas service, electricity, or electric service on
5 the same basis as the state use tax and shall not be imposed
6 on the sale of any property or on any service not taxed by the
7 state, except the tax shall not be imposed on the gross
8 receipts from the sale of motor fuel or special fuel as
9 defined in chapter 452A which is consumed for highway use or
10 in watercraft or aircraft if the fuel tax is paid on the
11 transaction and a refund has not or will not be allowed, on
12 the gross receipts from the rental of rooms, apartments, or
13 sleeping quarters which are taxed under chapter 422A during
14 the period the hotel and motel tax is imposed, on the gross
15 receipts from the sale of equipment by the state department of
16 transportation, on the gross receipts from the sale of self-
17 propelled building equipment, pile drivers, motorized
18 scaffolding, or attachments customarily drawn or attached to
19 self-propelled building equipment, pile drivers, and motorized
20 scaffolding, including auxiliary attachments which improve the
21 performance, safety, operation, or efficiency of the
22 equipment, and replacement parts and are directly and
23 primarily used by contractors, subcontractors, and builders
24 for new construction, reconstruction, alterations, expansion,
25 or remodeling of real property or structures, and on the gross
26 receipts from the sale of a lottery ticket or share in a
27 lottery game conducted pursuant to chapter 99E and except the
28 tax shall not be imposed on the gross receipts from the sale
29 or use of natural gas, natural gas service, electricity, or
30 electric service in a city or county where the gross receipts
31 from the sale of natural gas or electric energy are subject to
32 a franchise fee or user fee during the period the franchise or
33 user fee is imposed.

34 Sec. 13. Section 423.4, subsection 9, Code Supplement
35 1999, is amended to read as follows:

1 9. Vehicles subject to registration which are transferred
 2 from a business or individual conducting a business within
 3 this state as a sole proprietorship, or partnership, or
 4 limited liability company to a corporation formed by the sole
 5 proprietorship, or partnership, or limited liability company
 6 for the purpose of continuing the business when all of the
 7 stock of the corporation so formed is owned by the sole
 8 proprietor and the sole proprietor's spouse, or by all the
 9 partners in the case of a partnership, or by all of the
 10 members in the case of a limited liability company. This
 11 exemption is equally available where the vehicles subject to
 12 registration are transferred from a corporation to a sole
 13 proprietorship, or partnership, or limited liability company
 14 formed by that corporation for the purpose of continuing the
 15 business when all of the incidents of ownership are owned by
 16 the same person or persons who were stockholders of the
 17 corporation.

18 This exemption also applies where the vehicles subject to
 19 registration are transferred from a corporation as part of the
 20 liquidation of the corporation to its stockholders if within
 21 three months of such transfer the stockholders retransfer
 22 those vehicles subject to registration to a sole
 23 proprietorship, partnership, or limited liability company for
 24 the purpose of continuing the business of the corporation when
 25 all of the incidents of ownership are owned by the same person
 26 or persons who were stockholders of the corporation.

27 Sec. 14. Section 424.10, subsections 1 and 3, Code
 28 Supplement 1999, are amended to read as follows:

29 1. As soon as practicable after a return is filed and in
 30 any event within five three years after the return is filed
 31 the department shall examine it, assess and determine the
 32 charge due if the return is found to be incorrect, and give
 33 notice to the depositor of such the assessment and
 34 determination as provided in subsection 2. The period for the
 35 examination and determination of the correct amount of the

1 charge is unlimited in the case of a false or fraudulent
2 return made with the intent to evade the charge or in the case
3 of a failure to file a return. If the determination that a
4 return is incorrect is the result of an audit of the books and
5 records of the depositor, the charge, or additional charge, if
6 any is found due, shall be assessed and determined and the
7 notice to the depositor shall be given by the department
8 within one year after the completion of the examination of the
9 books and records.

10 3. If the amount paid is greater than the correct charge,
11 penalty, and interest due, the department shall refund the
12 excess, with interest after sixty days from the date of
13 payment at the rate in effect under section 421.7, pursuant to
14 rules prescribed by the director. However, the director shall
15 not allow a claim for refund that has not been filed with the
16 department within ~~five~~ three years after the charge payment
17 upon which a refund is claimed became due, or one year after
18 the charge payment was made, whichever time is later. A
19 determination by the department of the amount of charge,
20 penalty, and interest due, or the amount of refund for any
21 excess amount paid, is final unless the person aggrieved by
22 the determination appeals to the director for a revision of
23 the determination within sixty days from the date of the
24 notice of determination of charge, penalty, and interest due
25 or refund owing. The director shall grant a hearing, and upon
26 hearing the director shall determine the correct charge,
27 penalty, and interest due or refund owing, and notify the
28 appellant of the decision by mail. The decision of the
29 director is final unless the appellant seeks judicial review
30 of the director's decision under section 424.13.

31 Sec. 15. Section 424.10, subsection 2, Code Supplement
32 1999, is amended to read as follows:

33 2. If a return required by this chapter is not filed, or
34 if a return when filed is incorrect or insufficient and the
35 maker fails to file a corrected or sufficient return within

1 twenty days after the return is required by notice from the
 2 department, the department shall determine the amount of
 3 charge due from information as the department may be able to
 4 obtain and, if necessary, may estimate the charge on the basis
 5 of external indices or factors. The department shall give
 6 notice of the determination to the person liable for the
 7 charge. The determination shall fix the charge unless the
 8 person against whom it is assessed shall, within sixty days
 9 after the date of the notice of the determination, apply to
 10 the director for a hearing or unless the taxpayer person
 11 against whom it is assessed contests the determination by
 12 paying the tax charge, interest, and penalty and timely filing
 13 a claim for refund. At the hearing evidence may be offered to
 14 support the determination or to prove that it is incorrect.
 15 After the hearing the director shall give notice of the
 16 decision to the person liable for the charge.

17 If a depositor's, receiver's, or other person's challenge
 18 relates to the diminution rate, the burden of proof upon the
 19 challenger shall only be satisfied by clear and convincing
 20 evidence.

21 Sec. 16. Section 424.12, Code 1999, is amended to read as
 22 follows:

23 424.12 RECORDS REQUIRED.

24 It ~~shall be~~ is the duty of every depositor required to make
 25 a report and pay any charge under this chapter, to preserve
 26 such records as the director may require, and it ~~shall be~~ is
 27 the duty of every depositor to preserve for a period of five
 28 three years all invoices and other records; and all such
 29 books, invoices, and other records shall be open to
 30 examination at any time by the department, and shall be made
 31 available within this state for such examination upon
 32 reasonable notice when the director shall so order. When
 33 requested to do so by any person from whom a charge payer is
 34 seeking credit, or with whom the charge payer is negotiating
 35 the sale of any personal property, or by any other person

1 having a legitimate interest in such information, the
2 director, upon being satisfied that such a situation exists,
3 shall inform ~~such~~ that person as to the amount of unpaid
4 charges due by the charge payer under ~~the-provisions-of~~ this
5 chapter. The giving of ~~such~~ information under such
6 circumstances shall not be deemed a violation of section
7 422.72 as applied to this chapter.

8 Section 422.72 applies to this chapter as if the
9 environmental protection charge were a tax.

10 Sec. 17. Section 424.13, subsection 2, Code 1999, is
11 amended to read as follows:

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

18 Sec. 18. Section 424.15, unnumbered paragraph 1, Code
19 1999, is amended to read as follows:

20 If it appears that, as a result of mistake, an amount of a
21 charge, penalty, or interest has been paid which was not due
22 under ~~the-provisions-of~~ this chapter, then ~~such~~ that amount
23 shall be refunded to ~~such-person~~ the charge payer by the
24 department. A claim for refund that has not been filed with
25 the department within ~~five~~ three years after the charge
26 payment upon which a refund is claimed became due, or one year
27 after ~~such~~ that charge payment was made, whichever time is the
28 later, shall not be allowed by the director.

29 Sec. 19. Section 427.1, subsection 14, unnumbered
30 paragraph 1, Code Supplement 1999, is amended to read as
31 follows:

32 A society or organization claiming an exemption under
33 subsection 5 or subsection 8 shall file with the assessor not
34 later than ~~April-15~~ February 1 a statement upon forms to be
35 prescribed by the director of revenue and finance, describing

1 the nature of the property upon which the exemption is claimed
 2 and setting out in detail any uses and income from the
 3 property derived from the rentals, leases, or other uses of
 4 the property not solely for the appropriate objects of the
 5 society or organization. Upon the filing and allowance of the
 6 claim, the claim shall be allowed on the property for
 7 successive years without further filing as long as the
 8 property is used for the purposes specified in the original
 9 claim for exemption. When the property is sold or
 10 transferred, the county recorder shall provide notice of the
 11 transfer to the assessor. The notice shall describe the
 12 property transferred and the name of the person to whom title
 13 to the property is transferred.

14 Sec. 20. Section 427.1, subsection 16, Code Supplement
 15 1999, is amended to read as follows:

16 16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any
 17 taxing district may make application to the director of
 18 revenue and finance for revocation or modification for any
 19 exemption, based upon alleged violations of this chapter. The
 20 director of revenue and finance may also on the director's own
 21 motion set aside or modify any exemption which has been
 22 granted upon property for which exemption is claimed under
 23 this chapter. The director of revenue and finance shall give
 24 notice by mail to the taxpayer or taxing district applicant
 25 and to the societies or organizations claiming an exemption
 26 upon property, exemption of which is questioned before or by
 27 the director of revenue and finance, and shall hold a hearing
 28 prior to issuing any order for revocation or modification. An
 29 order made by the director of revenue and finance revoking or
 30 modifying an exemption shall be applicable to the tax year
 31 commencing with the tax year in which the application is made
 32 to the director ~~of revenue and finance~~ or the tax year
 33 commencing with the tax year in which the director's own
 34 motion is filed. An order made by the director of revenue and
 35 finance revoking or modifying an exemption is subject to

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

8 Sec. 21. Section 427.1, subsection 20, Code Supplement
9 1999, is amended to read as follows:

10 20. IMPOUNDMENT STRUCTURES. The impoundment structure and
11 any land underlying an impoundment located outside an
12 incorporated city, which are not developed or used directly or
13 indirectly for nonagricultural income-producing purposes and
14 which are maintained in a condition satisfactory to the soil
15 and water conservation district commissioners of the county in
16 which the impoundment structure and the impoundment are
17 located. A person owning land which qualifies for a property
18 tax exemption under this subsection shall apply to the county
19 assessor each year ~~before-the-first-of-July~~ not later than
20 February 1 for the exemption. The application shall be made
21 on forms prescribed by the department of revenue and finance.
22 The first application shall be accompanied by a copy of the
23 water storage permit approved by the administrator of the
24 environmental protection division of the department of natural
25 resources and a copy of the plan for the construction of the
26 impoundment structure and the impoundment. The construction
27 plan shall be used to determine the total acre-feet of the
28 impoundment and the amount of land which is eligible for the
29 property tax exemption status. The county assessor shall
30 annually review each application for the property tax
31 exemption under this subsection and submit it, with the
32 recommendation of the soil and water conservation district
33 commissioners, to the board of supervisors for approval or
34 denial. An applicant for a property tax exemption under this
35 subsection may appeal the decision of the board of supervisors

1 to the district court.

2 PARAGRAPH DIVIDED. As used in this subsection,
3 "impoundment" means a reservoir or pond which has a storage
4 capacity of at least eighteen acre-feet of water or sediment
5 at the time of construction; "storage capacity" means the
6 total area below the crest elevation of the principal spillway
7 including the volume of any excavation in the area; and
8 "impoundment structure" means a dam, earthfill, or other
9 structure used to create an impoundment.

10 Sec. 22. Section 427.1, subsection 22, unnumbered
11 paragraph 2, Code Supplement 1999, is amended to read as
12 follows:

13 Application for this exemption shall be filed with the
14 commissioners of the soil and water conservation district in
15 which the property is located, not later than ~~April-15~~
16 February 1 of the assessment year, on forms provided by the
17 department of revenue and finance. The application shall
18 describe and locate the property to be exempted and have
19 attached to it an aerial photo of that property on which is
20 outlined the boundaries of the property to be exempted. In
21 the case of an open prairie which is or includes a gully area
22 susceptible to severe erosion, an approved erosion control
23 plan must accompany the application. Upon receipt of the
24 application, the commissioners shall certify whether the
25 property is eligible to receive the exemption. The
26 commissioners shall not withhold certification of the
27 eligibility of property because of the existence upon the
28 property of an abandoned building or structure which is not
29 used for economic gain. If the commissioners certify that the
30 property is eligible, the application shall be forwarded to
31 the board of supervisors by May 1 of that assessment year with
32 the certification of the eligible acreage. An application
33 must be accompanied by an affidavit signed by the applicant
34 that if an exemption is granted, the property will not be used
35 for economic gain during the assessment year in which the

1 exemption is granted.

2 Sec. 23. Section 427.1, subsection 30, Code Supplement
3 1999, is amended to read as follows:

4 30. MOBILE HOME PARK STORM SHELTER. A structure
5 constructed as a storm shelter at a mobile home park as
6 defined in section 435.1. An application for this exemption
7 shall be filed with the assessing authority not later than
8 ~~April-fifteenth~~ February 1 of the first year for which the
9 exemption is requested, on forms provided by the department of
10 revenue and finance. The application shall describe and
11 locate the storm shelter to be exempted. If the storm shelter
12 structure is used exclusively as a storm shelter, all of the
13 structure's assessed value shall be exempt from taxation. If
14 the storm shelter structure is not used exclusively as a storm
15 shelter, the storm shelter structure shall be assessed for
16 taxation at seventy-five percent of its value as commercial
17 property.

18 Sec. 24. Section 427.16, subsection 2, Code 1999, is
19 amended to read as follows:

20 2. Application for the exemption shall be filed with the
21 assessor, not later than ~~March-1~~ February 1 of the assessment
22 year, on forms provided by the department of revenue and
23 finance. The exemption application shall include an approved
24 application for certified substantial rehabilitation from the
25 state historic preservation officer and documentation of
26 additional property tax relief or financial assistance
27 currently allowed for the real property. Upon receipt of the
28 application, the assessor shall certify whether or not the
29 property is eligible to receive the exemption and shall
30 forward the application to the board.

31 Sec. 25. Section 427C.3, Code 1999, is amended to read as
32 follows:

33 427C.3 FOREST RESERVATION.

34 A forest reservation shall contain not less than two
35 hundred growing forest trees on each acre. If the area

1 selected is a forest containing the required number of growing
 2 forest trees, it shall be accepted as a forest reservation
 3 under this chapter provided application is made or on file on
 4 or before ~~April-15~~ February 1 of the exemption year. If any
 5 buildings are standing on an area selected as a forest
 6 reservation under this section or a fruit-tree reservation
 7 under section 427C.7 one acre of that area shall be excluded
 8 from the tax exemption. However, the exclusion of that acre
 9 shall not affect the area's meeting the acreage requirement of
 10 section 427C.2.

11 Sec. 26. Section 427C.7, Code 1999, is amended to read as
 12 follows:

13 427C.7 FRUIT-TREE RESERVATION -- DURATION OF EXEMPTION.

14 A fruit-tree reservation shall contain on each acre, at
 15 least forty apple trees, or seventy other fruit trees, growing
 16 under proper care and annually pruned and sprayed. A
 17 reservation may be claimed as a fruit-tree reservation, under
 18 this chapter, for a period of eight years after planting
 19 provided application is made or on file on or before ~~April-15~~
 20 February 1 of the exemption year.

21 Sec. 27. Section 428A.8, Code 1999, is amended by adding
 22 the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. Any tax or additional tax found
 24 to be due shall be collected by the director of revenue and
 25 finance in the same manner as taxes are collected in chapter
 26 422, division III. Section 422.25, subsections 1, 2, 3, and
 27 4, sections 422.26, 422.28 to 422.30, and 422.73, consistent
 28 with this chapter, apply with respect to the collection of any
 29 tax or additional tax found to be due, in the same manner and
 30 with the same effect as if the deed, instrument, or writing
 31 were an income tax return within the meaning of those
 32 statutes.

33 Sec. 28. Section 450.4, subsection 5, Code 1999, is
 34 amended to read as follows:

35 5. On the value of that portion of any lump sum or

1 installment payments which will be includable as net income as
2 defined in section 422.7 as received by a beneficiary under an
3 annuity which was purchased under an employees pension or
4 retirement plan.

5 Sec. 29. Section 450.4, Code 1999, is amended by adding
6 the following new subsections:

7 NEW SUBSECTION. 7. The value of that portion of any lump
8 sum or installment payments which are received by a
9 beneficiary under an annuity which was purchased under an
10 employee's pension or retirement plan where the employee is a
11 nonresident of Iowa at the time of death.

12 NEW SUBSECTION. 8. The value of that portion of any lump
13 sum or installment payments which are received by a
14 beneficiary under an annuity which was purchased under an
15 employee's pension or retirement pan which was excluded from
16 net income as set forth in section 422.7, subsection 31.

17 Sec. 30. Section 450.10, subsection 4, Code 1999, is
18 amended to read as follows:

19 4. When the property or any interest therein in property
20 or income ~~therefrom~~ from property, taxable under the
21 ~~provisions of~~ this chapter, passes to any firm, corporation,
22 or society organized for profit ~~either under the laws of this~~
23 ~~state or of any other state, territory, province or country,~~
24 including fraternal and social organizations which do not
25 qualify for exemption under sections 170(c) and 2055 of the
26 Internal Revenue Code, the rate of tax imposed shall be as
27 follows:

28 Fifteen percent on the entire amount so passing.

29 Sec. 31. Section 452A.2, Code Supplement 1999, is amended
30 by adding the following new subsections:

31 NEW SUBSECTION. 4A. "Denatured ethanol" means ethanol
32 that is to be blended with gasoline, has been derived from
33 cereal grains, complies with American society of testing
34 materials designation D-4806-95b, and may be denatured only as
35 specified in Code of Federal Regulations, Titles 20, 21, and

1 27. Alcohol and denatured ethanol have the same meaning in
2 this chapter.

3 NEW SUBSECTION. 18A. "Racing fuel" means leaded gasoline
4 of one hundred ten octane or more that does not meet American
5 society of testing materials designation D-4814 for gasoline
6 and is sold in bulk for use in nonregistered motor vehicles.

7 Sec. 32. Section 452A.2, subsection 17, paragraph a, Code
8 Supplement 1999, is amended to read as follows:

9 a. All products commonly or commercially known or sold as
10 gasoline, including ethanol blended gasoline, casinghead, and
11 absorption or natural gasoline, regardless of their
12 classifications or uses, and including transmix which serves
13 as a buffer between fuel products in the pipeline distribution
14 process.

15 Sec. 33. Section 452A.3, subsection 5, paragraph a, Code
16 Supplement 1999, is amended by adding the following new
17 unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. Tax shall not be paid when the
19 sale of alcohol occurs within a terminal from an alcohol
20 manufacturer to an Iowa licensed supplier. The tax shall be
21 paid by the Iowa licensed supplier when the invoiced gross
22 gallonage of the alcohol or the alcohol part of ethanol
23 blended gasoline is withdrawn from a terminal for delivery in
24 this state.

25 Sec. 34. Section 452A.17, subsection 1, paragraph a, Code
26 Supplement 1999, is amended by adding the following new
27 subparagraph:

28 NEW SUBPARAGRAPH. (10) Racing fuel.

29 Sec. 35. Section 453A.1, subsection 26, Code 1999, is
30 amended to read as follows:

31 26. "Tobacco products" means cigars; little cigars as
32 defined in section 453A.42~~-subsection-5~~; cheroots; stogies;
33 periques; granulated; plug cut, crimp cut, ready rubbed, and
34 other smoking tobacco; moist snuff as defined in section
35 453A.42; snuff, snuff flour; cavendish; plug and twist

1 tobacco; fine-cut and other chewing tobaccos; shorts; or
2 refuse scraps, clippings, cuttings and sweepings of tobacco,
3 and other kinds and forms of tobacco, prepared in such manner
4 as to be suitable for chewing or smoking in a pipe or
5 otherwise, or both for chewing and smoking; but does not mean
6 cigarettes.

7 Sec. 36. Section 453A.2, subsection 3, Code 1999, is
8 amended to read as follows:

9 3. The Iowa department of public health, a county health
10 department, a city health department, or a city may directly
11 enforce this section in district court and initiate
12 proceedings pursuant to section 453A.22 before a permit-
13 issuing authority which issued the permit against a permit
14 holder violating this section.

15 Sec. 37. Section 453A.42, Code 1999, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 6A. "Moist snuff" means any finely cut,
18 ground, or powdered tobacco intended to be placed in the oral
19 cavity, except dry snuff.

20 Sec. 38. Section 453A.42, subsection 14, Code 1999, is
21 amended to read as follows:

22 14. "Tobacco products" means cigars; little cigars as
23 ~~defined herein~~; cheroots; stogies; periques; granulated, plug
24 cut, crimp cut, ready rubbed, and other smoking tobacco; moist
25 snuff; snuff; snuff flour; cavendish; plug and twist tobacco;
26 fine-cut and other chewing tobaccos; shorts; refuse scraps,
27 clippings, cuttings and sweepings to tobacco, and other kinds
28 and forms of tobacco, prepared in such manner as to be
29 suitable for chewing or smoking in a pipe or otherwise, or
30 both for chewing and smoking; but shall not include cigarettes
31 as defined in section 453A.17-~~subsection-3~~.

32 Sec. 39. Section 453A.43, subsection 1, unnumbered
33 paragraph 1, Code 1999, is amended to read as follows:

34 A tax is imposed upon all tobacco products in this state
35 and upon any person engaged in business as a distributor of

1 tobacco products, at the rate of twenty-two percent of the
 2 wholesale sales price of the tobacco products, except little
 3 cigars as-defined-in-section-453A.42 and moist snuff. Little
 4 cigars shall be subject to the same rate of tax imposed upon
 5 cigarettes in section 453A.6, payable at the time and in the
 6 manner provided in section 453A.6; and stamps shall be affixed
 7 as provided in division I of this chapter. Moist snuff shall
 8 be subject to tax as provided in subsection 2A. The tax on
 9 tobacco products, excluding little cigars and moist snuff,
 10 shall be imposed at the time the distributor does any of the
 11 following:

12 Sec. 40. Section 453A.43, subsection 2, unnumbered
 13 paragraph 1, Code 1999, is amended to read as follows:

14 A tax is imposed upon the use or storage by consumers of
 15 tobacco products, except moist snuff, in this state, and upon
 16 the consumers, at the rate of twenty-two percent of the cost
 17 of the tobacco products.

18 Sec. 41. Section 453A.43, Code 1999, is amended by adding
 19 the following new subsection:

20 NEW SUBSECTION. 2A. a. A tax is imposed upon moist snuff
 21 in this state and upon any person engaged in business as a
 22 distributor of moist snuff, at the rate of forty-two cents per
 23 ounce and a proportionate amount at the same rate for
 24 fractional parts of an ounce of moist snuff. The tax on moist
 25 snuff shall be imposed at the time the distributor does any of
 26 the following:

- 27 (1) Brings, or causes to be brought, into this state from
- 28 without the state moist snuff for sale.
- 29 (2) Makes, manufactures, or fabricates moist snuff in this
- 30 state for sale in this state.
- 31 (3) Ships or transports moist snuff to retailers in this
- 32 state, to be sold by those retailers.

33 b. A tax is imposed upon the use or storage by consumers
 34 of moist snuff in this state, and upon the consumers, at the
 35 rate of forty-two cents per ounce and a proportionate amount

1 at the same rate for fractional parts of an ounce of moist
2 snuff.

3 The tax imposed by this paragraph shall not apply if the
4 tax imposed by paragraph "a" on the moist snuff has been paid.

5 This tax shall not apply to the use or storage of moist
6 snuff in quantities of less than ten ounces.

7 Sec. 42. Section 453A.45, subsection 5, paragraph a, Code
8 Supplement 1999, is amended to read as follows:

9 a. The transportation of not more than fifty cigars, not
10 more than ten ounces of moist snuff, snuff, or snuff powder,
11 or not more than one pound of smoking or chewing tobacco or
12 other tobacco products not specifically mentioned herein;

13 Sec. 43. INVENTORY TAX.

14 1. All persons required to be licensed under section
15 453A.44 as distributors having in their possession and held
16 for resale on December 31, 2000, moist snuff upon which the
17 tax under section 453A.43 has been paid shall be subject to an
18 inventory tax on moist snuff as provided in this section.

19 2. Persons subject to the inventory tax imposed under this
20 section shall take an inventory as of the close of the
21 business day on December 31, 2000, of the amount, by weight,
22 of the moist snuff subject to the inventory tax for the
23 purpose of determining the tax due. These persons shall
24 report the tax on forms provided by the department of revenue
25 and finance and remit the tax due within thirty days of the
26 prescribed inventory date. The department of revenue and
27 finance shall adopt rules as are necessary to carry out this
28 section.

29 3. The rate of the inventory tax on each ounce or fraction
30 of an ounce of moist snuff subject to the tax as specified in
31 subsection 1 is equal to the difference between the amount
32 paid on moist snuff under section 453A.43 computed to a rate
33 per ounce prior to January 1, 2001, and the amount that is to
34 be paid on each ounce or fraction of an ounce of moist snuff
35 under section 453A.43 on or after January 1, 2001. However,

1 if the total amount of tax paid on the moist snuff prior to
2 January 1, 2001, exceeds the amount that is imposed on the
3 moist snuff on or after January 1, 2001, the distributor is
4 entitled to a refund of the excess.

5 Sec. 44. EFFECTIVE AND APPLICABILITY DATES. This Act,
6 being deemed of immediate importance, takes effect upon
7 enactment, except as follows:

8 1. Sections 14, 16, 18, 19, 21, 22, 23, 24, 25, and 26 of
9 this Act, amending Code sections 424.10, 424.12, 424.15,
10 427.1, 427.16, 427C.3, and 427C.7, take effect January 1,
11 2001, and apply to claims filed on or after that date.

12 2. Sections 28, 29, and 30 of this Act, amending Code
13 sections 450.4 and 450.10, take effect July 1, 2000, for
14 estates of decedents dying on or after that date.

15 3. Section 35 and sections 37 through 42 of this Act,
16 amending Code sections 453A.1, 453A.42, 453A.43, and 453A.45,
17 take effect January 1, 2001.

18 EXPLANATION

19 This bill amends various tax provisions of state law.

20 Code section 15.331A is amended to allow a business which
21 is eligible to receive benefits under the new jobs and income
22 Act to file a claim for refund of sales and use tax paid by
23 the contractor under a building contract within one year of
24 the project's completion rather than the six months previously
25 allowed.

26 Code section 404.4 is amended to specify that the length of
27 time over which an urban revitalization property tax exemption
28 may be allowed in situations where a timely application for
29 exemption was not filed is equal to the number of remaining
30 years left in the exemption schedule selected.

31 Code section 421.17, subsection 16, is amended to expand
32 the scope of the technical advice received from other state
33 agencies to include that related to all taxes administered by
34 the department rather than just property taxes.

35 A new Code section 421.46 is added which authorizes the

1 department of revenue and finance to enter into agreements
2 with an Indian tribe to collect and distribute a state tax or
3 a tribal tax. The new provision further provides that if the
4 department collects and distributes a tribal tax on behalf of
5 the Indian tribe, the department may charge a mutually agreed
6 upon administrative fee.

7 Code section 421.60, subsection 2, is amended to extend the
8 director of revenue and finance's authority to abate unpaid
9 state sales and use taxes and local option sales and services
10 taxes to situations in which a retailer who is responsible for
11 collecting these taxes fails to do so in reliance on erroneous
12 written advice specially issued to the retailer by the
13 department of revenue and finance, and the retailer is unable
14 to collect the unpaid taxes from purchasers. Subsequent
15 written advice sent by the department of revenue and finance
16 to the retailer, or a change in state or federal law, a
17 reported contrary court case, a contrary rule adopted by the
18 department, or the retailer's misrepresentation shall preclude
19 the abatement. An abatement of the unpaid tax by a retailer
20 under the circumstances provided in the bill does not preclude
21 the department of revenue and finance from collecting the tax
22 from the purchaser.

23 The new provision also requires the abatement of taxes not
24 collected as a result of certain erroneous written advice
25 issued by the department to a retailer prior to July 1, 1999,
26 relating to sales and use taxes on charges for access to on-
27 line computer services.

28 Code section 422.45, subsection 56, expands the computer
29 access exemption from sales and use taxes. The present
30 exemption only applies to access to the internet. The
31 amendment would include other information made available
32 through any computer server.

33 Code section 422.47 is amended to delete subsection 2,
34 which is obsolete as the provision applies to the refund of
35 the excess tax paid on a construction contract fully executed

1 prior to July 1, 1992, when the sales tax rate was increased
2 from four cents to five cents.

3 Code section 422.52 is amended to conform to the amendment
4 in the bill to Code section 421.60.

5 Code section 422.110 is amended to replace the words
6 "eligible purchasers" with the word "distributors" to reflect
7 more accurate terminology as defined in Code chapter 452A.

8 Code section 422A.1 is amended to impose a duty upon the
9 county auditor to notify, within 10 days, the director of
10 revenue and finance of the outcome of the election favoring
11 the imposition, repeal, or rate change of the local hotel and
12 motel tax.

13 Code sections 422B.8 and 422E.3 are amended to impose local
14 options sales and services tax only on motor fuels and special
15 fuels in which tax pursuant to Code chapter 452A has not been
16 imposed and, if paid, has not nor cannot be refunded.

17 Code section 423.4, subsection 9, is amended to add limited
18 liability companies to the list of businesses that are exempt
19 from the use tax for the transfer of vehicles subject to
20 registration between businesses where the purpose of the
21 transfer is to continue the business. The exemption is also
22 made to apply to such transfer made by a corporation as part
23 of its liquidation to its shareholders if the shareholders
24 retransfer the vehicles to another business owned by them for
25 the purpose of continuing the business of the corporation.

26 Code section 424.10 and Code section 424.15 are amended to
27 reduce the period for assessing the environmental protection
28 charge or for filing a claim for refund of an environmental
29 protection charge paid from five to three years. This
30 promotes consistency by bringing those periods into harmony
31 with the time allowed for assessing or filing a claim for
32 refund of sales or use tax paid.

33 Code section 424.10, subsection 2, and Code section 424.13
34 are amended to replace the word "tax" with the word "charge".

35 Code section 424.3 imposes a "petroleum diminution charge" and

1 not a "petroleum diminution tax". Code section 424.10,
2 subsection 2, is also amended to change the reference to
3 "taxpayer" to "person against whom (a charge) is assessed".

4 Code section 424.12 is amended to reduce the requirement
5 that depositors of underground petroleum must keep records
6 from a period of five years to a period of three years for
7 purposes of the environmental protection charge.

8 Code sections 427.1, subsection 14, 427.1, subsection 20,
9 427.1, subsection 22, 427.1, subsection 30, 427.16, subsection
10 2, 427C.3, and 427C.7 are amended to change the dates for
11 filing claims for various property tax exemptions to February
12 1 for purposes of uniformity.

13 Code section 427.1, subsection 16, is amended to specify
14 the effective date of the order when the director revokes or
15 modifies a property tax exemption for a specific year either
16 on the director's own motion or upon application by a
17 taxpayer.

18 Code section 428A.8 is amended to provide that any
19 additional tax owed will be collected by the department in the
20 same manner as individual income tax. This amendment is
21 necessary because there is no provision in Code chapter 428A
22 to collect unpaid real estate transfer taxes.

23 Code section 450.4, subsection 5, is amended to allow
24 distributions to beneficiaries to be exempt from Iowa
25 inheritance tax whether such distributions are lump sum in
26 nature or in the form of installments. Installment payments
27 are currently exempt from tax. Code section 450.4 is also
28 amended to provide for the exemption from Iowa inheritance tax
29 of distributions from nonresident employment-related pensions
30 and pension income excluded from net income under Code section
31 422.7, subsection 31. This amendment relates to Code section
32 422.7, subsection 31, and Code section 422.8, which exempt
33 such distributions from Iowa income tax.

34 Code section 450.10 is amended to remove outdated
35 reciprocity language and to include additional language to

HSB 757

1 specify the tax treatment of fraternal and social
2 organizations.

3 Code section 452A.2 is amended to add definitions for
4 "denatured alcohol" and "racing fuel".

5 Code section 452A.2, subsection 17, paragraph "a", is
6 amended to redefine "motor fuel" to include ethanol blended
7 gasoline.

8 Code section 452A.3, subsection 5, paragraph "a", is
9 amended to provide that the tax on alcohol be paid when it is
10 withdrawn from the terminal rather than when it is sold within
11 the terminal as is the case under present law.

12 Code section 452A.17, subsection 1, paragraph "a", is
13 amended to permit a refund of tax paid on fuel used for
14 racing. This change is being made to conform with federal
15 regulations.

16 Code sections 453A.1, 453A.42, 453A.43, and 453A.45, are
17 amended to provide for moist snuff to be taxed on a per ounce
18 basis similar to the federal method of taxation. An inventory
19 tax on moist snuff is also imposed.

20 Code section 453A.2, subsection 3, is amended to specify
21 that an appeal of a cigarette permit suspension or revocation
22 must be made to the authority that issued the permit. Cities
23 and counties issue permits to retail establishments in their
24 jurisdictions and the department of revenue and finance issues
25 distributor, manufacturer, wholesaler, and vendor permits.

26 The bill takes effect upon enactment and some provisions
27 have different effective and applicability dates.

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MAR 22 2000

WAYS & MEANS CALENDAR

5-3/27/00 W. means
S. 4/5/00 Amend/Do Pass w/s-5348
H. 4/17/00 motion to R/c by Sukup
S. 4/14/00 Motion to W/C by Zombante
2548 & Groutal

HOUSE FILE
BY COMMITTEE ON WAYS
AND MEANS

(SUCCESSOR TO HSB 757)

Passed House, Date 3-27-00 (P. 990) Passed Senate, Date 4/13/00 (P. 1167)
Vote: Ayes 95 Nays 0 Vote: Ayes 49 Nays 0

Re Passed 4-17-00 ^{Approved} 5/19/00
Vote 96-1 (P. 1542) Re-passed 4/24/00
Vote 26-21 (P. 1317)

A BILL FOR

1 An Act relating to the administration of the tax and related laws
2 by the department of revenue and finance, including
3 administration of state individual income, corporate income,
4 sales and use, hotel and motel, real estate transfer,
5 environmental protection charge on petroleum diminution,
6 property, motor fuel, special fuel, cigarette and tobacco
7 products, and inheritance taxes, treatment of motor fuel under
8 the local option taxes, and authorizing tax agreements with
9 Indian tribes, and including effective and retroactive
10 applicability date provisions.

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

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HF 2548

1 Section 1. Section 15.331A, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. The eligible business or a supporting business shall,
4 not more than ~~six-months~~ one year after project completion,
5 make application to the department for any refund of the
6 amount of the taxes paid pursuant to chapter 422 or 423 upon
7 any goods, wares, or merchandise, or services rendered,
8 furnished, or performed, including water, sewer, gas, and
9 electric utility services. The application shall be made in
10 the manner and upon forms to be provided by the department,
11 and the department shall audit the claim and, if approved,
12 issue a warrant to the eligible business or supporting
13 business in the amount of the sales or use tax which has been
14 paid to the state of Iowa under a contract. A claim filed by
15 the eligible business or a supporting business in accordance
16 with this section shall not be denied by reason of a
17 limitation provision set forth in chapter 421, 422, or 423.

18 Sec. 2. Section 404.4, unnumbered paragraph 2, Code 1999,
19 is amended to read as follows:

20 An application shall be filed for each new exemption
21 claimed. The first application for an exemption shall be
22 filed by the owner of the property with the governing body of
23 the city or county in which the property is located by
24 February 1 of the assessment year for which the exemption is
25 first claimed, but not later than the year in which all
26 improvements included in the project are first assessed for
27 taxation, unless, upon the request of the owner at any time,
28 the governing body of the city or county provides by
29 resolution that the owner may file an application by February
30 1 of any other assessment year selected by the governing body
31 in which case the exemption is allowed for the number of years
32 remaining in the exemption schedule selected. The application
33 shall contain, but not be limited to, the following
34 information: The nature of the improvement, its cost, the
35 estimated or actual date of completion, the tenants that

1 occupied the owner's building on the date the city or county
2 adopted the resolution referred to in section 404.2,
3 subsection 1, and which exemption in section 404.3 or in the
4 different schedule, if one has been adopted, will be elected.

5 Sec. 3. Section 421.17, subsection 16, Code Supplement
6 1999, is amended to read as follows:

7 16. To call upon any a state department agency or
8 institution for technical advice and data which may be of
9 value in connection with the work of ~~assessment-and-taxation~~
10 the department.

11 Sec. 4. NEW SECTION. 421.46 TAX AGREEMENTS WITH INDIAN
12 TRIBES.

13 1. "Indian country" means the Indian country as defined in
14 18 U.S.C. § 1151, and includes trust land as defined by the
15 United States secretary of the interior.

16 2. The department and the governing council of an Indian
17 tribe may enter into an agreement to provide for the
18 collection and distribution by the department within Indian
19 country of any tax or fee imposed by the state and
20 administered by the department.

21 An agreement may also provide for the collection and
22 distribution by the department of any tribal tax or fee
23 imposed by tribal ordinance. The agreement may provide for
24 the retention of an administrative fee by the department which
25 fee shall be an agreed upon percentage of the gross revenue of
26 the tribal tax or fee collected.

27 Sec. 5. Section 421.60, subsection 2, Code 1999, is
28 amended by adding the following new paragraph:

29 NEW PARAGRAPH. m. (1) The director may abate unpaid
30 state sales and use taxes and local sales and services taxes
31 owed by a retailer in the event that the retailer failed to
32 collect tax from the purchaser as a result of erroneous
33 written advice issued by the department that was specially
34 directed to the retailer by the department and the retailer is
35 unable to collect the tax, interest, or penalties from the

1 purchaser. Before the tax, interest, and penalties shall be
2 abated on the basis of erroneous written advice, the retailer
3 must present a copy of the retailer's request for written
4 advice to the department and a copy of the department's reply.
5 The department shall not maintain a position against the
6 retailer that is inconsistent with the erroneous written
7 advice, except on the basis of subsequent written advice sent
8 by the department to that retailer, or a change in state or
9 federal law, a reported court case to the contrary, a contrary
10 rule adopted by the department, a change in material facts or
11 circumstances relating to the retailer, or the retailer's
12 misrepresentation or incomplete or inadequate representation
13 of material facts and circumstances in requesting the written
14 advice.

15 (2) The director shall abate the unpaid state sales and
16 use taxes and any local sales and services taxes owed by a
17 retailer where the retailer failed to collect the tax from the
18 purchaser on the charges paid for access to on-line computer
19 services as a result of erroneous written advice issued by the
20 department regarding the taxability of charges paid for access
21 to on-line computer services. To qualify for the abatement
22 under this subparagraph, the erroneous written advice shall
23 have been issued by the department prior to July 1, 1999, and
24 shall have been specially directed to the retailer by the
25 department.

26 (3) The director shall prepare quarterly reports
27 summarizing each case in which abatement of tax, interest, or
28 penalties was made. However, the report shall not disclose
29 the identity of the taxpayer. An abatement authorized by this
30 paragraph to a retailer shall not preclude the department from
31 proceeding to collect the liability from a purchaser.

32 Sec. 6. Section 422.45, subsection 56, Code Supplement
33 1999, is amended to read as follows:

34 56. The gross receipts from charges paid to a provider for
35 access to on-line computer services. For purposes of this

1 subsection, "on-line computer service" means a service that
2 provides or enables computer access by multiple users to the
3 internet or to other information made available through a
4 computer server.

5 Sec. 7. Section 422.47, subsection 2, Code Supplement
6 1999, is amended by striking the subsection.

7 Sec. 8. Section 422.52, subsection 6, paragraph a, Code
8 Supplement 1999, is amended to read as follows:

9 a. If a purchaser fails to pay tax imposed by this
10 division to the retailer required to collect the tax, then in
11 addition to all of the rights, obligations, and remedies
12 provided, the tax is payable by the purchaser directly to the
13 department, and sections 422.50, 422.51, 422.52, 422.54,
14 422.55, 422.56, 422.57, 422.58, and 422.59 apply to the
15 purchaser. For failure, the retailer and purchaser are
16 liable, unless the circumstances described in section 421.60,
17 subsection 2, paragraph "m", or section 422.47, subsection 3,
18 paragraph "b" or "e", or subsection 4, paragraph "b" or "d",
19 are applicable.

20 Sec. 9. Section 422.53, subsection 3, Code Supplement
21 1999, is amended to read as follows:

22 3. The department shall grant and issue to each applicant
23 a permit for each place of business within the state. A
24 permit is not assignable and is valid only for the person in
25 whose name it is issued and for the transaction of business at
26 the place designated or a place of relocation within the state
27 if the ownership remains the same.

28 Sec. 10. Section 422.110, unnumbered paragraph 1, Code
29 Supplement 1999, is amended to read as follows:

30 In lieu of the fuel tax refund provided in section 452A.17,
31 a person or corporation subject to taxation under divisions II
32 or III of this chapter may elect to receive an income tax
33 credit. The person or corporation which elects to receive an
34 income tax credit shall cancel its refund permit obtained
35 under section 452A.18 within thirty days after the first day

1 of its tax year or the permit becomes invalid at that time.
2 For the purposes of this section, "person" includes a person
3 claiming a tax credit based upon the person's pro rata share
4 of the earnings from a partnership, limited liability company,
5 or corporation which is not subject to a tax under division II
6 or III of this chapter as a partnership, limited liability
7 company, or corporation. If the election to receive an income
8 tax credit has been made, it remains effective for at least
9 one tax year, and for subsequent tax years unless a change is
10 requested and a new refund permit applied for within thirty
11 days after the first day of the person's or corporation's tax
12 year. The income tax credit shall be the amount of the Iowa
13 fuel tax paid on fuel purchased by the person or corporation
14 and is subject to the conditions provided in section 452A.17
15 with the exception that the income tax credit is not available
16 for refunds relating to casualty losses, transport diversions,
17 pumping credits, blending errors, idle time, power takeoffs,
18 reefer units, and exports by ~~eligible-purchasers~~ distributors.

19 Sec. 11. Section 422A.1, Code 1999, is amended by adding
20 the following new unnumbered paragraph after unnumbered
21 paragraph 1:

22 NEW UNNUMBERED PARAGRAPH. Within ten days of the election
23 at which a majority of those voting on the question favors the
24 imposition, repeal, or change in the rate of the hotel and
25 motel tax, the county auditor shall give written notice by
26 sending a copy of the abstract of votes from the favorable
27 election to the director of revenue and finance.

28 Sec. 12. Section 422B.8, unnumbered paragraph 1, Code
29 Supplement 1999, is amended to read as follows:

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

1 service on the same basis as the state use tax and shall not
2 be imposed on the sale of any property or on any service not
3 taxed by the state, except the tax shall not be imposed on the
4 gross receipts from the sale of motor fuel or special fuel as
5 defined in chapter 452A which is consumed for highway use or
6 in watercraft or aircraft if the fuel tax is paid on the
7 transaction and a refund has not or will not be allowed, on
8 the gross receipts from the rental of rooms, apartments, or
9 sleeping quarters which are taxed under chapter 422A during
10 the period the hotel and motel tax is imposed, on the gross
11 receipts from the sale of equipment by the state department of
12 transportation, on the gross receipts from the sale of self-
13 propelled building equipment, pile drivers, motorized
14 scaffolding, or attachments customarily drawn or attached to
15 self-propelled building equipment, pile drivers, and motorized
16 scaffolding, including auxiliary attachments which improve the
17 performance, safety, operation, or efficiency of the equipment
18 and replacement parts and are directly and primarily used by
19 contractors, subcontractors, and builders for new
20 construction, reconstruction, alterations, expansion, or
21 remodeling of real property or structures, and on the gross
22 receipts from the sale of a lottery ticket or share in a
23 lottery game conducted pursuant to chapter 99E and except the
24 tax shall not be imposed on the gross receipts from the sale
25 or use of natural gas, natural gas service, electricity, or
26 electric service in a city or county where the gross receipts
27 from the sale of natural gas or electric energy are subject to
28 a franchise fee or user fee during the period the franchise or
29 user fee is imposed. A local sales and services tax is
30 applicable to transactions within those incorporated and
31 unincorporated areas of the county where it is imposed and
32 shall be collected by all persons required to collect state
33 gross receipts taxes. However, a person required to collect
34 state retail sales tax under chapter 422, division IV, is not
35 required to collect local sales and services tax on

1 transactions delivered within the area where the local sales
2 and services tax is imposed unless the person has physical
3 presence in that taxing area. All cities contiguous to each
4 other shall be treated as part of one incorporated area and
5 the tax would be imposed in each of those contiguous cities
6 only if the majority of those voting in the total area covered
7 by the contiguous cities favor its imposition.

8 Sec. 13. Section 422E.3, subsection 2, Code Supplement
9 1999, is amended to read as follows:

10 2. The tax shall be imposed on the same basis as the state
11 sales and services tax or in the case of the use of natural
12 gas, natural gas service, electricity, or electric service on
13 the same basis as the state use tax and shall not be imposed
14 on the sale of any property or on any service not taxed by the
15 state, except the tax shall not be imposed on the gross
16 receipts from the sale of motor fuel or special fuel as
17 defined in chapter 452A which is consumed for highway use or
18 in watercraft or aircraft if the fuel tax is paid on the
19 transaction and a refund has not or will not be allowed, on
20 the gross receipts from the rental of rooms, apartments, or
21 sleeping quarters which are taxed under chapter 422A during
22 the period the hotel and motel tax is imposed, on the gross
23 receipts from the sale of equipment by the state department of
24 transportation, on the gross receipts from the sale of self-
25 propelled building equipment, pile drivers, motorized
26 scaffolding, or attachments customarily drawn or attached to
27 self-propelled building equipment, pile drivers, and motorized
28 scaffolding, including auxiliary attachments which improve the
29 performance, safety, operation, or efficiency of the
30 equipment, and replacement parts and are directly and
31 primarily used by contractors, subcontractors, and builders
32 for new construction, reconstruction, alterations, expansion,
33 or remodeling of real property or structures, and on the gross
34 receipts from the sale of a lottery ticket or share in a
35 lottery game conducted pursuant to chapter 99E and except the

1 tax shall not be imposed on the gross receipts from the sale
2 or use of natural gas, natural gas service, electricity, or
3 electric service in a city or county where the gross receipts
4 from the sale of natural gas or electric energy are subject to
5 a franchise fee or user fee during the period the franchise or
6 user fee is imposed.

7 Sec. 14. Section 423.4, subsection 9, Code Supplement
8 1999, is amended to read as follows:

9 9. Vehicles subject to registration which are transferred
10 from a business or individual conducting a business within
11 this state as a sole proprietorship, ~~or~~ partnership, or
12 limited liability company to a corporation formed by the sole
13 proprietorship, ~~or~~ partnership, or limited liability company
14 for the purpose of continuing the business when all of the
15 stock of the corporation so formed is owned by the sole
16 proprietor and the sole proprietor's spouse, ~~or~~ by all the
17 partners in the case of a partnership, or by all of the
18 members in the case of a limited liability company. This
19 exemption is equally available where the vehicles subject to
20 registration are transferred from a corporation to a sole
21 proprietorship, ~~or~~ partnership, or limited liability company
22 formed by that corporation for the purpose of continuing the
23 business when all of the incidents of ownership are owned by
24 the same person or persons who were stockholders of the
25 corporation.

26 This exemption also applies where the vehicles subject to
27 registration are transferred from a corporation as part of the
28 liquidation of the corporation to its stockholders if within
29 three months of such transfer the stockholders retransfer
30 those vehicles subject to registration to a sole
31 proprietorship, partnership, or limited liability company for
32 the purpose of continuing the business of the corporation when
33 all of the incidents of ownership are owned by the same person
34 or persons who were stockholders of the corporation.

35 Sec. 15. Section 424.10, subsections 1 and 3, Code

1 Supplement 1999, are amended to read as follows:

2 1. As soon as practicable after a return is filed and in
3 any event within ~~five~~ three years after the return is filed
4 the department shall examine it, assess and determine the
5 charge due if the return is found to be incorrect, and give
6 notice to the depositor of ~~such~~ the assessment and
7 determination as provided in subsection 2. The period for the
8 examination and determination of the correct amount of the
9 charge is unlimited in the case of a false or fraudulent
10 return made with the intent to evade the charge or in the case
11 of a failure to file a return. If the determination that a
12 return is incorrect is the result of an audit of the books and
13 records of the depositor, the charge, or additional charge, if
14 any is found due, shall be assessed and determined and the
15 notice to the depositor shall be given by the department
16 within one year after the completion of the examination of the
17 books and records.

18 3. If the amount paid is greater than the correct charge,
19 penalty, and interest due, the department shall refund the
20 excess, with interest after sixty days from the date of
21 payment at the rate in effect under section 421.7, pursuant to
22 rules prescribed by the director. However, the director shall
23 not allow a claim for refund that has not been filed with the
24 department within ~~five~~ three years after the charge payment
25 upon which a refund is claimed became due, or one year after
26 the charge payment was made, whichever time is later. A
27 determination by the department of the amount of charge,
28 penalty, and interest due, or the amount of refund for any
29 excess amount paid, is final unless the person aggrieved by
30 the determination appeals to the director for a revision of
31 the determination within sixty days from the date of the
32 notice of determination of charge, penalty, and interest due
33 or refund owing. The director shall grant a hearing, and upon
34 hearing the director shall determine the correct charge,
35 penalty, and interest due or refund owing, and notify the

1 appellant of the decision by mail. The decision of the
2 director is final unless the appellant seeks judicial review
3 of the director's decision under section 424.13.

4 Sec. 16. Section 424.10, subsection 2, Code Supplement
5 1999, is amended to read as follows:

6 2. If a return required by this chapter is not filed, or
7 if a return when filed is incorrect or insufficient and the
8 maker fails to file a corrected or sufficient return within
9 twenty days after the return is required by notice from the
10 department, the department shall determine the amount of
11 charge due from information as the department may be able to
12 obtain and, if necessary, may estimate the charge on the basis
13 of external indices or factors. The department shall give
14 notice of the determination to the person liable for the
15 charge. The determination shall fix the charge unless the
16 person against whom it is assessed shall, within sixty days
17 after the date of the notice of the determination, apply to
18 the director for a hearing or unless the taxpayer person
19 against whom it is assessed contests the determination by
20 paying the tax charge, interest, and penalty and timely filing
21 a claim for refund. At the hearing evidence may be offered to
22 support the determination or to prove that it is incorrect.
23 After the hearing the director shall give notice of the
24 decision to the person liable for the charge.

25 If a depositor's, receiver's, or other person's challenge
26 relates to the diminution rate, the burden of proof upon the
27 challenger shall only be satisfied by clear and convincing
28 evidence.

29 Sec. 17. Section 424.12, Code 1999, is amended to read as
30 follows:

31 424.12 RECORDS REQUIRED.

32 It ~~shall-be~~ is the duty of every depositor required to make
33 a report and pay any charge under this chapter, to preserve
34 such records as the director may require, and it ~~shall-be~~ is
the duty of every depositor to preserve for a period of five

1 three years all invoices and other records; and all such
2 books, invoices, and other records shall be open to
3 examination at any time by the department, and shall be made
4 available within this state for such examination upon
5 reasonable notice when the director shall so order. When
6 requested to do so by any person from whom a charge payer is
7 seeking credit, or with whom the charge payer is negotiating
8 the sale of any personal property, or by any other person
9 having a legitimate interest in such information, the
10 director, upon being satisfied that such a situation exists,
11 shall inform such that person as to the amount of unpaid
12 charges due by the charge payer under ~~the provisions of~~ this
13 chapter. The giving of such information under such
14 circumstances shall not be deemed a violation of section
15 422.72 as applied to this chapter.

16 Section 422.72 applies to this chapter as if the
17 environmental protection charge were a tax.

18 Sec. 18. Section 424.13, subsection 2, Code 1999, is
19 amended to read as follows:

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

26 Sec. 19. Section 424.15, unnumbered paragraph 1, Code
27 1999, is amended to read as follows:

28 If it appears that, as a result of mistake, an amount of a
29 charge, penalty, or interest has been paid which was not due
30 under ~~the provisions of~~ this chapter, then such that amount
31 shall be refunded to ~~such person~~ the charge payer by the
32 department. A claim for refund that has not been filed with
33 the department within ~~five~~ three years after the charge
34 payment upon which a refund is claimed became due, or one year
35 after such that charge payment was made, whichever time is the

1 later, shall not be allowed by the director.

2 Sec. 20. Section 427.1, subsection 14, unnumbered
3 paragraph 1, Code Supplement 1999, is amended to read as
4 follows:

5 A society or organization claiming an exemption under
6 subsection 5 or subsection 8 shall file with the assessor not
7 later than ~~April 15~~ February 1 a statement upon forms to be
8 prescribed by the director of revenue and finance, describing
9 the nature of the property upon which the exemption is claimed
10 and setting out in detail any uses and income from the
11 property derived from the rentals, leases, or other uses of
12 the property not solely for the appropriate objects of the
13 society or organization. Upon the filing and allowance of the
14 claim, the claim shall be allowed on the property for
15 successive years without further filing as long as the
16 property is used for the purposes specified in the original
17 claim for exemption. When the property is sold or
18 transferred, the county recorder shall provide notice of the
19 transfer to the assessor. The notice shall describe the
20 property transferred and the name of the person to whom title
21 to the property is transferred.

22 Sec. 21. Section 427.1, subsection 16, Code Supplement
23 1999, is amended to read as follows:

24 16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any
25 taxing district may make application to the director of
26 revenue and finance for revocation or modification for any
27 exemption, based upon alleged violations of this chapter. The
28 director of revenue and finance may also on the director's own
29 motion set aside or modify any exemption which has been
30 granted upon property for which exemption is claimed under
31 this chapter. The director of revenue and finance shall give
32 notice by mail to the taxpayer or taxing district applicant
33 and to the societies or organizations claiming an exemption
34 upon property, exemption of which is questioned before or by
35 the director of revenue and finance, and shall hold a hearing

1 prior to issuing any order for revocation or modification. An
2 order made by the director of revenue and finance revoking or
3 modifying an exemption shall be applicable to the tax year
4 commencing with the tax year in which the application is made
5 to the director ~~of-revenue-and-finance~~ or the tax year
6 commencing with the tax year in which the director's own
7 motion is filed. An order made by the director of revenue and
8 finance revoking or modifying an exemption is subject to
9 judicial review in accordance with chapter 17A, the Iowa
10 administrative procedure Act. Notwithstanding the terms of
11 that Act, petitions for judicial review may be filed in the
12 district court having jurisdiction in the county in which the
13 property is located, and must be filed within thirty days
14 after any order revoking or modifying an exemption is made by
15 the director of revenue and finance.

16 Sec. 22. Section 427.1, subsection 20, Code Supplement
17 1999, is amended to read as follows:

18 20. IMPOUNDMENT STRUCTURES. The impoundment structure and
19 any land underlying an impoundment located outside an
20 incorporated city, which are not developed or used directly or
21 indirectly for nonagricultural income-producing purposes and
22 which are maintained in a condition satisfactory to the soil
23 and water conservation district commissioners of the county in
24 which the impoundment structure and the impoundment are
25 located. A person owning land which qualifies for a property
26 tax exemption under this subsection shall apply to the county
27 assessor each year ~~before-the-first-of-July~~ not later than
28 February 1 for the exemption. The application shall be made
29 on forms prescribed by the department of revenue and finance.
30 The first application shall be accompanied by a copy of the
31 water storage permit approved by the administrator of the
32 environmental protection division of the department of natural
33 resources and a copy of the plan for the construction of the
34 impoundment structure and the impoundment. The construction
35 plan shall be used to determine the total acre-feet of the

1 impoundment and the amount of land which is eligible for the
2 property tax exemption status. The county assessor shall
3 annually review each application for the property tax
4 exemption under this subsection and submit it, with the
5 recommendation of the soil and water conservation district
6 commissioners, to the board of supervisors for approval or
7 denial. An applicant for a property tax exemption under this
8 subsection may appeal the decision of the board of supervisors
9 to the district court.

10 PARAGRAPH DIVIDED. As used in this subsection,
11 "impoundment" means a reservoir or pond which has a storage
12 capacity of at least eighteen acre-feet of water or sediment
13 at the time of construction; "storage capacity" means the
14 total area below the crest elevation of the principal spillway
15 including the volume of any excavation in the area; and
16 "impoundment structure" means a dam, earthfill, or other
17 structure used to create an impoundment.

18 Sec. 23. Section 427.1, subsection 22, unnumbered
19 paragraph 2, Code Supplement 1999, is amended to read as
20 follows:

21 Application for this exemption shall be filed with the
22 commissioners of the soil and water conservation district in
23 which the property is located, not later than ~~April 15~~
24 February 1 of the assessment year, on forms provided by the
25 department of revenue and finance. The application shall
26 describe and locate the property to be exempted and have
27 attached to it an aerial photo of that property on which is
28 outlined the boundaries of the property to be exempted. In
29 the case of an open prairie which is or includes a gully area
30 susceptible to severe erosion, an approved erosion control
31 plan must accompany the application. Upon receipt of the
32 application, the commissioners shall certify whether the
33 property is eligible to receive the exemption. The
34 commissioners shall not withhold certification of the
35 eligibility of property because of the existence upon the

1 property of an abandoned building or structure which is not
2 used for economic gain. If the commissioners certify that the
3 property is eligible, the application shall be forwarded to
4 the board of supervisors by May 1 of that assessment year with
5 the certification of the eligible acreage. An application
6 must be accompanied by an affidavit signed by the applicant
7 that if an exemption is granted, the property will not be used
8 for economic gain during the assessment year in which the
9 exemption is granted.

10 Sec. 24. Section 427.1, subsection 30, Code Supplement
11 1999, is amended to read as follows:

12 30. MOBILE HOME PARK STORM SHELTER. A structure
13 constructed as a storm shelter at a mobile home park as
14 defined in section 435.1. An application for this exemption
15 shall be filed with the assessing authority not later than
16 ~~April-fifteenth~~ February 1 of the first year for which the
17 exemption is requested, on forms provided by the department of
18 revenue and finance. The application shall describe and
19 locate the storm shelter to be exempted. If the storm shelter
20 structure is used exclusively as a storm shelter, all of the
21 structure's assessed value shall be exempt from taxation. If
22 the storm shelter structure is not used exclusively as a storm
23 shelter, the storm shelter structure shall be assessed for
24 taxation at seventy-five percent of its value as commercial
25 property.

26 Sec. 25. Section 427.16, subsection 2, Code 1999, is
27 amended to read as follows:

28 2. Application for the exemption shall be filed with the
29 assessor, not later than ~~March-1~~ February 1 of the assessment
30 year, on forms provided by the department of revenue and
31 finance. The exemption application shall include an approved
32 application for certified substantial rehabilitation from the
33 state historic preservation officer and documentation of
34 additional property tax relief or financial assistance
35 currently allowed for the real property. Upon receipt of the

1 application, the assessor shall certify whether or not the
2 property is eligible to receive the exemption and shall
3 forward the application to the board.

4 Sec. 26. Section 427C.3, Code 1999, is amended to read as
5 follows:

6 427C.3 FOREST RESERVATION.

7 A forest reservation shall contain not less than two
8 hundred growing forest trees on each acre. If the area
9 selected is a forest containing the required number of growing
10 forest trees, it shall be accepted as a forest reservation
11 under this chapter provided application is made or on file on
12 or before ~~April-15~~ February 1 of the exemption year. If any
13 buildings are standing on an area selected as a forest
14 reservation under this section or a fruit-tree reservation
15 under section 427C.7 one acre of that area shall be excluded
16 from the tax exemption. However, the exclusion of that acre
17 shall not affect the area's meeting the acreage requirement of
18 section 427C.2.

19 Sec. 27. Section 427C.7, Code 1999, is amended to read as
20 follows:

21 427C.7 FRUIT-TREE RESERVATION -- DURATION OF EXEMPTION.

22 A fruit-tree reservation shall contain on each acre, at
23 least forty apple trees, or seventy other fruit trees, growing
24 under proper care and annually pruned and sprayed. A
25 reservation may be claimed as a fruit-tree reservation, under
26 this chapter, for a period of eight years after planting
27 provided application is made or on file on or before ~~April-15~~
28 February 1 of the exemption year.

29 Sec. 28. Section 428A.8, Code 1999, is amended by adding
30 the following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. Any tax or additional tax found
32 to be due shall be collected by the county recorder. If the
33 county recorder is unable to collect the tax, it will be
34 collected by the director of revenue and finance in the same
35 manner as taxes are collected in chapter 422, division III.

1 If collected by the director of revenue and finance, the
2 director shall pay the county its proportionate share of the
3 tax. Section 422.25, subsections 1, 2, 3, and 4, sections
4 422.26, 422.28 to 422.30, and 422.73, consistent with this
5 chapter, apply with respect to the collection of any tax or
6 additional tax found to be due, in the same manner and with
7 the same effect as if the deed, instrument, or writing were an
8 income tax return within the meaning of those statutes.

9 Sec. 29. Section 450.4, subsection 5, Code 1999, is
10 amended to read as follows:

11 5. On the value of that portion of any lump sum or
12 installment payments which will be includable as net income as
13 defined in section 422.7 as received by a beneficiary under an
14 annuity which was purchased under an employees pension or
15 retirement plan.

16 Sec. 30. Section 450.4, Code 1999, is amended by adding
17 the following new subsections:

18 NEW SUBSECTION. 7. The value of that portion of any lump
19 sum or installment payments which are received by a
20 beneficiary under an annuity which was purchased under an
21 employee's pension or retirement plan where the employee is a
22 nonresident of Iowa at the time of death.

23 NEW SUBSECTION. 8. The value of that portion of any lump
24 sum or installment payments which are received by a
25 beneficiary under an annuity which was purchased under an
26 employee's pension or retirement pan which was excluded from
27 net income as set forth in section 422.7, subsection 31.

28 Sec. 31. Section 450.10, subsection 4, Code 1999, is
29 amended to read as follows:

30 4. When the property or any interest therein in property
31 or income therefrom from property, taxable under the
32 provisions of this chapter, passes to any firm, corporation,
33 or society organized for profit either under the laws of this
34 state or of any other state, territory, province or country,
35 including fraternal and social organizations which do not

1 qualify for exemption under sections 170(c) and 2055 of the
2 Internal Revenue Code, the rate of tax imposed shall be as
3 follows:

4 Fifteen percent on the entire amount so passing.

5 Sec. 32. Section 452A.2, Code Supplement 1999, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 4A. "Denatured ethanol" means ethanol
8 that is to be blended with gasoline, has been derived from
9 cereal grains, complies with American society of testing
10 materials designation D-4806-95b, and may be denatured only as
11 specified in Code of Federal Regulations, Titles 20, 21, and
12 27. Alcohol and denatured ethanol have the same meaning in
13 this chapter.

14 NEW SUBSECTION. 18A. "Racing fuel" means leaded gasoline
15 of one hundred ten octane or more that does not meet American
16 society of testing materials designation D-4814 for gasoline
17 and is sold in bulk for use in nonregistered motor vehicles.

18 Sec. 33. Section 452A.2, subsection 17, paragraph a, Code
19 Supplement 1999, is amended to read as follows:

20 a. All products commonly or commercially known or sold as
21 gasoline, including ethanol blended gasoline, casinghead, and
22 absorption or natural gasoline, regardless of their
23 classifications or uses, and including transmix which serves
24 as a buffer between fuel products in the pipeline distribution
25 process.

26 Sec. 34. Section 452A.3, subsection 5, paragraph a, Code
27 Supplement 1999, is amended by adding the following new
28 unnumbered paragraph:

29 NEW UNNUMBERED PARAGRAPH. Tax shall not be paid when the
30 sale of alcohol occurs within a terminal from an alcohol
31 manufacturer to an Iowa licensed supplier. The tax shall be
32 paid by the Iowa licensed supplier when the invoiced gross
33 gallonage of the alcohol or the alcohol part of ethanol
34 blended gasoline is withdrawn from a terminal for delivery in
35 this state.

1 Sec. 35. Section 452A.17, subsection 1, paragraph a, Code
2 Supplement 1999, is amended by adding the following new
3 subparagraph:

4 NEW SUBPARAGRAPH. (10) Racing fuel.

5 Sec. 36. Section 453A.1, subsection 26, Code 1999, is
6 amended to read as follows:

7 26. "Tobacco products" means cigars; little cigars as
8 defined in section 453A.42~~7-subsection-5~~; cheroots; stogies;
9 periques; granulated; plug cut, crimp cut, ready rubbed, and
10 other smoking tobacco; moist snuff as defined in section
11 453A.42; snuff, snuff flour; cavendish; plug and twist
12 tobacco; fine-cut and other chewing tobaccos; shorts; or
13 refuse scraps, clippings, cuttings and sweepings of tobacco,
14 and other kinds and forms of tobacco, prepared in such manner
15 as to be suitable for chewing or smoking in a pipe or
16 otherwise, or both for chewing and smoking; but does not mean
17 cigarettes.

18 Sec. 37. Section 453A.2, subsection 3, Code 1999, is
19 amended to read as follows:

20 3. The Iowa department of public health, a county health
21 department, a city health department, or a city may directly
22 enforce this section in district court and initiate
23 proceedings pursuant to section 453A.22 before a permit-
24 issuing authority which issued the permit against a permit
25 holder violating this section.

26 Sec. 38. Section 453A.42, Code 1999, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 6A. "Moist snuff" means any finely cut,
29 ground, or powdered tobacco intended to be placed in the oral
30 cavity, except dry snuff.

31 Sec. 39. Section 453A.42, subsection 14, Code 1999, is
32 amended to read as follows:

33 14. "Tobacco products" means cigars; little cigars as
34 ~~defined-herein~~; cheroots; stogies; periques; granulated, plug
35 cut, crimp cut, ready rubbed, and other smoking tobacco; moist

1 snuff; snuff; snuff flour; cavendish; plug and twist tobacco;
2 fine-cut and other chewing tobaccos; shorts; refuse scraps,
3 clippings, cuttings and sweepings to tobacco, and other kinds
4 and forms of tobacco, prepared in such manner as to be
5 suitable for chewing or smoking in a pipe or otherwise, or
6 both for chewing and smoking; but shall not include cigarettes
7 as defined in section 453A.17--~~subsection-3~~.

8 Sec. 40. Section 453A.43, subsection 1, unnumbered
9 paragraph 1, Code 1999, is amended to read as follows:

10 A tax is imposed upon all tobacco products in this state
11 and upon any person engaged in business as a distributor of
12 tobacco products, at the rate of twenty-two percent of the
13 wholesale sales price of the tobacco products, except little
14 cigars ~~as defined in section 453A.42~~ and moist snuff. Little
15 cigars shall be subject to the same rate of tax imposed upon
16 cigarettes in section 453A.6, payable at the time and in the
17 manner provided in section 453A.6; and stamps shall be affixed
18 as provided in division I of this chapter. Moist snuff shall
19 be subject to tax as provided in subsection 2A. The tax on
20 tobacco products, excluding little cigars and moist snuff,
21 shall be imposed at the time the distributor does any of the
22 following:

23 Sec. 41. Section 453A.43, subsection 2, unnumbered
24 paragraph 1, Code 1999, is amended to read as follows:

25 A tax is imposed upon the use or storage by consumers of
26 tobacco products, except moist snuff, in this state, and upon
27 the consumers, at the rate of twenty-two percent of the cost
28 of the tobacco products.

29 Sec. 42. Section 453A.43, Code 1999, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 2A. a. A tax is imposed upon moist snuff
32 in this state and upon any person engaged in business as a
33 distributor of moist snuff, at the rate of forty-two cents per
34 ounce and a proportionate amount at the same rate for
35 fractional parts of an ounce of moist snuff. The tax on moist

1 snuff shall be imposed at the time the distributor does any of
2 the following:

3 (1) Brings, or causes to be brought, into this state from
4 without the state moist snuff for sale.

5 (2) Makes, manufactures, or fabricates moist snuff in this
6 state for sale in this state.

7 (3) Ships or transports moist snuff to retailers in this
8 state, to be sold by those retailers.

9 b. A tax is imposed upon the use or storage by consumers
10 of moist snuff in this state, and upon the consumers, at the
11 rate of forty-two cents per ounce and a proportionate amount
12 at the same rate for fractional parts of an ounce of moist
13 snuff.

14 The tax imposed by this paragraph shall not apply if the
15 tax imposed by paragraph "a" on the moist snuff has been paid.

16 This tax shall not apply to the use or storage of moist
17 snuff in quantities of less than ten ounces.

18 Sec. 43. Section 453A.45, subsection 5, paragraph a, Code
19 Supplement 1999, is amended to read as follows:

20 a. The transportation of not more than fifty cigars, not
21 more than ten ounces of moist snuff, snuff, or snuff powder,
22 or not more than one pound of smoking or chewing tobacco or
23 other tobacco products not specifically mentioned herein, .

24 Sec. 44. INVENTORY TAX.

25 1. All persons required to be licensed under section
26 453A.44 as distributors having in their possession and held
27 for resale on December 31, 2000, moist snuff upon which the
28 tax under section 453A.43 has been paid shall be subject to an
29 inventory tax on moist snuff as provided in this section.

30 2. Persons subject to the inventory tax imposed under this
31 section shall take an inventory as of the close of the
32 business day on December 31, 2000, of the amount, by weight,
33 of the moist snuff subject to the inventory tax for the
34 purpose of determining the tax due. These persons shall
35 report the tax on forms provided by the department of revenue

1 and finance and remit the tax due within thirty days of the
2 prescribed inventory date. The department of revenue and
3 finance shall adopt rules as are necessary to carry out this
4 section.

5 3. The rate of the inventory tax on each ounce or fraction
6 of an ounce of moist snuff subject to the tax as specified in
7 subsection 1 is equal to the difference between the amount
8 paid on moist snuff under section 453A.43 computed to a rate
9 per ounce prior to January 1, 2001, and the amount that is to
10 be paid on each ounce or fraction of an ounce of moist snuff
11 under section 453A.43 on or after January 1, 2001. However,
12 if the total amount of tax paid on the moist snuff prior to
13 January 1, 2001, exceeds the amount that is imposed on the
14 moist snuff on or after January 1, 2001, the distributor is
15 entitled to a refund of the excess.

16 Sec. 45. EFFECTIVE AND APPLICABILITY DATES. This Act,
17 being deemed of immediate importance, takes effect upon
18 enactment, except as follows:

19 1. Sections 15, 17, 19, 20, 22, 23, 24, 25, 26, and 27 of
20 this Act, amending Code sections 424.10, 424.12, 424.15,
21 427.1, 427.16, 427C.3, and 427C.7, take effect January 1,
22 2001, and apply to claims filed on or after that date.

23 2. Sections 29, 30, and 31 of this Act, amending Code
24 sections 450.4 and 450.10, take effect July 1, 2000, for
25 estates of decedents dying on or after that date.

26 3. Section 36 and sections 38 through 43 of this Act,
27 amending Code sections 453A.1, 453A.42, 453A.43, and 453A.45,
28 take effect January 1, 2001.

29 EXPLANATION

30 This bill amends various tax provisions of state law.

31 Code section 15.331A is amended to allow a business which
32 is eligible to receive benefits under the new jobs and income
33 Act to file a claim for refund of sales and use tax paid by
34 the contractor under a building contract within one year of
35 the project's completion rather than the six months previously

1 allowed.

2 Code section 404.4 is amended to specify that the length of
3 time over which an urban revitalization property tax exemption
4 may be allowed in situations where a timely application for
5 exemption was not filed is equal to the number of remaining
6 years left in the exemption schedule selected.

7 Code section 421.17, subsection 16, is amended to expand
8 the scope of the technical advice received from other state
9 agencies to include that related to all taxes administered by
10 the department rather than just property taxes.

11 A new Code section 421.46 is added which authorizes the
12 department of revenue and finance to enter into agreements
13 with an Indian tribe to collect and distribute a state tax or
14 a tribal tax. The new provision further provides that if the
15 department collects and distributes a tribal tax on behalf of
16 the Indian tribe, the department may charge a mutually agreed
17 upon administrative fee.

18 Code section 421.60, subsection 2, is amended to extend the
19 director of revenue and finance's authority to abate unpaid
20 state sales and use taxes and local option sales and services
21 taxes to situations in which a retailer who is responsible for
22 collecting these taxes fails to do so in reliance on erroneous
23 written advice specially issued to the retailer by the
24 department of revenue and finance, and the retailer is unable
25 to collect the unpaid taxes from purchasers. Subsequent
26 written advice sent by the department of revenue and finance
27 to the retailer, or a change in state or federal law, a
28 reported contrary court case, a contrary rule adopted by the
29 department, or the retailer's misrepresentation shall preclude
30 the abatement. An abatement of the unpaid tax by a retailer
31 under the circumstances provided in the bill does not preclude
32 the department of revenue and finance from collecting the tax
33 from the purchaser.

34 The new provision also requires the abatement of taxes not
35 collected as a result of certain erroneous written advice

1 issued by the department to a retailer prior to July 1, 1999,
2 relating to sales and use taxes on charges for access to on-
3 line computer services.

4 Code section 422.45, subsection 56, expands the computer
5 access exemption from sales and use taxes. The present
6 exemption only applies to access to the internet. The
7 amendment would include other information made available
8 through any computer server.

9 Code section 422.47 is amended to delete subsection 2,
10 which is obsolete as the provision applies to the refund of
11 the excess tax paid on a construction contract fully executed
12 prior to July 1, 1992, when the sales tax rate was increased
13 from four cents to five cents.

14 Code section 422.52 is amended to conform to the amendment
15 in the bill to Code section 421.60.

16 Code section 422.53, subsection 3, is amended to allow a
17 sales tax permit holder to keep the same permit when the
18 business is relocated in the state if the ownership remains
19 the same.

20 Code section 422.110 is amended to replace the words
21 "eligible purchasers" with the word "distributors" to reflect
22 more accurate terminology as defined in Code chapter 452A.

23 Code section 422A.1 is amended to impose a duty upon the
24 county auditor to notify, within 10 days, the director of
25 revenue and finance of the outcome of the election favoring
26 the imposition, repeal, or rate change of the local hotel and
27 motel tax.

28 Code sections 422B.8 and 422E.3 are amended to impose local
29 options sales and services tax only on motor fuels and special
30 fuels in which tax pursuant to Code chapter 452A has not been
31 imposed and, if paid, has not nor cannot be refunded.

32 Code section 423.4, subsection 9, is amended to add limited
33 liability companies to the list of businesses that are exempt
34 from the use tax for the transfer of vehicles subject to
35 registration between businesses where the purpose of the

1 transfer is to continue the business. The exemption is also
2 made to apply to such transfer made by a corporation as part
3 of its liquidation to its shareholders if the shareholders
4 retransfer the vehicles to another business owned by them for
5 the purpose of continuing the business of the corporation.

6 Code section 424.10 and Code section 424.15 are amended to
7 reduce the period for assessing the environmental protection
8 charge or for filing a claim for refund of an environmental
9 protection charge paid from five to three years. This
10 promotes consistency by bringing those periods into harmony
11 with the time allowed for assessing or filing a claim for
12 refund of sales or use tax paid.

13 Code section 424.10, subsection 2, and Code section 424.13
14 are amended to replace the word "tax" with the word "charge".
15 Code section 424.3 imposes a "petroleum diminution charge" and
16 not a "petroleum diminution tax". Code section 424.10,
17 subsection 2, is also amended to change the reference to
18 "taxpayer" to "person against whom (a charge) is assessed".

19 Code section 424.12 is amended to reduce the requirement
20 that depositors of underground petroleum must keep records
21 from a period of five years to a period of three years for
22 purposes of the environmental protection charge.

23 Code sections 427.1, subsection 14, 427.1, subsection 20,
24 427.1, subsection 22, 427.1, subsection 30, 427.16, subsection
25 2, 427C.3, and 427C.7 are amended to change the dates for
26 filing claims for various property tax exemptions to February
27 1 for purposes of uniformity.

28 Code section 427.1, subsection 16, is amended to specify
29 the effective date of the order when the director revokes or
30 modifies a property tax exemption for a specific year either
31 on the director's own motion or upon application by a
32 taxpayer.

33 Code section 428A.8 is amended to provide that any
34 additional tax owed that cannot be collected by the local
35 county recorder will be collected by the department in the

1 same manner as individual income tax. This amendment is
2 necessary because there is no provision in Code chapter 428A
3 to collect unpaid real estate transfer taxes. If the tax is
4 collected by the department, the county is to be paid its
5 proportionate share of the tax.

6 Code section 450.4, subsection 5, is amended to allow
7 distributions to beneficiaries to be exempt from Iowa
8 inheritance tax whether such distributions are lump sum in
9 nature or in the form of installments. Installment payments
10 are currently exempt from tax. Code section 450.4 is also
11 amended to provide for the exemption from Iowa inheritance tax
12 of distributions from nonresident employment-related pensions
13 and pension income excluded from net income under Code section
14 422.7, subsection 31. This amendment relates to Code section
15 422.7, subsection 31, and Code section 422.8, which exempt
16 such distributions from Iowa income tax.

17 Code section 450.10 is amended to remove outdated
18 reciprocity language and to include additional language to
19 specify the tax treatment of fraternal and social
20 organizations.

21 Code section 452A.2 is amended to add definitions for
22 "denatured alcohol" and "racing fuel".

23 Code section 452A.2, subsection 17, paragraph "a", is
24 amended to redefine "motor fuel" to include ethanol blended
25 gasoline.

26 Code section 452A.3, subsection 5, paragraph "a", is
27 amended to provide that the tax on alcohol be paid when it is
28 withdrawn from the terminal rather than when it is sold within
29 the terminal as is the case under present law.

30 Code section 452A.17, subsection 1, paragraph "a", is
31 amended to permit a refund of tax paid on fuel used for
32 racing. This change is being made to conform with federal
33 regulations.

34 Code sections 453A.1, 453A.42, 453A.43, and 453A.45, are
35 amended to provide for moist snuff to be taxed on a per ounce

1 basis similar to the federal method of taxation. An inventory
2 tax on moist snuff is also imposed.

3 Code section 453A.2, subsection 3, is amended to specify
4 that an appeal of a cigarette permit suspension or revocation
5 must be made to the authority that issued the permit. Cities
6 and counties issue permits to retail establishments in their
7 jurisdictions and the department of revenue and finance issues
8 distributor, manufacturer, wholesaler, and vendor permits.

9 The bill takes effect upon enactment and some provisions
10 have different effective and applicability dates.

11
12

HOUSE FILE 2548

H-8541

1 Amend House File 2548 as follows:

- 2 1. Page 19, by striking lines 5 through 17.
- 3 2. By striking page 19, line 26 through page 22,
4 line 15.
- 5 3. Page 22, by striking lines 26 through 28.

By SHOULTZ of Black Hawk

H-8541 FILED MARCH 23, 2000

*lost 3/27/00
(P. 989)*

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HOUSE FILE 2548

H-8531

1 Amend House File 2548 as follows:

2 1. Page 3, by inserting after line 31 the
3 following:

4 "Sec. ____ . Section 421B.4, Code 1999, is amended
5 to read as follows:

6 421B.4 COMBINATION SALES.

7 In all offers for sale or sales involving
8 cigarettes and any other item at a combined price, and
9 ~~in all offers for sale, or sales, involving the giving~~
10 ~~of any gift or concession of any kind whatsoever~~
11 ~~{whether it be coupons or otherwise},~~ the wholesaler's
12 or retailer's combined selling price shall not be
13 below the cost to the wholesaler or the cost to the
14 retailer, respectively, ~~of the total of all articles,~~
15 ~~products, commodities, gifts and concessions included~~
16 ~~in such transactions:-- If any such articles, products,~~
17 ~~commodities, gifts or concessions, shall not be~~
18 ~~cigarettes, the basic cost thereof shall be determined~~
19 ~~in like manner as provided in section 421B:2,~~
20 ~~subsection 8."~~

21 2. Page 19, by inserting after line 25 the
22 following:

23 "Sec. ____ . Section 453A.39, Code 1999, is amended
24 by striking the section and inserting in lieu thereof
25 the following:

26 453A.39 TOBACCO PRODUCTS, CIGARETTES, GIFTS, AND
27 PAYMENTS FOR DISPLAYING CIGARETTES -- PROHIBITIONS.

28 1. Unless authorized under subsection 3, a
29 manufacturer, distributor, wholesaler, retailer, or
30 distributing agent or agent thereof shall not give
31 away cigarettes or tobacco products at any time in
32 connection with the manufacturer's, distributor's,
33 wholesaler's, retailer's, or distributing agent's
34 business or for promotion of the business or product.

35 2. Unless authorized under subsection 3, a
36 manufacturer, distributor, wholesaler, retailer, or
37 distributing agent shall not provide free articles,
38 products, commodities, gifts, or concessions in an
39 offer for sale or sale involving cigarettes or tobacco
40 products.

41 3. The prohibitions in this section do not apply
42 to transactions between manufacturers, distributors,
43 or wholesalers."

By CHIODO of Polk

H-8531 FILED MARCH 23, 2000

*put Henson
motion to suspend Rules - lost 3/27/00
(P. 988)*

HOUSE FILE 2548

H-8548

1 Amend House File 2548 as follows:

2 1. Page 2, by striking lines 16 through 20 and
3 inserting the following:

4 "2. The department is authorized to enter into a
5 tax refund agreement with the governing body of any
6 federally recognized Indian settlement in Iowa
7 providing for a mutually agreed upon amount as a
8 refund to the governing body of any sales or excise
9 tax paid by the total resident Indian population on or
10 adjacent to the tribe's lands into the state treasury,
11 notwithstanding any other law which limits the refund
12 of taxes. The total resident Indian population on or
13 adjacent to the tribe's lands shall be defined
14 according to the United States department of the
15 interior, bureau of Indian affairs, as determined and
16 stated in its report on service population and labor
17 force.

18 3. The department is authorized to enter into a
19 tax agreement with the governing body of any federally
20 recognized Indian tribe in Iowa which provides for the
21 state and the tribal government to share revenues
22 generated by any taxes and fees, now imposed or
23 hereafter authorized by the Iowa general assembly on
24 transactions involving non-Indians on the tribe's
25 lands, and on transactions involving members of the
26 tribe off the tribe's lands."

27 2. Page 2, line 21, by inserting before the word
28 "An" the following: "4."

By HORBACH of Tama

H-8548 FILED MARCH 27, 2000

W/P
3/27/00
(p. 989)

HOUSE FILE 2548

S-5348

1 Amend House File 2548, as passed by the House, as
2 follows:

3 1. Page 2, line 18, by inserting after the word
4 "distribution" the following: "or refund".

5 2. Page 2, by inserting after line 26 the
6 following:

7 "3. The provisions of this section shall not be
8 construed to establish or relinquish any jurisdiction
9 the state or an Indian tribe might have to levy or
10 collect from any person any tax or fee within or
11 without Indian country."

12 3. Page 17, by inserting after line 8 the
13 following:

14 "Sec. 101. Section 437A.3, subsection 1,
15 unnumbered paragraph 1, Code Supplement 1999, is
16 amended to read as follows:

17 "Assessed value" means the base year assessed
18 value, as adjusted by section 437A.19, subsection 2.
19 "Base year assessed value", for a taxpayer other than
20 an electric company, natural gas company, or electric
21 cooperative, means the value attributable to property
22 identified in section 427A.1, subsection 1, paragraph
23 "h", certified by the department of revenue and
24 finance to the county auditors for the assessment date
25 of January 1, 1997, and the value attributable to
26 property identified in section 427A.1 and section
27 427B.17, subsection 5, as certified by the local
28 assessors to the county auditors for the assessment
29 date of January 1, 1997. However, "base year assessed
30 value", for purposes of property of a taxpayer that is
31 a municipal utility, which property is not a major
32 addition, was initially assessed to the taxpayer as of
33 January 1, 1998, and is not located in a county where
34 the taxpayer had property that was assessed for
35 purposes of this chapter as of January 1, 1997, is the
36 value attributable to such property for the assessment
37 date of January 1, 1998."

38 4. Page 19, by striking lines 5 through 17.

39 5. By striking page 19, line 26 through page 22,
40 line 15.

41 6. Page 22, by striking lines 26 through 28.

42 7. Page 22, by inserting before line 29 the
43 following:

44 "____. Section 101 of this Act, amending section
45 437A.3, being deemed of immediate importance, takes
46 effect upon enactment and applies retroactively to
47 January 1, 2000, for tax years beginning on and after
48 that date."

49 8. By renumbering as necessary.

By COMMITTED ON WAYS AND MEANS
JoANN JOHNSON, Chairperson

S-5348 FILED APRIL 5, 2000

A + B 0/0 4/13/00 (P. 1167)

SENATE AMENDMENT TO HOUSE FILE 2548

H-8907

1 Amend House File 2548, 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 15.331A, subsection 2, Code
6 1999, is amended to read as follows:

7 2. The eligible business or a supporting business
8 shall, not more than ~~six-months~~ one year after project
9 completion, make application to the department for any
10 refund of the amount of the taxes paid pursuant to
11 chapter 422 or 423 upon any goods, wares, or
12 merchandise, or services rendered, furnished, or
13 performed, including water, sewer, gas, and electric
14 utility services. The application shall be made in
15 the manner and upon forms to be provided by the
16 department, and the department shall audit the claim
17 and, if approved, issue a warrant to the eligible
18 business or supporting business in the amount of the
19 sales or use tax which has been paid to the state of
20 Iowa under a contract. A claim filed by the eligible
21 business or a supporting business in accordance with
22 this section shall not be denied by reason of a
23 limitation provision set forth in chapter 421, 422, or
24 423.

25 Sec. 2. Section 404.4, unnumbered paragraph 2,
26 Code 1999, is amended to read as follows:

27 An application shall be filed for each new
28 exemption claimed. The first application for an
29 exemption shall be filed by the owner of the property
30 with the governing body of the city or county in which
31 the property is located by February 1 of the
32 assessment year for which the exemption is first
33 claimed, but not later than the year in which all
34 improvements included in the project are first
35 assessed for taxation, unless, upon the request of the
36 owner at any time, the governing body of the city or
37 county provides by resolution that the owner may file
38 an application by February 1 of any other assessment
39 year selected by the governing body in which case the
40 exemption is allowed for the number of years remaining
41 in the exemption schedule selected. The application
42 shall contain, but not be limited to, the following
43 information: The nature of the improvement, its cost,
44 the estimated or actual date of completion, the
45 tenants that occupied the owner's building on the date
46 the city or county adopted the resolution referred to
47 in section 404.2, subsection 1, and which exemption in
48 section 404.3 or in the different schedule, if one has
49 been adopted, will be elected.

50 Sec. 3. Section 421.17, subsection 16, Code

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1 Supplement 1999, is amended to read as follows:

2 16. To call upon any a state department agency or
3 institution for technical advice and data which may be
4 of value in connection with the work of assessment-and
5 taxation the department.

6 Sec. 4. NEW SECTION. 421.46 TAX AGREEMENTS WITH
7 INDIAN TRIBES.

8 1. "Indian country" means the Indian country as
9 defined in 18 U.S.C. § 1151, and includes trust land
10 as defined by the United States secretary of the
11 interior.

12 2. The department and the governing council of an
13 Indian tribe may enter into an agreement to provide
14 for the collection and distribution or refund by the
15 department within Indian country of any tax or fee
16 imposed by the state and administered by the
17 department.

18 An agreement may also provide for the collection
19 and distribution by the department of any tribal tax
20 or fee imposed by tribal ordinance. The agreement may
21 provide for the retention of an administrative fee by
22 the department which fee shall be an agreed upon
23 percentage of the gross revenue of the tribal tax or
24 fee collected.

25 3. The provisions of this section shall not be
26 construed to establish or relinquish any jurisdiction
27 the state or an Indian tribe might have to levy or
28 collect from any person any tax or fee within or
29 without Indian country.

30 Sec. 5. Section 421.60, subsection 2, Code 1999,
31 is amended by adding the following new paragraph:

32 NEW PARAGRAPH. m. (1) The director may abate
33 unpaid state sales and use taxes and local sales and
34 services taxes owed by a retailer in the event that
35 the retailer failed to collect tax from the purchaser
36 as a result of erroneous written advice issued by the
37 department that was specially directed to the retailer
38 by the department and the retailer is unable to
39 collect the tax, interest, or penalties from the
40 purchaser. Before the tax, interest, and penalties
41 shall be abated on the basis of erroneous written
42 advice, the retailer must present a copy of the
43 retailer's request for written advice to the
44 department and a copy of the department's reply. The
45 department shall not maintain a position against the
46 retailer that is inconsistent with the erroneous
47 written advice, except on the basis of subsequent
48 written advice sent by the department to that
49 retailer, or a change in state or federal law, a
50 reported court case to the contrary, a contrary rule

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1 adopted by the department, a change in material facts
2 or circumstances relating to the retailer, or the
3 retailer's misrepresentation or incomplete or
4 inadequate representation of material facts and
5 circumstances in requesting the written advice.

6 (2) The director shall abate the unpaid state
7 sales and use taxes and any local sales and services
8 taxes owed by a retailer where the retailer failed to
9 collect the tax from the purchaser on the charges paid
10 for access to on-line computer services as a result of
11 erroneous written advice issued by the department
12 regarding the taxability of charges paid for access to
13 on-line computer services. To qualify for the
14 abatement under this subparagraph, the erroneous
15 written advice shall have been issued by the
16 department prior to July 1, 1999, and shall have been
17 specially directed to the retailer by the department.

18 (3) The director shall prepare quarterly reports
19 summarizing each case in which abatement of tax,
20 interest, or penalties was made. However, the report
21 shall not disclose the identity of the taxpayer. An
22 abatement authorized by this paragraph to a retailer
23 shall not preclude the department from proceeding to
24 collect the liability from a purchaser.

25 Sec. 6. Section 422.45, subsection 56, Code
26 Supplement 1999, is amended to read as follows:

27 56. The gross receipts from charges paid to a
28 provider for access to on-line computer services. For
29 purposes of this subsection, "on-line computer
30 service" means a service that provides or enables
31 computer access by multiple users to the internet or
32 to other information made available through a computer
33 server.

34 Sec. 7. Section 422.47, subsection 2, Code
35 Supplement 1999, is amended by striking the
36 subsection.

37 Sec. 8. Section 422.52, subsection 6, paragraph a,
38 Code Supplement 1999, is amended to read as follows:

39 a. If a purchaser fails to pay tax imposed by this
40 division to the retailer required to collect the tax,
41 then in addition to all of the rights, obligations,
42 and remedies provided, the tax is payable by the
43 purchaser directly to the department, and sections
44 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
45 422.57, 422.58, and 422.59 apply to the purchaser.
46 For failure, the retailer and purchaser are liable,
47 unless the circumstances described in section 421.60,
48 subsection 2, paragraph "m", or section 422.47,
49 subsection 3, paragraph "b" or "e", or subsection 4,
50 paragraph "b" or "d", are applicable.

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Page 4

1 Sec. 9. Section 422.53, subsection 3, Code
2 Supplement 1999, is amended to read as follows:

3 3. The department shall grant and issue to each
4 applicant a permit for each place of business within
5 the state. A permit is not assignable and is valid
6 only for the person in whose name it is issued and for
7 the transaction of business at the place designated or
8 a place of relocation within the state if the
9 ownership remains the same.

10 Sec. 10. Section 422.110, unnumbered paragraph 1,
11 Code Supplement 1999, is amended to read as follows:

12 In lieu of the fuel tax refund provided in section
13 452A.17, a person or corporation subject to taxation
14 under divisions II or III of this chapter may elect to
15 receive an income tax credit. The person or
16 corporation which elects to receive an income tax
17 credit shall cancel its refund permit obtained under
18 section 452A.18 within thirty days after the first day
19 of its tax year or the permit becomes invalid at that
20 time. For the purposes of this section, "person"
21 includes a person claiming a tax credit based upon the
22 person's pro rata share of the earnings from a
23 partnership, limited liability company, or corporation
24 which is not subject to a tax under division II or III
25 of this chapter as a partnership, limited liability
26 company, or corporation. If the election to receive
27 an income tax credit has been made, it remains
28 effective for at least one tax year, and for
29 subsequent tax years unless a change is requested and
30 a new refund permit applied for within thirty days
31 after the first day of the person's or corporation's
32 tax year. The income tax credit shall be the amount
33 of the Iowa fuel tax paid on fuel purchased by the
34 person or corporation and is subject to the conditions
35 provided in section 452A.17 with the exception that
36 the income tax credit is not available for refunds
37 relating to casualty losses, transport diversions,
38 pumping credits, blending errors, idle time, power
39 takeoffs, reefer units, and exports by eligible
40 purchasers distributors.

41 Sec. 11. Section 422A.1, Code 1999, is amended by
42 adding the following new unnumbered paragraph after
43 unnumbered paragraph 1:

44 NEW UNNUMBERED PARAGRAPH. Within ten days of the
45 election at which a majority of those voting on the
46 question favors the imposition, repeal, or change in
47 the rate of the hotel and motel tax, the county
48 auditor shall give written notice by sending a copy of
49 the abstract of votes from the favorable election to
50 the director of revenue and finance.

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1 Sec. 12. Section 422B.8, unnumbered paragraph 1,
2 Code Supplement 1999, is amended to read as follows:
3 A local sales and services tax at the rate of not
4 more than one percent may be imposed by a county on
5 the gross receipts taxed by the state under chapter
6 422, division IV. A local sales and services tax
7 shall be imposed on the same basis as the state sales
8 and services tax or in the case of the use of natural
9 gas, natural gas service, electricity, or electric
10 service on the same basis as the state use tax and
11 shall not be imposed on the sale of any property or on
12 any service not taxed by the state, except the tax
13 shall not be imposed on the gross receipts from the
14 sale of motor fuel or special fuel as defined in
15 chapter 452A which is consumed for highway use or in
16 watercraft or aircraft if the fuel tax is paid on the
17 transaction and a refund has not or will not be
18 allowed, on the gross receipts from the rental of
19 rooms, apartments, or sleeping quarters which are
20 taxed under chapter 422A during the period the hotel
21 and motel tax is imposed, on the gross receipts from
22 the sale of equipment by the state department of
23 transportation, on the gross receipts from the sale of
24 self-propelled building equipment, pile drivers,
25 motorized scaffolding, or attachments customarily
26 drawn or attached to self-propelled building
27 equipment, pile drivers, and motorized scaffolding,
28 including auxiliary attachments which improve the
29 performance, safety, operation, or efficiency of the
30 equipment and replacement parts and are directly and
31 primarily used by contractors, subcontractors, and
32 builders for new construction, reconstruction,
33 alterations, expansion, or remodeling of real property
34 or structures, and on the gross receipts from the sale
35 of a lottery ticket or share in a lottery game
36 conducted pursuant to chapter 99E and except the tax
37 shall not be imposed on the gross receipts from the
38 sale or use of natural gas, natural gas service,
39 electricity, or electric service in a city or county
40 where the gross receipts from the sale of natural gas
41 or electric energy are subject to a franchise fee or
42 user fee during the period the franchise or user fee
43 is imposed. A local sales and services tax is
44 applicable to transactions within those incorporated
45 and unincorporated areas of the county where it is
46 imposed and shall be collected by all persons required
47 to collect state gross receipts taxes. However, a
48 person required to collect state retail sales tax
49 under chapter 422, division IV, is not required to
50 collect local sales and services tax on transactions

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1 delivered within the area where the local sales and
2 services tax is imposed unless the person has physical
3 presence in that taxing area. All cities contiguous
4 to each other shall be treated as part of one
5 incorporated area and the tax would be imposed in each
6 of those contiguous cities only if the majority of
7 those voting in the total area covered by the
8 contiguous cities favor its imposition.

9 Sec. 13. Section 422E.3, subsection 2, Code
10 Supplement 1999, is amended to read as follows:

11 2. The tax shall be imposed on the same basis as
12 the state sales and services tax or in the case of the
13 use of natural gas, natural gas service, electricity,
14 or electric service on the same basis as the state use
15 tax and shall not be imposed on the sale of any
16 property or on any service not taxed by the state,
17 except the tax shall not be imposed on the gross
18 receipts from the sale of motor fuel or special fuel
19 as defined in chapter 452A which is consumed for
20 highway use or in watercraft or aircraft if the fuel
21 tax is paid on the transaction and a refund has not or
22 will not be allowed, on the gross receipts from the
23 rental of rooms, apartments, or sleeping quarters
24 which are taxed under chapter 422A during the period
25 the hotel and motel tax is imposed, on the gross
26 receipts from the sale of equipment by the state
27 department of transportation, on the gross receipts
28 from the sale of self-propelled building equipment,
29 pile drivers, motorized scaffolding, or attachments
30 customarily drawn or attached to self-propelled
31 building equipment, pile drivers, and motorized
32 scaffolding, including auxiliary attachments which
33 improve the performance, safety, operation, or
34 efficiency of the equipment, and replacement parts and
35 are directly and primarily used by contractors,
36 subcontractors, and builders for new construction,
37 reconstruction, alterations, expansion, or remodeling
38 of real property or structures, and on the gross
39 receipts from the sale of a lottery ticket or share in
40 a lottery game conducted pursuant to chapter 99E and
41 except the tax shall not be imposed on the gross
42 receipts from the sale or use of natural gas, natural
43 gas service, electricity, or electric service in a
44 city or county where the gross receipts from the sale
45 of natural gas or electric energy are subject to a
46 franchise fee or user fee during the period the
47 franchise or user fee is imposed.

48 Sec. 14. Section 423.4, subsection 9, Code
49 Supplement 1999, is amended to read as follows:

50 9. Vehicles subject to registration which are

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1 transferred from a business or individual conducting a
2 business within this state as a sole proprietorship,
3 or partnership, or limited liability company to a
4 corporation formed by the sole proprietorship, or
5 partnership, or limited liability company for the
6 purpose of continuing the business when all of the
7 stock of the corporation so formed is owned by the
8 sole proprietor and the sole proprietor's spouse, or
9 by all the partners in the case of a partnership, or
10 by all of the members in the case of a limited
11 liability company. This exemption is equally
12 available where the vehicles subject to registration
13 are transferred from a corporation to a sole
14 proprietorship, or partnership, or limited liability
15 company formed by that corporation for the purpose of
16 continuing the business when all of the incidents of
17 ownership are owned by the same person or persons who
18 were stockholders of the corporation.

19 This exemption also applies where the vehicles
20 subject to registration are transferred from a
21 corporation as part of the liquidation of the
22 corporation to its stockholders if within three months
23 of such transfer the stockholders retransfer those
24 vehicles subject to registration to a sole
25 proprietorship, partnership, or limited liability
26 company for the purpose of continuing the business of
27 the corporation when all of the incidents of ownership
28 are owned by the same person or persons who were
29 stockholders of the corporation.

30 Sec. 15. Section 424.10, subsections 1 and 3, Code
31 Supplement 1999, are amended to read as follows:

32 1. As soon as practicable after a return is filed
33 and in any event within five three years after the
34 return is filed the department shall examine it,
35 assess and determine the charge due if the return is
36 found to be incorrect, and give notice to the
37 depositor of such the assessment and determination as
38 provided in subsection 2. The period for the
39 examination and determination of the correct amount of
40 the charge is unlimited in the case of a false or
41 fraudulent return made with the intent to evade the
42 charge or in the case of a failure to file a return.
43 If the determination that a return is incorrect is the
44 result of an audit of the books and records of the
45 depositor, the charge, or additional charge, if any is
46 found due, shall be assessed and determined and the
47 notice to the depositor shall be given by the
48 department within one year after the completion of the
49 examination of the books and records.

50 3. If the amount paid is greater than the correct

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1 charge, penalty, and interest due, the department
2 shall refund the excess, with interest after sixty
3 days from the date of payment at the rate in effect
4 under section 421.7, pursuant to rules prescribed by
5 the director. However, the director shall not allow a
6 claim for refund that has not been filed with the
7 department within ~~five~~ three years after the charge
8 payment upon which a refund is claimed became due, or
9 one year after the charge payment was made, whichever
10 time is later. A determination by the department of
11 the amount of charge, penalty, and interest due, or
12 the amount of refund for any excess amount paid, is
13 final unless the person aggrieved by the determination
14 appeals to the director for a revision of the
15 determination within sixty days from the date of the
16 notice of determination of charge, penalty, and
17 interest due or refund owing. The director shall
18 grant a hearing, and upon hearing the director shall
19 determine the correct charge, penalty, and interest
20 due or refund owing, and notify the appellant of the
21 decision by mail. The decision of the director is
22 final unless the appellant seeks judicial review of
23 the director's decision under section 424.13.

24 Sec. 16. Section 424.10, subsection 2, Code
25 Supplement 1999, is amended to read as follows:

26 2. If a return required by this chapter is not
27 filed, or if a return when filed is incorrect or
28 insufficient and the maker fails to file a corrected
29 or sufficient return within twenty days after the
30 return is required by notice from the department, the
31 department shall determine the amount of charge due
32 from information as the department may be able to
33 obtain and, if necessary, may estimate the charge on
34 the basis of external indices or factors. The
35 department shall give notice of the determination to
36 the person liable for the charge. The determination
37 shall fix the charge unless the person against whom it
38 is assessed shall, within sixty days after the date of
39 the notice of the determination, apply to the director
40 for a hearing or unless the taxpayer person against
41 whom it is assessed contests the determination by
42 paying the tax charge, interest, and penalty and
43 timely filing a claim for refund. At the hearing
44 evidence may be offered to support the determination
45 or to prove that it is incorrect. After the hearing
46 the director shall give notice of the decision to the
47 person liable for the charge.

48 If a depositor's, receiver's, or other person's
49 challenge relates to the diminution rate, the burden
50 of proof upon the challenger shall only be satisfied

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1 by clear and convincing evidence.

2 Sec. 17. Section 424.12, Code 1999, is amended to
3 read as follows:

4 424.12 RECORDS REQUIRED.

5 It ~~shall-be~~ is the duty of every depositor required
6 to make a report and pay any charge under this
7 chapter, to preserve such records as the director may
8 require, and it ~~shall-be~~ is the duty of every
9 depositor to preserve for a period of five three years
10 all invoices and other records; and all such books,
11 invoices, and other records shall be open to
12 examination at any time by the department, and shall
13 be made available within this state for such
14 examination upon reasonable notice when the director
15 shall so order. When requested to do so by any person
16 from whom a charge payer is seeking credit, or with
17 whom the charge payer is negotiating the sale of any
18 personal property, or by any other person having a
19 legitimate interest in such information, the director,
20 upon being satisfied that such a situation exists,
21 shall inform such that person as to the amount of
22 unpaid charges due by the charge payer under the
23 ~~provisions-of~~ this chapter. The giving of such
24 information under such circumstances shall not be
25 deemed a violation of section 422.72 as applied to
26 this chapter.

27 Section 422.72 applies to this chapter as if the
28 environmental protection charge were a tax.

29 Sec. 18. Section 424.13, subsection 2, Code 1999,
30 is amended to read as follows:

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

38 Sec. 19. Section 424.15, unnumbered paragraph 1,
39 Code 1999, is amended to read as follows:

40 If it appears that, as a result of mistake, an
41 amount of a charge, penalty, or interest has been paid
42 which was not due under ~~the-provisions-of~~ this
43 chapter, then such that amount shall be refunded to
44 such-person the charge payer by the department. A
45 claim for refund that has not been filed with the
46 department within five three years after the charge
47 payment upon which a refund is claimed became due, or
48 one year after such that charge payment was made,
49 whichever time is the later, shall not be allowed by
50 the director.

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1 Sec. 20. Section 427.1, subsection 14, unnumbered
2 paragraph 1, Code Supplement 1999, is amended to read
3 as follows:

4 A society or organization claiming an exemption
5 under subsection 5 or subsection 8 shall file with the
6 assessor not later than ~~April~~ February 1 a
7 statement upon forms to be prescribed by the director
8 of revenue and finance, describing the nature of the
9 property upon which the exemption is claimed and
10 setting out in detail any uses and income from the
11 property derived from the rentals, leases, or other
12 uses of the property not solely for the appropriate
13 objects of the society or organization. Upon the
14 filing and allowance of the claim, the claim shall be
15 allowed on the property for successive years without
16 further filing as long as the property is used for the
17 purposes specified in the original claim for
18 exemption. When the property is sold or transferred,
19 the county recorder shall provide notice of the
20 transfer to the assessor. The notice shall describe
21 the property transferred and the name of the person to
22 whom title to the property is transferred.

23 Sec. 21. Section 427.1, subsection 16, Code
24 Supplement 1999, is amended to read as follows:

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

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1 judicial review may be filed in the district court
2 having jurisdiction in the county in which the
3 property is located, and must be filed within thirty
4 days after any order revoking or modifying an
5 exemption is made by the director of revenue and
6 finance.

7 Sec. 22. Section 427.1, subsection 20, Code
8 Supplement 1999, is amended to read as follows:

9 20. IMPOUNDMENT STRUCTURES. The impoundment
10 structure and any land underlying an impoundment
11 located outside an incorporated city, which are not
12 developed or used directly or indirectly for
13 nonagricultural income-producing purposes and which
14 are maintained in a condition satisfactory to the soil
15 and water conservation district commissioners of the
16 county in which the impoundment structure and the
17 impoundment are located. A person owning land which
18 qualifies for a property tax exemption under this
19 subsection shall apply to the county assessor each
20 year ~~before the first of July~~ not later than February
21 1 for the exemption. The application shall be made on
22 forms prescribed by the department of revenue and
23 finance. The first application shall be accompanied
24 by a copy of the water storage permit approved by the
25 administrator of the environmental protection division
26 of the department of natural resources and a copy of
27 the plan for the construction of the impoundment
28 structure and the impoundment. The construction plan
29 shall be used to determine the total acre-feet of the
30 impoundment and the amount of land which is eligible
31 for the property tax exemption status. The county
32 assessor shall annually review each application for
33 the property tax exemption under this subsection and
34 submit it, with the recommendation of the soil and
35 water conservation district commissioners, to the
36 board of supervisors for approval or denial. An
37 applicant for a property tax exemption under this
38 subsection may appeal the decision of the board of
39 supervisors to the district court.

40 PARAGRAPH DIVIDED. As used in this subsection,
41 "impoundment" means a reservoir or pond which has a
42 storage capacity of at least eighteen acre-feet of
43 water or sediment at the time of construction;
44 "storage capacity" means the total area below the
45 crest elevation of the principal spillway including
46 the volume of any excavation in the area; and
47 "impoundment structure" means a dam, earthfill, or
48 other structure used to create an impoundment.

49 Sec. 23. Section 427.1, subsection 22, unnumbered
50 paragraph 2, Code Supplement 1999, is amended to read

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1 as follows:

2 Application for this exemption shall be filed with
3 the commissioners of the soil and water conservation
4 district in which the property is located, not later
5 than ~~April-15~~ February 1 of the assessment year, on
6 forms provided by the department of revenue and
7 finance. The application shall describe and locate
8 the property to be exempted and have attached to it an
9 aerial photo of that property on which is outlined the
10 boundaries of the property to be exempted. In the
11 case of an open prairie which is or includes a gully
12 area susceptible to severe erosion, an approved
13 erosion control plan must accompany the application.
14 Upon receipt of the application, the commissioners
15 shall certify whether the property is eligible to
16 receive the exemption. The commissioners shall not
17 withhold certification of the eligibility of property
18 because of the existence upon the property of an
19 abandoned building or structure which is not used for
20 economic gain. If the commissioners certify that the
21 property is eligible, the application shall be
22 forwarded to the board of supervisors by May 1 of that
23 assessment year with the certification of the eligible
24 acreage. An application must be accompanied by an
25 affidavit signed by the applicant that if an exemption
26 is granted, the property will not be used for economic
27 gain during the assessment year in which the exemption
28 is granted.

29 Sec. 24. Section 427.1, subsection 30, Code
30 Supplement 1999, is amended to read as follows:

31 30. MOBILE HOME PARK STORM SHELTER. A structure
32 constructed as a storm shelter at a mobile home park
33 as defined in section 435.1. An application for this
34 exemption shall be filed with the assessing authority
35 not later than ~~April-fifteenth~~ February 1 of the first
36 year for which the exemption is requested, on forms
37 provided by the department of revenue and finance.
38 The application shall describe and locate the storm
39 shelter to be exempted. If the storm shelter
40 structure is used exclusively as a storm shelter, all
41 of the structure's assessed value shall be exempt from
42 taxation. If the storm shelter structure is not used
43 exclusively as a storm shelter, the storm shelter
44 structure shall be assessed for taxation at seventy-
45 five percent of its value as commercial property.

46 Sec. 25. Section 427.16, subsection 2, Code 1999,
47 is amended to read as follows:

48 2. Application for the exemption shall be filed
49 with the assessor, not later than ~~March-1~~ February 1
50 of the assessment year, on forms provided by the

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1 department of revenue and finance. The exemption
2 application shall include an approved application for
3 certified substantial rehabilitation from the state
4 historic preservation officer and documentation of
5 additional property tax relief or financial assistance
6 currently allowed for the real property. Upon receipt
7 of the application, the assessor shall certify whether
8 or not the property is eligible to receive the
9 exemption and shall forward the application to the
10 board.

11 Sec. 26. Section 427C.3, Code 1999, is amended to
12 read as follows:

13 427C.3 FOREST RESERVATION.

14 A forest reservation shall contain not less than
15 two hundred growing forest trees on each acre. If the
16 area selected is a forest containing the required
17 number of growing forest trees, it shall be accepted
18 as a forest reservation under this chapter provided
19 application is made or on file on or before ~~April-15~~
20 February 1 of the exemption year. If any buildings
21 are standing on an area selected as a forest
22 reservation under this section or a fruit-tree
23 reservation under section 427C.7 one acre of that area
24 shall be excluded from the tax exemption. However,
25 the exclusion of that acre shall not affect the area's
26 meeting the acreage requirement of section 427C.2.

27 Sec. 27. Section 427C.7, Code 1999, is amended to
28 read as follows:

29 427C.7 FRUIT-TREE RESERVATION -- DURATION OF
30 EXEMPTION.

31 A fruit-tree reservation shall contain on each
32 acre, at least forty apple trees, or seventy other
33 fruit trees, growing under proper care and annually
34 pruned and sprayed. A reservation may be claimed as a
35 fruit-tree reservation, under this chapter, for a
36 period of eight years after planting provided
37 application is made or on file on or before ~~April-15~~
38 February 1 of the exemption year.

39 Sec. 28. Section 428A.8, Code 1999, is amended by
40 adding the following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. Any tax or additional
42 tax found to be due shall be collected by the county
43 recorder. If the county recorder is unable to collect
44 the tax, it will be collected by the director of
45 revenue and finance in the same manner as taxes are
46 collected in chapter 422, division III. If collected
47 by the director of revenue and finance, the director
48 shall pay the county its proportionate share of the
49 tax. Section 422.25, subsections 1, 2, 3, and 4,
50 sections 422.26, 422.28 to 422.30, and 422.73,

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1 consistent with this chapter, apply with respect to
2 the collection of any tax or additional tax found to
3 be due, in the same manner and with the same effect as
4 if the deed, instrument, or writing were an income tax
5 return within the meaning of those statutes.

6 Sec. 29. Section 437A.3, subsection 1, unnumbered
7 paragraph 1, Code Supplement 1999, is amended to read
8 as follows:

9 "Assessed value" means the base year assessed
10 value, as adjusted by section 437A.19, subsection 2.
11 "Base year assessed value", for a taxpayer other than
12 an electric company, natural gas company, or electric
13 cooperative, means the value attributable to property
14 identified in section 427A.1, subsection 1, paragraph
15 "h", certified by the department of revenue and
16 finance to the county auditors for the assessment date
17 of January 1, 1997, and the value attributable to
18 property identified in section 427A.1 and section
19 427B.17, subsection 5, as certified by the local
20 assessors to the county auditors for the assessment
21 date of January 1, 1997. However, "base year assessed
22 value", for purposes of property of a taxpayer that is
23 a municipal utility, which property is not a major
24 addition, was initially assessed to the taxpayer as of
25 January 1, 1998, and is not located in a county where
26 the taxpayer had property that was assessed for
27 purposes of this chapter as of January 1, 1997, is the
28 value attributable to such property for the assessment
29 date of January 1, 1998.

30 Sec. 30. Section 450.4, subsection 5, Code 1999,
31 is amended to read as follows:

32 5. On the value of that portion of any lump sum or
33 installment payments which will be includable as net
34 income as defined in section 422.7 as received by a
35 beneficiary under an annuity which was purchased under
36 an employees pension or retirement plan.

37 Sec. 31. Section 450.4, Code 1999, is amended by
38 adding the following new subsections:

39 NEW SUBSECTION. 7. The value of that portion of
40 any lump sum or installment payments which are
41 received by a beneficiary under an annuity which was
42 purchased under an employee's pension or retirement
43 plan where the employee is a nonresident of Iowa at
44 the time of death.

45 NEW SUBSECTION. 8. The value of that portion of
46 any lump sum or installment payments which are
47 received by a beneficiary under an annuity which was
48 purchased under an employee's pension or retirement
49 pan which was excluded from net income as set forth in
50 section 422.7, subsection 31.

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1 Sec. 32. Section 450.10, subsection 4, Code 1999,
2 is amended to read as follows:

3 4. When the property or any interest therein in
4 property or income therefrom from property, taxable
5 under the provisions of this chapter, passes to any
6 firm, corporation, or society organized for profit
7 ~~either under the laws of this state or of any other~~
8 ~~state, territory, province or country, including~~
9 fraternal and social organizations which do not
10 qualify for exemption under sections 170(c) and 2055
11 of the Internal Revenue Code, the rate of tax imposed
12 shall be as follows:

13 Fifteen percent on the entire amount so passing.

14 Sec. 33. Section 452A.2, Code Supplement 1999, is
15 amended by adding the following new subsections:

16 NEW SUBSECTION. 4A. "Denatured ethanol" means
17 ethanol that is to be blended with gasoline, has been
18 derived from cereal grains, complies with American
19 society of testing materials designation D-4806-95b,
20 and may be denatured only as specified in Code of
21 Federal Regulations, Titles 20, 21, and 27. Alcohol
22 and denatured ethanol have the same meaning in this
23 chapter.

24 NEW SUBSECTION. 18A. "Racing fuel" means leaded
25 gasoline of one hundred ten octane or more that does
26 not meet American society of testing materials
27 designation D-4814 for gasoline and is sold in bulk
28 for use in nonregistered motor vehicles.

29 Sec. 34. Section 452A.2, subsection 17, paragraph
30 a, Code Supplement 1999, is amended to read as
31 follows:

32 a. All products commonly or commercially known or
33 sold as gasoline, including ethanol blended gasoline,
34 casinghead, and absorption or natural gasoline,
35 regardless of their classifications or uses, and
36 including transmix which serves as a buffer between
37 fuel products in the pipeline distribution process.

38 Sec. 35. Section 452A.3, subsection 5, paragraph
39 a, Code Supplement 1999, is amended by adding the
40 following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. Tax shall not be paid
42 when the sale of alcohol occurs within a terminal from
43 an alcohol manufacturer to an Iowa licensed supplier.
44 The tax shall be paid by the Iowa licensed supplier
45 when the invoiced gross gallonage of the alcohol or
46 the alcohol part of ethanol blended gasoline is
47 withdrawn from a terminal for delivery in this state.

48 Sec. 36. Section 452A.17, subsection 1, paragraph
49 a, Code Supplement 1999, is amended by adding the
50 following new subparagraph:

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1 NEW SUBPARAGRAPH. (10) Racing fuel.
 2 Sec. 37. EFFECTIVE AND APPLICABILITY DATES. This
 3 Act, being deemed of immediate importance, takes
 4 effect upon enactment, except as follows:
 5 1. Sections 15, 17, 19, 20, 22, 23, 24, 25, 26,
 6 and 27 of this Act, amending Code sections 424.10,
 7 424.12, 424.15, 427.1, 427.16, 427C.3, and 427C.7,
 8 take effect January 1, 2001, and apply to claims filed
 9 on or after that date.
 10 2. Sections 30, 31, and 32 of this Act, amending
 11 Code sections 450.4 and 450.10, take effect July 1,
 12 2000, for estates of decedents dying on or after that
 13 date.
 14 3. Section 29 of this Act applies retroactively to
 15 January 1, 2000, for tax years beginning on and after
 16 that date."
 17 2. Title page, lines 6 and 7, by striking the
 18 words "cigarette and tobacco products,".

RECEIVED FROM THE SENATE

H-8907 FILED APRIL 13, 2000

House Concurred

4-17-00

(P. 1541)

Motion to R/c by Bradley 4/17/00
Motion to R/c - Prevaliled

House now Refused to Concur
(P. 1568) 4-17-00

Senate Referred
4/24/00

S-5401

1 Amend amendment, S-5348, to House File 2548, as
2 passed by the House, as follows:
3 1. Page 1, by striking line 38 through 41 and
4 inserting the following:
5 "____. Page 20, by striking lines 19 and 20 and
6 inserting the following: "be subject to tax at the
7 rate of forty-four percent of the wholesale sales
8 price of the moist snuff. The tax on tobacco
9 products, excluding little cigars,".
10 _____. Page 20, line 26, by striking the words ",
11 except moist snuff,".
12 _____. Page 20, line 28, by inserting after the
13 word "products" the following: ", except that the
14 rate of tax on moist snuff is forty-four percent of
15 the cost of the moist snuff".
16 _____. By striking page 20, line 29, through page
17 21, line 17, and inserting the following:
18 "Sec. 42. Section 453A.43, subsection 2, paragraph
19 b, Code 1999, is amended to read as follows:
20 b. Less than 10 oz. moist snuff, snuff, or snuff
21 powder."
22 _____. By striking page 21, line 24, through page
23 22, line 15."

By JOE BOLKCOM

S-5401 FILED APRIL 13, 2000
RULED OUR OF ORDER

(P.1167)

HOUSE FILE 2548

S-5408

1 Amend House File 2548, as passed by the House, as
2 follows:

3 1. Page 20, line 33, by striking the word "forty-
4 two" and inserting the following: "eighty-four".

5 2. Page 21, line 11, by striking the word "forty-
6 two" and inserting the following: "eighty-four".

By JOE BOLKCOM

S-5408 FILED APRIL 13, 2000
RULED OUT OF ORDER

(P. 1167)

HOUSE FILE 2548

S-5409

1 Amend House File 2548, as passed by the House, as
2 follows:

3 1. Page 20, by striking lines 19 and 20 and
4 inserting the following: "be subject to tax at the
5 rate of forty-four percent of the wholesale sales
6 price of the moist snuff. The tax on tobacco
7 products, excluding little cigars,".

8 2. Page 20, line 26, by striking the words "l
9 except moist snuff,".

10 3. Page 20, line 28, by inserting after the word
11 "products" the following: ", except that the rate of
12 tax on moist snuff is forty-four percent of the cost
13 of the moist snuff".

14 4. By striking page 20, line 29, through page 21,
15 line 17, and inserting the following:

16 "Sec. 42. Section 453A.43, subsection 2, paragraph
17 b, Code 1999, is amended to read as follows:

18 b. Less than 10 oz. moist snuff, snuff, or snuff
19 powder."

20 5. By striking page 21, line 24, through page 22,
21 line 15.

By JOE BOLKCOM

S-5409 FILED APRIL 13, 2000
RULED OUT OF ORDER

(P. 1167)

HOUSE FILE 2548

S-5412

1 Amend House File 2548, as passed by the House, as
2 follows:

3 1. Page 19, by inserting after line 4 the
4 following:

5 "Sec. 200. Section 453A.1, subsection 26, Code
6 1999, is amended to read as follows:

7 26. "Tobacco products" means cigars; little cigars
8 as defined in section 453A.42, ~~subsection-5~~; cheroots;
9 stogies; periques; granulated; plug cut, crimp cut,
10 ready rubbed, and other smoking tobacco; moist snuff
11 as defined in section 453A.42; snuff, snuff flour;
12 cavendish; plug and twist tobacco; fine-cut and other
13 chewing tobaccos; shorts; or refuse scraps, clippings,
14 cuttings and sweepings of tobacco, and other kinds and
15 forms of tobacco, prepared in such manner as to be
16 suitable for chewing or smoking in a pipe or
17 otherwise, or both for chewing and smoking; but does
18 not mean cigarettes."

19 2. Page 19, by inserting after line 25 the
20 following:

21 "Sec. 202. Section 453A.42, Code 1999, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 6A. "Moist snuff" means any
24 finely cut, ground, or powdered tobacco intended to be
25 placed in the oral cavity, except dry snuff.

26 Sec. 203. Section 453A.42, subsection 14, Code
27 1999, is amended to read as follows:

28 14. "Tobacco products" means cigars; little cigars
29 ~~as-defined-herein~~; cheroots; stogies; periques;
30 granulated, plug cut, crimp cut, ready rubbed, and
31 other smoking tobacco; moist snuff; snuff; snuff
32 flour; cavendish; plug and twist tobacco; fine-cut and
33 other chewing tobaccos; shorts; refuse scraps,
34 clippings, cuttings and sweepings to tobacco, and
35 other kinds and forms of tobacco, prepared in such
36 manner as to be suitable for chewing or smoking in a
37 pipe or otherwise, or both for chewing and smoking;
38 but shall not include cigarettes as defined in section
39 453A.17, ~~subsection-3~~.

40 Sec. 204. Section 453A.43, subsection 1,
41 unnumbered paragraph 1, Code 1999, is amended to read
42 as follows:

43 A tax is imposed upon all tobacco products in this
44 state and upon any person engaged in business as a
45 distributor of tobacco products, at the rate of
46 twenty-two percent of the wholesale sales price of the
47 tobacco products, except little cigars ~~as-defined-in~~
48 section-453A.42 and moist snuff. Little cigars shall
49 be subject to the same rate of tax imposed upon
50 cigarettes in section 453A.6, payable at the time and

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1 in the manner provided in section 453A.6; and stamps
2 shall be affixed as provided in division I of this
3 chapter. Moist snuff shall be subject to tax at the
4 rate of forty-four percent of the wholesale sales
5 price of the moist snuff. The tax on tobacco
6 products, excluding little cigars, shall ~~be~~ imposed at
7 the time the distributor does any of the following:

8 Sec. 205. Section 453A.43, subsection 2,
9 unnumbered paragraph 1, Code 1999, is amended to read
10 as follows:

11 A tax is imposed upon the use or storage by
12 consumers of tobacco products in this state, and upon
13 the consumers, at the rate of twenty-two percent of
14 the cost of the tobacco products, except that the rate
15 of tax on moist snuff is forty-four percent of the
16 cost of the moist snuff.

17 Sec. 206. Section 453A.43, subsection 2, paragraph
18 b, Code 1999, is amended to read as follows:

19 b. Less than 10 oz. moist snuff, snuff, or snuff
20 powder.

21 Sec. 207. Section 453A.45, subsection 5, paragraph
22 a, Code Supplement 1999, is amended to read as
23 follows:

24 a. The transportation of not more than fifty
25 cigars, not more than ten ounces of moist snuff,
26 snuff, or snuff powder, or not more than one pound of
27 smoking or chewing tobacco or other tobacco products
28 not specifically mentioned herein₇."

29 3. Page 22, by inserting after line 25 the
30 following:

31 "____. Section 200 and sections 202 through 207 of
32 this Act, amending Code sections 453A.1, 453A.42,
33 453A.43, and 453A.45, take effect January 1, 2001."

By JOE BOLKCOM

S-5412 FILED APRIL 13, 2000
RULED OUT OF ORDER

(p.1167)

HOUSE FILE 2548

S-5425

1 Amend House File 2548, as passed by the House, as
2 follows:

3 1. Page 3, by inserting after line 31 the
4 following:

5 "Sec. _____. Section 422.45, subsection 20, Code
6 Supplement 1999, is amended to read as follows:

7 20. The gross receipts from sales or services
8 rendered, furnished, or performed by a county or city
9 including services provided by a city or county
10 through a management contract. This exemption does
11 not apply to the tax specifically imposed under
12 section 422.43 on the gross receipts from the sales,
13 furnishing, or service of gas, electricity, water,
14 heat, pay television service, and communication
15 service to the public by a municipal corporation in
16 its proprietary capacity; does not apply to the sales,
17 furnishing, or service of solid waste collection and
18 disposal service to nonresidential commercial
19 operations; and does not apply to the sales,
20 furnishing, or service of sewage service for
21 nonresidential commercial operations; ~~and does not~~
22 ~~apply to fees paid to cities and counties for the~~
23 ~~privilege of participating in any athletic sports."~~

By JOHN REDWINE

S-5425 FILED APRIL 13, 2000
RULED OUT OF ORDER

(P. 1167)

HOUSE FILE 2548

S-5428

1 Amend House File 2548, 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 15.331A, subsection 2, Code
6 1999, is amended to read as follows:

7 2. The eligible business or a supporting business
8 shall, not more than ~~six-months~~ one year after project
9 completion, make application to the department for any
10 refund of the amount of the taxes paid pursuant to
11 chapter 422 or 423 upon any goods, wares, or
12 merchandise, or services rendered, furnished, or
13 performed, including water, sewer, gas, and electric
14 utility services. The application shall be made in
15 the manner and upon forms to be provided by the
16 department, and the department shall audit the claim
17 and, if approved, issue a warrant to the eligible
18 business or supporting business in the amount of the
19 sales or use tax which has been paid to the state of
20 Iowa under a contract. A claim filed by the eligible
21 business or a supporting business in accordance with
22 this section shall not be denied by reason of a
23 limitation provision set forth in chapter 421, 422, or
24 423.

25 Sec. 2. Section 404.4, unnumbered paragraph 2,
26 Code 1999, is amended to read as follows:

27 An application shall be filed for each new
28 exemption claimed. The first application for an
29 exemption shall be filed by the owner of the property
30 with the governing body of the city or county in which
31 the property is located by February 1 of the
32 assessment year for which the exemption is first
33 claimed, but not later than the year in which all
34 improvements included in the project are first
35 assessed for taxation, unless, upon the request of the
36 owner at any time, the governing body of the city or
37 county provides by resolution that the owner may file
38 an application by February 1 of any other assessment
39 year selected by the governing body in which case the
40 exemption is allowed for the number of years remaining
41 in the exemption schedule selected. The application
42 shall contain, but not be limited to, the following
43 information: The nature of the improvement, its cost,
44 the estimated or actual date of completion, the
45 tenants that occupied the owner's building on the date
46 the city or county adopted the resolution referred to
47 in section 404.2, subsection 1, and which exemption in
48 section 404.3 or in the different schedule, if one has
49 been adopted, will be elected.

50 Sec. 3. Section 421.17, subsection 16, Code

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1 Supplement 1999, is amended to read as follows:

2 16. To call upon any a state department agency or
3 institution for technical advice and data which may be
4 of value in connection with the work of assessment-and
5 taxation the department.

6 Sec. 4. NEW SECTION. 421.46 TAX AGREEMENTS WITH
7 INDIAN TRIBES.

8 1. "Indian country" means the Indian country as
9 defined in 18 U.S.C. § 1151, and includes trust land
10 as defined by the United States secretary of the
11 interior.

12 2. The department and the governing council of an
13 Indian tribe may enter into an agreement to provide
14 for the collection and distribution or refund by the
15 department within Indian country of any tax or fee
16 imposed by the state and administered by the
17 department.

18 An agreement may also provide for the collection
19 and distribution by the department of any tribal tax
20 or fee imposed by tribal ordinance. The agreement may
21 provide for the retention of an administrative fee by
22 the department which fee shall be an agreed upon
23 percentage of the gross revenue of the tribal tax or
24 fee collected.

25 3. The provisions of this section shall not be
26 construed to establish or relinquish any jurisdiction
27 the state or an Indian tribe might have to levy or
28 collect from any person any tax or fee within or
29 without Indian country.

30 Sec. 5. Section 421.60, subsection 2, Code 1999,
31 is amended by adding the following new paragraph:

32 NEW PARAGRAPH. m. (1) The director may abate
33 unpaid state sales and use taxes and local sales and
34 services taxes owed by a retailer in the event that
35 the retailer failed to collect tax from the purchaser
36 as a result of erroneous written advice issued by the
37 department that was specially directed to the retailer
38 by the department and the retailer is unable to
39 collect the tax, interest, or penalties from the
40 purchaser. Before the tax, interest, and penalties
41 shall be abated on the basis of erroneous written
42 advice, the retailer must present a copy of the
43 retailer's request for written advice to the
44 department and a copy of the department's reply. The
45 department shall not maintain a position against the
46 retailer that is inconsistent with the erroneous
47 written advice, except on the basis of subsequent
48 written advice sent by the department to that
49 retailer, or a change in state or federal law, a
50 reported court case to the contrary, a contrary rule

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1 adopted by the department, a change in material facts
2 or circumstances relating to the retailer, or the
3 retailer's misrepresentation or incomplete or
4 inadequate representation of material facts and
5 circumstances in requesting the written advice.
6 (2) The director shall abate the unpaid state
7 sales and use taxes and any local sales and services
8 taxes owed by a retailer where the retailer failed to
9 collect the tax from the purchaser on the charges paid
10 for access to on-line computer services as a result of
11 erroneous written advice issued by the department
12 regarding the taxability of charges paid for access to
13 on-line computer services. To qualify for the
14 abatement under this subparagraph, the erroneous
15 written advice shall have been issued by the
16 department prior to July 1, 1999, and shall have been
17 specially directed to the retailer by the department.

18 (3) The director shall prepare quarterly reports
19 summarizing each case in which abatement of tax,
20 interest, or penalties was made. However, the report
21 shall not disclose the identity of the taxpayer. An
22 abatement authorized by this paragraph to a retailer
23 shall not preclude the department from proceeding to
24 collect the liability from a purchaser.

25 Sec. 6. Section 422.45, subsection 56, Code
26 Supplement 1999, is amended to read as follows:

27 56. The gross receipts from charges paid to a
28 provider for access to on-line computer services. For
29 purposes of this subsection, "on-line computer
30 service" means a service that provides or enables
31 computer access by multiple users to the internet or
32 to other information made available through a computer
33 server.

34 Sec. 7. Section 422.47, subsection 2, Code
35 Supplement 1999, is amended by striking the
36 subsection.

37 Sec. 8. Section 422.52, subsection 6, paragraph a,
38 Code Supplement 1999, is amended to read as follows:

39 a. If a purchaser fails to pay tax imposed by this
40 division to the retailer required to collect the tax,
41 then in addition to all of the rights, obligations,
42 and remedies provided, the tax is payable by the
43 purchaser directly to the department, and sections
44 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
45 422.57, 422.58, and 422.59 apply to the purchaser.
46 For failure, the retailer and purchaser are liable,
47 unless the circumstances described in section 421.60,
48 subsection 2, paragraph "m", or section 422.47,
49 subsection 3, paragraph "b" or "e", or subsection 4,
50 paragraph "b" or "d", are applicable.

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1 Sec. 9. Section 422.53, subsection 3, Code
2 Supplement 1999, is amended to read as follows:

3 3. The department shall grant and issue to each
4 applicant a permit for each place of business within
5 the state. A permit is not assignable and is valid
6 only for the person in whose name it is issued and for
7 the transaction of business at the place designated or
8 a place of relocation within the state if the
9 ownership remains the same.

10 Sec. 10. Section 422.110, unnumbered paragraph 1,
11 Code Supplement 1999, is amended to read as follows:

12 In lieu of the fuel tax refund provided in section
13 452A.17, a person or corporation subject to taxation
14 under divisions II or III of this chapter may elect to
15 receive an income tax credit. The person or
16 corporation which elects to receive an income tax
17 credit shall cancel its refund permit obtained under
18 section 452A.18 within thirty days after the first day
19 of its tax year or the permit becomes invalid at that
20 time. For the purposes of this section, "person"
21 includes a person claiming a tax credit based upon the
22 person's pro rata share of the earnings from a
23 partnership, limited liability company, or corporation
24 which is not subject to a tax under division II or III
25 of this chapter as a partnership, limited liability
26 company, or corporation. If the election to receive
27 an income tax credit has been made, it remains
28 effective for at least one tax year, and for
29 subsequent tax years unless a change is requested and
30 a new refund permit applied for within thirty days
31 after the first day of the person's or corporation's
32 tax year. The income tax credit shall be the amount
33 of the Iowa fuel tax paid on fuel purchased by the
34 person or corporation and is subject to the conditions
35 provided in section 452A.17 with the exception that
36 the income tax credit is not available for refunds
37 relating to casualty losses, transport diversions,
38 pumping credits, blending errors, idle time, power
39 takeoffs, reefer units, and exports by ~~eligible~~
40 purchasers distributors.

41 Sec. 11. Section 422A.1, Code 1999, is amended by
42 adding the following new unnumbered paragraph after
43 unnumbered paragraph 1:

44 NEW UNNUMBERED PARAGRAPH. Within ten days of the
45 election at which a majority of those voting on the
46 question favors the imposition, repeal, or change in
47 the rate of the hotel and motel tax, the county
48 auditor shall give written notice by sending a copy of
49 the abstract of votes from the favorable election to
50 the director of revenue and finance.

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1 Sec. 12. Section 422B.8, unnumbered paragraph 1,
2 Code Supplement 1999, is amended to read as follows:
3 A local sales and services tax at the rate of not
4 more than one percent may be imposed by a county on
5 the gross receipts taxed by the state under chapter
6 422, division IV. A local sales and services tax
7 shall be imposed on the same basis as the state sales
8 and services tax or in the case of the use of natural
9 gas, natural gas service, electricity, or electric
10 service on the same basis as the state use tax and
11 shall not be imposed on the sale of any property or on
12 any service not taxed by the state, except the tax
13 shall not be imposed on the gross receipts from the
14 sale of motor fuel or special fuel as defined in
15 chapter 452A which is consumed for highway use or in
16 watercraft or aircraft if the fuel tax is paid on the
17 transaction and a refund has not or will not be
18 allowed, on the gross receipts from the rental of
19 rooms, apartments, or sleeping quarters which are
20 taxed under chapter 422A during the period the hotel
21 and motel tax is imposed, on the gross receipts from
22 the sale of equipment by the state department of
23 transportation, on the gross receipts from the sale of
24 self-propelled building equipment, pile drivers,
25 motorized scaffolding, or attachments customarily
26 drawn or attached to self-propelled building
27 equipment, pile drivers, and motorized scaffolding,
28 including auxiliary attachments which improve the
29 performance, safety, operation, or efficiency of the
30 equipment and replacement parts and are directly and
31 primarily used by contractors, subcontractors, and
32 builders for new construction, reconstruction,
33 alterations, expansion, or remodeling of real property
34 or structures, and on the gross receipts from the sale
35 of a lottery ticket or share in a lottery game
36 conducted pursuant to chapter 99E and except the tax
37 shall not be imposed on the gross receipts from the
38 sale or use of natural gas, natural gas service,
39 electricity, or electric service in a city or county
40 where the gross receipts from the sale of natural gas
41 or electric energy are subject to a franchise fee or
42 user fee during the period the franchise or user fee
43 is imposed. A local sales and services tax is
44 applicable to transactions within those incorporated
45 and unincorporated areas of the county where it is
46 imposed and shall be collected by all persons required
47 to collect state gross receipts taxes. However, a
48 person required to collect state retail sales tax
49 under chapter 422, division IV, is not required to
50 collect local sales and services tax on transactions

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1 delivered within the area where the local sales and
2 services tax is imposed unless the person has physical
3 presence in that taxing area. All cities contiguous
4 to each other shall be treated as part of one
5 incorporated area and the tax would be imposed in each
6 of those contiguous cities only if the majority of
7 those voting in the total area covered by the
8 contiguous cities favor its imposition.

9 Sec. 13. Section 422E.3, subsection 2, Code
10 Supplement 1999, is amended to read as follows:

11 2. The tax shall be imposed on the same basis as
12 the state sales and services tax or in the case of the
13 use of natural gas, natural gas service, electricity,
14 or electric service on the same basis as the state use
15 tax and shall not be imposed on the sale of any
16 property or on any service not taxed by the state,
17 except the tax shall not be imposed on the gross
18 receipts from the sale of motor fuel or special fuel
19 as defined in chapter 452A which is consumed for
20 highway use or in watercraft or aircraft if the fuel
21 tax is paid on the transaction and a refund has not or
22 will not be allowed, on the gross receipts from the
23 rental of rooms, apartments, or sleeping quarters
24 which are taxed under chapter 422A during the period
25 the hotel and motel tax is imposed, on the gross
26 receipts from the sale of equipment by the state
27 department of transportation, on the gross receipts
28 from the sale of self-propelled building equipment,
29 pile drivers, motorized scaffolding, or attachments
30 customarily drawn or attached to self-propelled
31 building equipment, pile drivers, and motorized
32 scaffolding, including auxiliary attachments which
33 improve the performance, safety, operation, or
34 efficiency of the equipment, and replacement parts and
35 are directly and primarily used by contractors,
36 subcontractors, and builders for new construction,
37 reconstruction, alterations, expansion, or remodeling
38 of real property or structures, and on the gross
39 receipts from the sale of a lottery ticket or share in
40 a lottery game conducted pursuant to chapter 99E and
41 except the tax shall not be imposed on the gross
42 receipts from the sale or use of natural gas, natural
43 gas service, electricity, or electric service in a
44 city or county where the gross receipts from the sale
45 of natural gas or electric energy are subject to a
46 franchise fee or user fee during the period the
47 franchise or user fee is imposed.

48 Sec. 14. Section 423.4, subsection 9, Code
49 Supplement 1999, is amended to read as follows:

50 9. Vehicles subject to registration which are

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1 transferred from a business or individual conducting a
2 business within this state as a sole proprietorship,
3 or partnership, or limited liability company to a
4 corporation formed by the sole proprietorship, or
5 partnership, or limited liability company for the
6 purpose of continuing the business when all of the
7 stock of the corporation so formed is owned by the
8 sole proprietor and the sole proprietor's spouse, or
9 by all the partners in the case of a partnership, or
10 by all of the members in the case of a limited
11 liability company. This exemption is equally
12 available where the vehicles subject to registration
13 are transferred from a corporation to a sole
14 proprietorship, or partnership, or limited liability
15 company formed by that corporation for the purpose of
16 continuing the business when all of the incidents of
17 ownership are owned by the same person or persons who
18 were stockholders of the corporation.

19 This exemption also applies where the vehicles
20 subject to registration are transferred from a
21 corporation as part of the liquidation of the
22 corporation to its stockholders if within three months
23 of such transfer the stockholders retransfer those
24 vehicles subject to registration to a sole
25 proprietorship, partnership, or limited liability
26 company for the purpose of continuing the business of
27 the corporation when all of the incidents of ownership
28 are owned by the same person or persons who were
29 stockholders of the corporation.

30 Sec. 15. Section 424.10, subsections 1 and 3, Code
31 Supplement 1999, are amended to read as follows:

32 1. As soon as practicable after a return is filed
33 and in any event within ~~five~~ three years after the
34 return is filed the department shall examine it,
35 assess and determine the charge due if the return is
36 found to be incorrect, and give notice to the
37 depositor of ~~such~~ the assessment and determination as
38 provided in subsection 2. The period for the
39 examination and determination of the correct amount of
40 the charge is unlimited in the case of a false or
41 fraudulent return made with the intent to evade the
42 charge or in the case of a failure to file a return.
43 If the determination that a return is incorrect is the
44 result of an audit of the books and records of the
45 depositor, the charge, or additional charge, if any is
46 found due, shall be assessed and determined and the
47 notice to the depositor shall be given by the
48 department within one year after the completion of the
49 examination of the books and records.

50 3. If the amount paid is greater than the correct

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1 charge, penalty, and interest due, the department
2 shall refund the excess, with interest after sixty
3 days from the date of payment at the rate in effect
4 under section 421.7, pursuant to rules prescribed by
5 the director. However, the director shall not allow a
6 claim for refund that has not been filed with the
7 department within five three years after the charge
8 payment upon which a refund is claimed became due, or
9 one year after the charge payment was made, whichever
10 time is later. A determination by the department of
11 the amount of charge, penalty, and interest due, or
12 the amount of refund for any excess amount paid, is
13 final unless the person aggrieved by the determination
14 appeals to the director for a revision of the
15 determination within sixty days from the date of the
16 notice of determination of charge, penalty, and
17 interest due or refund owing. The director shall
18 grant a hearing, and upon hearing the director shall
19 determine the correct charge, penalty, and interest
20 due or refund owing, and notify the appellant of the
21 decision by mail. The decision of the director is
22 final unless the appellant seeks judicial review of
23 the director's decision under section 424.13.

24 Sec. 16. Section 424.10, subsection 2, Code
25 Supplement 1999, is amended to read as follows:

26 2. If a return required by this chapter is not
27 filed, or if a return when filed is incorrect or
28 insufficient and the maker fails to file a corrected
29 or sufficient return within twenty days after the
30 return is required by notice from the department, the
31 department shall determine the amount of charge due
32 from information as the department may be able to
33 obtain and, if necessary, may estimate the charge on
34 the basis of external indices or factors. The
35 department shall give notice of the determination to
36 the person liable for the charge. The determination
37 shall fix the charge unless the person against whom it
38 is assessed shall, within sixty days after the date of
39 the notice of the determination, apply to the director
40 for a hearing or unless the taxpayer person against
41 whom it is assessed contests the determination by
42 paying the tax charge, interest, and penalty and
43 timely filing a claim for refund. At the hearing
44 evidence may be offered to support the determination
45 or to prove that it is incorrect. After the hearing
46 the director shall give notice of the decision to the
47 person liable for the charge.

48 If a depositor's, receiver's, or other person's
49 challenge relates to the diminution rate, the burden
50 of proof upon the challenger shall only be satisfied

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1 by clear and convincing evidence.

2 Sec. 17. Section 424.12, Code 1999, is amended to
3 read as follows:

4 424.12 RECORDS REQUIRED.

5 It ~~shall-be~~ is the duty of every depositor required
6 to make a report and pay any charge under this
7 chapter, to preserve such records as the director may
8 require, and it ~~shall-be~~ is the duty of every
9 depositor to preserve for a period of ~~five~~ three years
10 all invoices and other records; and all such books,
11 invoices, and other records shall be open to
12 examination at any time by the department, and shall
13 be made available within this state for such
14 examination upon reasonable notice when the director
15 shall so order. When requested to do so by any person
16 from whom a charge payer is seeking credit, or with
17 whom the charge payer is negotiating the sale of any
18 personal property, or by any other person having a
19 legitimate interest in such information, the director,
20 upon being satisfied that such a situation exists,
21 shall inform ~~such~~ that person as to the amount of
22 unpaid charges due by the charge payer under the
23 ~~provisions-of~~ this chapter. The giving of such
24 information under such circumstances shall not be
25 deemed a violation of section 422.72 as applied to
26 this chapter.

27 Section 422.72 applies to this chapter as if the
28 environmental protection charge were a tax.

29 Sec. 18. Section 424.13, subsection 2, Code 1999,
30 is amended to read as follows:

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

38 Sec. 19. Section 424.15, unnumbered paragraph 1,
39 Code 1999, is amended to read as follows:

40 If it appears that, as a result of mistake, an
41 amount of a charge, penalty, or interest has been paid
42 which was not due under ~~the-provisions-of~~ this
43 chapter, then ~~such~~ that amount shall be refunded to
44 ~~such-person~~ the charge payer by the department. A
45 claim for refund that has not been filed with the
46 department within ~~five~~ three years after the charge
47 payment upon which a refund is claimed became due, or
48 one year after ~~such~~ that charge payment was made,
49 whichever time is the later, shall not be allowed by
50 the director.

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1 Sec. 20. Section 427.1, subsection 14, unnumbered
2 paragraph 1, Code Supplement 1999, is amended to read
3 as follows:

4 A society or organization claiming an exemption
5 under subsection 5 or subsection 8 shall file with the
6 assessor not later than ~~April-15~~ February 1 a
7 statement upon forms to be prescribed by the director
8 of revenue and finance, describing the nature of the
9 property upon which the exemption is claimed and
10 setting out in detail any uses and income from the
11 property derived from the rentals, leases, or other
12 uses of the property not solely for the appropriate
13 objects of the society or organization. Upon the
14 filing and allowance of the claim, the claim shall be
15 allowed on the property for successive years without
16 further filing as long as the property is used for the
17 purposes specified in the original claim for
18 exemption. When the property is sold or transferred,
19 the county recorder shall provide notice of the
20 transfer to the assessor. The notice shall describe
21 the property transferred and the name of the person to
22 whom title to the property is transferred.

23 Sec. 21. Section 427.1, subsection 16, Code
24 Supplement 1999, is amended to read as follows:

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

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1 judicial review may be filed in the district court
2 having jurisdiction in the county in which the
3 property is located, and must be filed within thirty
4 days after any order revoking or modifying an
5 exemption is made by the director of revenue and
6 finance.

7 Sec. 22. Section 427.1, subsection 20, Code
8 Supplement 1999, is amended to read as follows:

9 20. IMPOUNDMENT STRUCTURES. The impoundment
10 structure and any land underlying an impoundment
11 located outside an incorporated city, which are not
12 developed or used directly or indirectly for
13 nonagricultural income-producing purposes and which
14 are maintained in a condition satisfactory to the soil
15 and water conservation district commissioners of the
16 county in which the impoundment structure and the
17 impoundment are located. A person owning land which
18 qualifies for a property tax exemption under this
19 subsection shall apply to the county assessor each
20 year before-the-first-of-July not later than February
21 1 for the exemption. The application shall be made on
22 forms prescribed by the department of revenue and
23 finance. The first application shall be accompanied
24 by a copy of the water storage permit approved by the
25 administrator of the environmental protection division
26 of the department of natural resources and a copy of
27 the plan for the construction of the impoundment
28 structure and the impoundment. The construction plan
29 shall be used to determine the total acre-feet of the
30 impoundment and the amount of land which is eligible
31 for the property tax exemption status. The county
32 assessor shall annually review each application for
33 the property tax exemption under this subsection and
34 submit it, with the recommendation of the soil and
35 water conservation district commissioners, to the
36 board of supervisors for approval or denial. An
37 applicant for a property tax exemption under this
38 subsection may appeal the decision of the board of
39 supervisors to the district court.

40 PARAGRAPH DIVIDED. As used in this subsection,
41 "impoundment" means a reservoir or pond which has a
42 storage capacity of at least eighteen acre-feet of
43 water or sediment at the time of construction;
44 "storage capacity" means the total area below the
45 crest elevation of the principal spillway including
46 the volume of any excavation in the area; and
47 "impoundment structure" means a dam, earthfill, or
48 other structure used to create an impoundment.

49 Sec. 23. Section 427.1, subsection 22, unnumbered
50 paragraph 2, Code Supplement 1999, is amended to read

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1 as follows:

2 Application for this exemption shall be filed with
3 the commissioners of the soil and water conservation
4 district in which the property is located, not later
5 than ~~April-15~~ February 1 of the assessment year, on
6 forms provided by the department of revenue and
7 finance. The application shall describe and locate
8 the property to be exempted and have attached to it an
9 aerial photo of that property on which is outlined the
10 boundaries of the property to be exempted. In the
11 case of an open prairie which is or includes a gully
12 area susceptible to severe erosion, an approved
13 erosion control plan must accompany the application.
14 Upon receipt of the application, the commissioners
15 shall certify whether the property is eligible to
16 receive the exemption. The commissioners shall not
17 withhold certification of the eligibility of property
18 because of the existence upon the property of an
19 abandoned building or structure which is not used for
20 economic gain. If the commissioners certify that the
21 property is eligible, the application shall be
22 forwarded to the board of supervisors by May 1 of that
23 assessment year with the certification of the eligible
24 acreage. An application must be accompanied by an
25 affidavit signed by the applicant that if an exemption
26 is granted, the property will not be used for economic
27 gain during the assessment year in which the exemption
28 is granted.

29 Sec. 24. Section 427.1, subsection 30, Code
30 Supplement 1999, is amended to read as follows:

31 30. MOBILE HOME PARK STORM SHELTER. A structure
32 constructed as a storm shelter at a mobile home park
33 as defined in section 435.1. An application for this
34 exemption shall be filed with the assessing authority
35 not later than ~~April-fifteenth~~ February 1 of the first
36 year for which the exemption is requested, on forms
37 provided by the department of revenue and finance.
38 The application shall describe and locate the storm
39 shelter to be exempted. If the storm shelter
40 structure is used exclusively as a storm shelter, all
41 of the structure's assessed value shall be exempt from
42 taxation. If the storm shelter structure is not used
43 exclusively as a storm shelter, the storm shelter
44 structure shall be assessed for taxation at seventy-
45 five percent of its value as commercial property.

46 Sec. 25. Section 427.16, subsection 2, Code 1999,
47 is amended to read as follows:

48 2. Application for the exemption shall be filed
49 with the assessor, not later than ~~March-1~~ February 1
50 of the assessment year, on forms provided by the

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1 department of revenue and finance. The exemption
2 application shall include an approved application for
3 certified substantial rehabilitation from the state
4 historic preservation officer and documentation of
5 additional property tax relief or financial assistance
6 currently allowed for the real property. Upon receipt
7 of the application, the assessor shall certify whether
8 or not the property is eligible to receive the
9 exemption and shall forward the application to the
10 board.

11 Sec. 26. Section 427C.3, Code 1999, is amended to
12 read as follows:

13 427C.3 FOREST RESERVATION.

14 A forest reservation shall contain not less than
15 two hundred growing forest trees on each acre. If the
16 area selected is a forest containing the required
17 number of growing forest trees, it shall be accepted
18 as a forest reservation under this chapter provided
19 application is made or on file on or before ~~April-15~~
20 February 1 of the exemption year. If any buildings
21 are standing on an area selected as a forest
22 reservation under this section or a fruit-tree
23 reservation under section 427C.7 one acre of that area
24 shall be excluded from the tax exemption. However,
25 the exclusion of that acre shall not affect the area's
26 meeting the acreage requirement of section 427C.2.

27 Sec. 27. Section 427C.7, Code 1999, is amended to
28 read as follows:

29 427C.7 FRUIT-TREE RESERVATION -- DURATION OF
30 EXEMPTION.

31 A fruit-tree reservation shall contain on each
32 acre, at least forty apple trees, or seventy other
33 fruit trees, growing under proper care and annually
34 pruned and sprayed. A reservation may be claimed as a
35 fruit-tree reservation, under this chapter, for a
36 period of eight years after planting provided
37 application is made or on file on or before ~~April-15~~
38 February 1 of the exemption year.

39 Sec. 28. Section 428A.8, Code 1999, is amended by
40 adding the following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. Any tax or additional
42 tax found to be due shall be collected by the county
43 recorder. If the county recorder is unable to collect
44 the tax, it will be collected by the director of
45 revenue and finance in the same manner as taxes are
46 collected in chapter 422, division III. If collected
47 by the director of revenue and finance, the director
48 shall pay the county its proportionate share of the
49 tax. Section 422.25, subsections 1, 2, 3, and 4,
50 sections 422.26, 422.28 to 422.30, and 422.73,

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1 consistent with this chapter, apply with respect to
2 the collection of any tax or additional tax found to
3 be due, in the same manner and with the same effect as
4 if the deed, instrument, or writing were an income tax
5 return within the meaning of those statutes.

6 Sec. 29. Section 437A.3, subsection 1, unnumbered
7 paragraph 1, Code Supplement 1999, is amended to read
8 as follows:

9 "Assessed value" means the base year assessed
10 value, as adjusted by section 437A.19, subsection 2.
11 "Base year assessed value", for a taxpayer other than
12 an electric company, natural gas company, or electric
13 cooperative, means the value attributable to property
14 identified in section 427A.1, subsection 1, paragraph
15 "h", certified by the department of revenue and
16 finance to the county auditors for the assessment date
17 of January 1, 1997, and the value attributable to
18 property identified in section 427A.1 and section
19 427B.17, subsection 5, as certified by the local
20 assessors to the county auditors for the assessment
21 date of January 1, 1997. However, "base year assessed
22 value", for purposes of property of a taxpayer that is
23 a municipal utility, which property is not a major
24 addition, was initially assessed to the taxpayer as of
25 January 1, 1998, and is not located in a county where
26 the taxpayer had property that was assessed for
27 purposes of this chapter as of January 1, 1997, is the
28 value attributable to such property for the assessment
29 date of January 1, 1998.

30 Sec. 30. Section 450.4, subsection 5, Code 1999,
31 is amended to read as follows:

32 5. On the value of that portion of any lump sum or
33 installment payments which will be includable as net
34 income as defined in section 422.7 as received by a
35 beneficiary under an annuity which was purchased under
36 an employees pension or retirement plan.

37 Sec. 31. Section 450.4, Code 1999, is amended by
38 adding the following new subsections:

39 NEW SUBSECTION. 7. The value of that portion of
40 any lump sum or installment payments which are
41 received by a beneficiary under an annuity which was
42 purchased under an employee's pension or retirement
43 plan where the employee is a nonresident of Iowa at
44 the time of death.

45 NEW SUBSECTION. 8. The value of that portion of
46 any lump sum or installment payments which are
47 received by a beneficiary under an annuity which was
48 purchased under an employee's pension or retirement
49 pan which was excluded from net income as set forth in
50 section 422.7, subsection 31.

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1 Sec. 32. Section 450.10, subsection 4, Code 1999,
2 is amended to read as follows:

3 4. When the property or any interest ~~therein in~~
4 property or income therefrom from property, taxable
5 ~~under the provisions of~~ this chapter, passes to any
6 firm, corporation, or society organized for profit
7 ~~either under the laws of this state or of any other~~
8 ~~state, territory, province or country, including~~
9 fraternal and social organizations which do not
10 qualify for exemption under sections 170(c) and 2055
11 of the Internal Revenue Code, the rate of tax imposed
12 shall be as follows:

13 Fifteen percent on the entire amount so passing.

14 Sec. 33. Section 452A.2, Code Supplement 1999, is
15 amended by adding the following new subsections:

16 NEW SUBSECTION. 4A. "Denatured ethanol" means
17 ethanol that is to be blended with gasoline, has been
18 derived from cereal grains, complies with American
19 society of testing materials designation D-4806-95b,
20 and may be denatured only as specified in Code of
21 Federal Regulations, Titles 20, 21, and 27. Alcohol
22 and denatured ethanol have the same meaning in this
23 chapter.

24 NEW SUBSECTION. 18A. "Racing fuel" means leaded
25 gasoline of one hundred ten octane or more that does
26 not meet American society of testing materials
27 designation D-4814 for gasoline and is sold in bulk
28 for use in nonregistered motor vehicles.

29 Sec. 34. Section 452A.2, subsection 17, paragraph
30 a, Code Supplement 1999, is amended to read as
31 follows:

32 a. All products commonly or commercially known or
33 sold as gasoline, including ethanol blended gasoline,
34 casinghead, and absorption or natural gasoline,
35 regardless of their classifications or uses, and
36 including transmix which serves as a buffer between
37 fuel products in the pipeline distribution process.

38 Sec. 35. Section 452A.3, subsection 5, paragraph
39 a, Code Supplement 1999, is amended by adding the
40 following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. Tax shall not be paid
42 when the sale of alcohol occurs within a terminal from
43 an alcohol manufacturer to an Iowa licensed supplier.
44 The tax shall be paid by the Iowa licensed supplier
45 when the invoiced gross gallonage of the alcohol or
46 the alcohol part of ethanol blended gasoline is
47 withdrawn from a terminal for delivery in this state.

48 Sec. 36. Section 452A.17, subsection 1, paragraph
49 a, Code Supplement 1999, is amended by adding the
50 following new subparagraph:

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1 NEW SUBPARAGRAPH. (10) Racing fuel.
2 Sec. 37. EFFECTIVE AND APPLICABILITY DATES. This
3 Act, being deemed of immediate importance, takes
4 effect upon enactment, except as follows:
5 1. Sections 15, 17, 19, 20, 22, 23, 24, 25, 26,
6 and 27 of this Act, amending Code sections 424.10,
7 424.12, 424.15, 427.1, 427.16, 427C.3, and 427C.7,
8 take effect January 1, 2001, and apply to claims filed
9 on or after that date.
10 2. Sections 30, 31, and 32 of this Act, amending
11 Code sections 450.4 and 450.10, take effect July 1,
12 2000, for estates of decedents dying on or after that
13 date.
14 3. Section 29 of this Act applies retroactively to
15 January 1, 2000, for tax years beginning on and after
16 that date."
17 2. Title page, lines 6 and 7, by striking the
18 words "cigarette and tobacco products,".

By JEFF LAMBERTI

S-5428 FILED APRIL 13, 2000

ADOPTED

(P.1167)

**HOUSE FILE 2548
FISCAL NOTE**

A fiscal note for **House File 2548** 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 2548 amends various provisions of State law. The Bill consists of 45 sections. The provisions of the Bill largely address issues relative to the administration of State tax law, and they are assumed to be revenue neutral. However, Section 38 pertaining to the taxation of "moist snuff" is expected to have an impact on State tax receipts.

BACKGROUND

Moist snuff is a finely cut, ground, or powdered tobacco product intended to be placed in the oral cavity. Moist snuff is currently taxed as a tobacco product at a rate of 22.0% of the wholesale sales price. Moist snuff is generally packaged as rolls of ten cans each.

ASSUMPTIONS

1. Moist snuff will be taxed at a rate of \$0.42 per ounce.
2. There are three types of moist snuff (i.e., 12 ounce premium, 12 ounce generic, and 15 ounce generic) with existing taxes generated equal to \$4.82 million, \$2.34 million, and \$2.34 million, respectively.
3. Under the proposed legislation, taxes would increase by \$0.04 per roll for the 12 ounce premium type, by \$2.52 per roll for the 12 ounce generic type, and by \$3.74 per roll for the 15 ounce generic type.
4. The estimated annual sales of the three types of moist snuff are 810,000 rolls of the 12 ounce premium type, 89,100 rolls of the 12 ounce generic type, and 900 rolls of the 15 ounce generic type.

FISCAL IMPACT

House File 2548 will result in an increase in General Fund revenues equal to approximately \$260,000 per year.

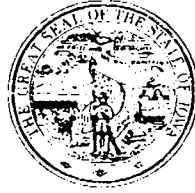
SOURCE

Iowa Department of Revenue and Finance

(LSB 6959HV, MAL)

FILED MARCH 28, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 19, 2000

The Honorable Chester Culver
Secretary of State of
State Capitol
LOCAL

RECEIVED
MAY 22 2000
LEGISLATIVE SERVICE
BUREAU

Dear Mr. Secretary:

I hereby transmit House File 2548, an act relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state individual income, corporate income, sales and use, hotel and motel, real estate transfer, environmental protection charge on petroleum diminution, property, motor fuel, special fuel, cigarette and tobacco products, and inheritance taxes, treatment of motor fuel under the local option taxes, and authorizing tax agreements with Indian tribes, and including effective and retroactive applicability date provisions.

I am unable to approve House File 2548 and hereby transmit it to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

House File 2548 includes many worthwhile provisions asked for by the Department of Revenue and Finance. I regret that one provision, not requested by the department but included in the bill, is a change in way moist snuff tobacco products are taxed. Under current law, moist snuff tobacco products are taxed at 22 percent of the wholesale price. House File 2548 changes the taxation to a \$.42 per ounce flat tax.

I cannot approve House File 2548 with this tobacco tax policy change included in the bill. Iowa has one of the highest moist snuff usage rates in the country; ranking ninth out of 33 states that monitor moist snuff usage by males over the age of 18 years. As tobacco prices increase in the future, a taxation rate based upon a percentage of the cost will continue to impose a tax that is proportionate with the cost of the product. However, taxation on a per ounce basis will remain the same, regardless of the cost of the product. This results in a potential loss of tax revenue to the state. It may eventually create an incentive for persons to purchase moist snuff products since they will be available at a lower overall cost than other snuff or other tobacco products. This is a policy direction I cannot approve.

Concerns have also been raised regarding the confusing definition of "moist snuff" in the bill. Current law does not define snuff, but House File 2548 defines moist snuff as "any finely

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cut, ground or powdered tobacco intended to be placed in the oral cavity, except dry snuff". The definition of moist snuff introduces the term "dry snuff" which is unused and undefined elsewhere in the Iowa Code, in federal law or in House File 2548 itself.

Finally, the method of taxation described in the bill creates differing treatment of products, with no apparent rational basis. Under current law in Iowa, cigarettes are taxed in the same manner, regardless of the type of cigarette. Similarly, under federal law smokeless tobacco products, including snuff, are taxed in the same manner in that a flat rate of tax is imposed on a per unit basis. Under current Iowa law, all snuff products are taxed on the same basis, a percentage of cost. However, under House File 2548, a distinction is made between moist and dry snuff so that the two products are taxed in a different manner, creating unnecessary work for both retailers and for the Department of Revenue and Finance in determining the appropriate amount of tax to be paid and collected.

For the above reasons, I hereby respectfully disapprove House File 2548.

Sincerely



Thomas J. Vilsack
Governor

TJV:jmc

CC: Secretary of the Senate
Chief Clerk of the House

HOUSE FILE 2548

AN ACT

RELATING TO THE ADMINISTRATION OF THE TAX AND RELATED LAWS BY THE DEPARTMENT OF REVENUE AND FINANCE, INCLUDING ADMINISTRATION OF STATE INDIVIDUAL INCOME, CORPORATE INCOME, SALES AND USE, HOTEL AND MOTEL, REAL ESTATE TRANSFER, ENVIRONMENTAL PROTECTION CHARGE ON PETROLEUM DIMINUTION, PROPERTY, MOTOR FUEL, SPECIAL FUEL, CIGARETTE AND TOBACCO PRODUCTS, AND INHERITANCE TAXES, TREATMENT OF MOTOR FUEL UNDER THE LOCAL OPTION TAXES, AND AUTHORIZING TAX AGREEMENTS WITH INDIAN TRIBES, AND INCLUDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 15.331A, subsection 2, Code 1999, is amended to read as follows:

2. The eligible business or a supporting business shall, not more than six-months one year after project completion, make application to the department for any refund of the

amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

Sec. 2. Section 404.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

An application shall be filed for each new exemption claimed. The first application for an exemption shall be filed by the owner of the property with the governing body of the city or county in which the property is located by February 1 of the assessment year for which the exemption is first claimed, but not later than the year in which all improvements included in the project are first assessed for taxation, unless, upon the request of the owner at any time, the governing body of the city or county provides by resolution that the owner may file an application by February 1 of any other assessment year selected by the governing body in which case the exemption is allowed for the number of years remaining in the exemption schedule selected. The application shall contain, but not be limited to, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, the tenants that occupied the owner's building on the date the city or county adopted the resolution referred to in section 404.2, subsection 1, and which exemption in section 404.3 or in the different schedule, if one has been adopted, will be elected.

Sec. 3. Section 421.17, subsection 16, Code Supplement 1999, is amended to read as follows:

16. To call upon any a state department agency or institution for technical advice and data which may be of value in connection with the work of ~~assessment-and-taxation~~ the department.

Sec. 4. NEW SECTION. 421.46 TAX AGREEMENTS WITH INDIAN TRIBES.

1. "Indian country" means the Indian country as defined in 18 U.S.C. § 1151, and includes trust land as defined by the United States secretary of the interior.

2. The department and the governing council of an Indian tribe may enter into an agreement to provide for the collection and distribution by the department within Indian country of any tax or fee imposed by the state and administered by the department.

An agreement may also provide for the collection and distribution by the department of any tribal tax or fee imposed by tribal ordinance. The agreement may provide for the retention of an administrative fee by the department which fee shall be an agreed upon percentage of the gross revenue of the tribal tax or fee collected.

Sec. 5. Section 421.60, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. (1) The director may abate unpaid state sales and use taxes and local sales and services taxes owed by a retailer in the event that the retailer failed to collect tax from the purchaser as a result of erroneous written advice issued by the department that was specially directed to the retailer by the department and the retailer is unable to collect the tax, interest, or penalties from the purchaser. Before the tax, interest, and penalties shall be abated on the basis of erroneous written advice, the retailer must present a copy of the retailer's request for written advice to the department and a copy of the department's reply. The department shall not maintain a position against the retailer that is inconsistent with the erroneous written advice, except on the basis of subsequent written advice sent

by the department to that retailer, or a change in state or federal law, a reported court case to the contrary, a contrary rule adopted by the department, a change in material facts or circumstances relating to the retailer, or the retailer's misrepresentation or incomplete or inadequate representation of material facts and circumstances in requesting the written advice.

(2) The director shall abate the unpaid state sales and use taxes and any local sales and services taxes owed by a retailer where the retailer failed to collect the tax from the purchaser on the charges paid for access to on-line computer services as a result of erroneous written advice issued by the department regarding the taxability of charges paid for access to on-line computer services. To qualify for the abatement under this subparagraph, the erroneous written advice shall have been issued by the department prior to July 1, 1999, and shall have been specially directed to the retailer by the department.

(3) The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer. An abatement authorized by this paragraph to a retailer shall not preclude the department from proceeding to collect the liability from a purchaser.

Sec. 6. Section 422.45, subsection 56, Code Supplement 1999, is amended to read as follows:

56. The gross receipts from charges paid to a provider for access to on-line computer services. For purposes of this subsection, "on-line computer service" means a service that provides or enables computer access by multiple users to the internet or to other information made available through a computer server.

Sec. 7. Section 422.47, subsection 2, Code Supplement 1999, is amended by striking the subsection.

Sec. 8. Section 422.52, subsection 6, paragraph a, Code Supplement 1999, is amended to read as follows:

a. If a purchaser fails to pay tax imposed by this division to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in section 421.60, subsection 2, paragraph "m", or section 422.47, subsection 3, paragraph "b" or "e", or subsection 4, paragraph "b" or "d", are applicable.

Sec. 9. Section 422.53, subsection 3, Code Supplement 1999, is amended to read as follows:

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or a place of relocation within the state if the ownership remains the same.

Sec. 10. Section 422.110, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

In lieu of the fuel tax refund provided in section 452A.17, a person or corporation subject to taxation under divisions II or III of this chapter may elect to receive an income tax credit. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is

requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by eligible-purchasers distributors.

Sec. 11. Section 422A.1, Code 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the hotel and motel tax, the county auditor shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue and finance.

Sec. 12. Section 422B.8, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross

receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 13. Section 422E.3, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural

gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 14. Section 423.4, subsection 9, Code Supplement 1999, is amended to read as follows:

9. Vehicles subject to registration which are transferred from a business or individual conducting a business within this state as a sole proprietorship, or partnership, or limited liability company to a corporation formed by the sole

proprietorship, or partnership, or limited liability company for the purpose of continuing the business when all of the stock of the corporation so formed is owned by the sole proprietor and the sole proprietor's spouse, or by all the partners in the case of a partnership, or by all of the members in the case of a limited liability company. This exemption is equally available where the vehicles subject to registration are transferred from a corporation to a sole proprietorship, or partnership, or limited liability company formed by that corporation for the purpose of continuing the business when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

This exemption also applies where the vehicles subject to registration are transferred from a corporation as part of the liquidation of the corporation to its stockholders if within three months of such transfer the stockholders retransfer those vehicles subject to registration to a sole proprietorship, partnership, or limited liability company for the purpose of continuing the business of the corporation when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

Sec. 15. Section 424.10, subsections 1 and 3, Code Supplement 1999, are amended to read as follows:

1. As soon as practicable after a return is filed and in any event within five three years after the return is filed the department shall examine it, assess and determine the charge due if the return is found to be incorrect, and give notice to the depositor of such the assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of the charge is unlimited in the case of a false or fraudulent return made with the intent to evade the charge or in the case of a failure to file a return. If the determination that a return is incorrect is the result of an audit of the books and records of the depositor, the charge, or additional charge, if

any is found due, shall be assessed and determined and the notice to the depositor shall be given by the department within one year after the completion of the examination of the books and records.

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within five three years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 16. Section 424.10, subsection 2, Code Supplement 1999, is amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of the determination to the person liable for the

charge. The determination shall fix the charge unless the person against whom it is assessed shall, within sixty days after the date of the notice of the determination, apply to the director for a hearing or unless the taxpayer person against whom it is assessed contests the determination by paying the tax charge, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

Sec. 17. Section 424.12, Code 1999, is amended to read as follows:

424.12 RECORDS REQUIRED.

It ~~shall be~~ is the duty of every depositor required to make a report and pay any charge under this chapter, to preserve such records as the director may require, and it ~~shall be~~ is the duty of every depositor to preserve for a period of five three years all invoices and other records; and all such books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for such examination upon reasonable notice when the director shall so order. When requested to do so by any person from whom a charge payer is seeking credit, or with whom the charge payer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director, upon being satisfied that such a situation exists, shall inform such that person as to the amount of unpaid charges due by the charge payer under ~~the provisions of~~ this chapter. The giving of such information under such circumstances shall not be deemed a violation of section 422.72 as applied to this chapter.

Section 422.72 applies to this chapter as if the environmental protection charge were a tax.

Sec. 18. Section 424.13, subsection 2, Code 1999, is amended to read as follows:

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

Sec. 19. Section 424.15, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If it appears that, as a result of mistake, an amount of a charge, penalty, or interest has been paid which was not due under ~~the provisions of~~ this chapter, then such that amount shall be refunded to such person the charge payer by the department. A claim for refund that has not been filed with the department within five three years after the charge payment upon which a refund is claimed became due, or one year after such that charge payment was made, whichever time is the later, shall not be allowed by the director.

Sec. 20. Section 427.1, subsection 14, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

A society or organization claiming an exemption under subsection 5 or subsection 8 shall file with the assessor not later than ~~April 15~~ February 1 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original

claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

Sec. 21. Section 427.1, subsection 16, Code Supplement 1999, is amended to read as follows:

16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation or modification 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 or modify 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 or modification. An order made by the director of revenue and finance revoking or modifying an exemption shall be applicable to the tax year commencing with the tax year in which the application is made to the director ~~of revenue and finance~~ or the tax year commencing with the tax year in which the director's own motion is filed. 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 or modifying an exemption is made by the director of revenue and finance.

Sec. 22. Section 427.1, subsection 20, Code Supplement 1999, is amended to read as follows:

20. IMPOUNDMENT STRUCTURES. The impoundment structure and any land underlying an impoundment located outside an incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil and water conservation district commissioners of the county in which the impoundment structure and the impoundment are located. A person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year ~~before the first of July~~ not later than February 1 for the exemption. The application shall be made on forms prescribed by the department of revenue and finance. The first application shall be accompanied by a copy of the water storage permit approved by the administrator of the environmental protection division of the department of natural resources and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil and water conservation district commissioners, to the board of supervisors for approval or denial. An applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court.

PARAGRAPH DIVIDED. As used in this subsection, "impoundment" means a reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in the area; and "impoundment structure" means a dam, earthfill, or other structure used to create an impoundment.

Sec. 23. Section 427.1, subsection 22, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, not later than ~~April-15~~ February 1 of the assessment year, on forms provided by the department of revenue and finance. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners shall certify whether the property is eligible to receive the exemption. The commissioners shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

Sec. 24. Section 427.1, subsection 30, Code Supplement 1999, is amended to read as follows:

30. MOBILE HOME PARK STORM SHELTER. A structure constructed as a storm shelter at a mobile home park as defined in section 435.1. An application for this exemption shall be filed with the assessing authority not later than ~~April-fifteenth~~ February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and

locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure shall be assessed for taxation at seventy-five percent of its value as commercial property.

Sec. 25. Section 427.16, subsection 2, Code 1999, is amended to read as follows:

2. Application for the exemption shall be filed with the assessor, not later than ~~March-1~~ February 1 of the assessment year, on forms provided by the department of revenue and finance. The exemption application shall include an approved application for certified substantial rehabilitation from the state historic preservation officer and documentation of additional property tax relief or financial assistance currently allowed for the real property. Upon receipt of the application, the assessor shall certify whether or not the property is eligible to receive the exemption and shall forward the application to the board.

Sec. 26. Section 427C.3, Code 1999, is amended to read as follows:

427C.3 FOREST RESERVATION.

A forest reservation shall contain not less than two hundred growing forest trees on each acre. If the area selected is a forest containing the required number of growing forest trees, it shall be accepted as a forest reservation under this chapter provided application is made or on file on or before ~~April-15~~ February 1 of the exemption year. If any buildings are standing on an area selected as a forest reservation under this section or a fruit-tree reservation under section 427C.7 one acre of that area shall be excluded from the tax exemption. However, the exclusion of that acre shall not affect the area's meeting the acreage requirement of section 427C.2.

Sec. 27. Section 427C.7, Code 1999, is amended to read as follows:

427C.7 FRUIT-TREE RESERVATION -- DURATION OF EXEMPTION.

A fruit-tree reservation shall contain on each acre, at least forty apple trees, or seventy other fruit trees, growing under proper care and annually pruned and sprayed. A reservation may be claimed as a fruit-tree reservation, under this chapter, for a period of eight years after planting provided application is made or on file on or before April 15 February 1 of the exemption year.

Sec. 28. Section 428A.8, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any tax or additional tax found to be due shall be collected by the county recorder. If the county recorder is unable to collect the tax, it will be collected by the director of revenue and finance in the same manner as taxes are collected in chapter 422, division III. If collected by the director of revenue and finance, the director shall pay the county its proportionate share of the tax. Section 422.25, subsections 1, 2, 3, and 4, sections 422.26, 422.28 to 422.30, and 422.73, consistent with this chapter, apply with respect to the collection of any tax or additional tax found to be due, in the same manner and with the same effect as if the deed, instrument, or writing were an income tax return within the meaning of those statutes.

Sec. 29. Section 450.4, subsection 5, Code 1999, is amended to read as follows:

5. On the value of that portion of any lump sum or installment payments which will be includable as net income as defined in section 422.7 as received by a beneficiary under an annuity which was purchased under an employees pension or retirement plan.

Sec. 30. Section 450.4, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The value of that portion of any lump sum or installment payments which are received by a

beneficiary under an annuity which was purchased under an employee's pension or retirement plan where the employee is a nonresident of Iowa at the time of death.

NEW SUBSECTION. 8. The value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan which was excluded from net income as set forth in section 422.7, subsection 31.

Sec. 31. Section 450.10, subsection 4, Code 1999, is amended to read as follows:

4. When the property or any interest therein in property or income therefrom from property, taxable under the provisions of this chapter, passes to any firm, corporation, or society organized for profit either under the laws of this state or of any other state, territory, province or country, including fraternal and social organizations which do not qualify for exemption under sections 170(c) and 2055 of the Internal Revenue Code, the rate of tax imposed shall be as follows:

Fifteen percent on the entire amount so passing.

Sec. 32. Section 452A.2, Code Supplement 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Denatured ethanol" means ethanol that is to be blended with gasoline, has been derived from cereal grains, complies with American society of testing materials designation D-4806-95b, and may be denatured only as specified in Code of Federal Regulations, Titles 20, 21, and 27. Alcohol and denatured ethanol have the same meaning in this chapter.

NEW SUBSECTION. 18A. "Racing fuel" means leaded gasoline of one hundred ten octane or more that does not meet American society of testing materials designation D-4814 for gasoline and is sold in bulk for use in nonregistered motor vehicles.

Sec. 33. Section 452A.2, subsection 17, paragraph a, Code Supplement 1999, is amended to read as follows:

a. All products commonly or commercially known or sold as gasoline, including ethanol blended gasoline, casinghead, and absorption or natural gasoline, regardless of their classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

Sec. 34. Section 452A.3, subsection 5, paragraph a, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Tax shall not be paid when the sale of alcohol occurs within a terminal from an alcohol manufacturer to an Iowa licensed supplier. The tax shall be paid by the Iowa licensed supplier when the invoiced gross gallonage of the alcohol or the alcohol part of ethanol blended gasoline is withdrawn from a terminal for delivery in this state.

Sec. 35. Section 452A.17, subsection 1, paragraph a, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) Racing fuel.

Sec. 36. Section 453A.1, subsection 26, Code 1999, is amended to read as follows:

26. "Tobacco products" means cigars; little cigars as defined in section 453A.42~~-subsection-5~~; cheroots; stogies; periques; granulated; plug cut, crimp cut, ready rubbed, and other smoking tobacco; moist snuff as defined in section 453A.42; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; or refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not mean cigarettes.

Sec. 37. Section 453A.2, subsection 3, Code 1999, is amended to read as follows:

3. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority which issued the permit against a permit holder violating this section.

Sec. 38. Section 453A.42, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Moist snuff" means any finely cut, ground, or powdered tobacco intended to be placed in the oral cavity, except dry snuff.

Sec. 39. Section 453A.42, subsection 14, Code 1999, is amended to read as follows:

14. "Tobacco products" means cigars; little cigars as defined ~~herein~~; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; moist snuff; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings to tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 453A.17~~-subsection-3~~.

Sec. 40. Section 453A.43, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-two percent of the wholesale sales price of the tobacco products, except little cigars ~~as defined in section 453A.42~~ and moist snuff. Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 453A.6, payable at the time and in the manner provided in section 453A.6; and stamps shall be affixed as provided in division I of this chapter. Moist snuff shall be subject to tax as provided in subsection 2A. The tax on tobacco products, excluding little cigars and moist snuff,

shall be imposed at the time the distributor does any of the following:

Sec. 41. Section 453A.43, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A tax is imposed upon the use or storage by consumers of tobacco products, except moist snuff, in this state, and upon the consumers, at the rate of twenty-two percent of the cost of the tobacco products.

Sec. 42. Section 453A.43, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. A tax is imposed upon moist snuff in this state and upon any person engaged in business as a distributor of moist snuff, at the rate of forty-two cents per ounce and a proportionate amount at the same rate for fractional parts of an ounce of moist snuff. The tax on moist snuff shall be imposed at the time the distributor does any of the following:

- (1) Brings, or causes to be brought, into this state from without the state moist snuff for sale.
- (2) Makes, manufactures, or fabricates moist snuff in this state for sale in this state.
- (3) Ships or transports moist snuff to retailers in this state, to be sold by those retailers.

b. A tax is imposed upon the use or storage by consumers of moist snuff in this state, and upon the consumers, at the rate of forty-two cents per ounce and a proportionate amount at the same rate for fractional parts of an ounce of moist snuff.

The tax imposed by this paragraph shall not apply if the tax imposed by paragraph "a" on the moist snuff has been paid.

This tax shall not apply to the use or storage of moist snuff in quantities of less than ten ounces.

Sec. 43. Section 453A.45, subsection 5, paragraph a, Code Supplement 1999, is amended to read as follows:

a. The transportation of not more than fifty cigars, not more than ten ounces of moist snuff, snuff, or snuff powder,

or not more than one pound of smoking or chewing tobacco or other tobacco products not specifically mentioned herein.

Sec. 44. INVENTORY TAX.

1. All persons required to be licensed under section 453A.44 as distributors having in their possession and held for resale on December 31, 2000, moist snuff upon which the tax under section 453A.43 has been paid shall be subject to an inventory tax on moist snuff as provided in this section.

2. Persons subject to the inventory tax imposed under this section shall take an inventory as of the close of the business day on December 31, 2000, of the amount, by weight, of the moist snuff subject to the inventory tax for the purpose of determining the tax due. These persons shall report the tax on forms provided by the department of revenue and finance and remit the tax due within thirty days of the prescribed inventory date. The department of revenue and finance shall adopt rules as are necessary to carry out this section.

3. The rate of the inventory tax on each ounce or fraction of an ounce of moist snuff subject to the tax as specified in subsection 1 is equal to the difference between the amount paid on moist snuff under section 453A.43 computed to a rate per ounce prior to January 1, 2001, and the amount that is to be paid on each ounce or fraction of an ounce of moist snuff under section 453A.43 on or after January 1, 2001. However, if the total amount of tax paid on the moist snuff prior to January 1, 2001, exceeds the amount that is imposed on the moist snuff on or after January 1, 2001, the distributor is entitled to a refund of the excess.

Sec. 45. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment, except as follows:

1. Sections 15, 17, 19, 20, 22, 23, 24, 25, 26, and 27 of this Act, amending Code sections 424.10, 424.12, 424.15, 427.1, 427.16, 427C.3, and 427C.7, take effect January 1, 2001, and apply to claims filed on or after that date.

2. Sections 29, 30, and 31 of this Act, amending Code sections 450.4 and 450.10, take effect July 1, 2000, for estates of decedents dying on or after that date.

3. Section 36 and sections 38 through 43 of this Act, amending Code sections 453A.1, 453A.42, 453A.43, and 453A.45, take effect January 1, 2001.

BRENT SIEGRIST
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 2548, Seventy-eighth General Assembly.

Witness

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 5/19, 2000

THOMAS J. VILSACK
Governor