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Larson
Shoultz

HSB 241
WAYS AND MEANS

HOUSE FILE _____ S: O 736
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 sales and use, real estate transfer,
4 environmental protection charge on petroleum diminution,
5 property, motor fuel, special fuel, and inheritance taxes,
6 authorizing tax agreements with Indian tribes, and including
7 effective and applicability date provisions.

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

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1 Section 1. NEW SECTION. 421.46 TAX AGREEMENTS WITH
2 INDIAN TRIBES.

3 1. "Indian country" means the Indian country as defined in
4 18 U.S.C. § 1151, and includes trust land as defined by the
5 United States secretary of the interior.

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

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

17 Sec. 2. Section 422.43, Code 2001, is amended by adding
18 the following new subsections:

19 NEW SUBSECTION. 16. a. A tax of five percent is imposed
20 upon the gross receipts from sales of bundled services
21 contracts. For purposes of this subsection, a "bundled
22 services contract" means an agreement providing for a
23 retailer's performance of services, one or more of which is a
24 taxable service enumerated in this section and one or more of
25 which is not, in return for a consumer's or user's single
26 payment for the performance of the services, with no separate
27 statement to the consumer or user of what portion of that
28 payment is attributable to any one service which is a part of
29 the contract.

30 b. For purposes of the administration of the tax on
31 bundled services contracts, the director may enter into
32 agreements of limited duration with individual retailers,
33 groups of retailers, or organizations representing retailers
34 of bundled services contracts. Such an agreement shall impose
35 the tax rate only upon that portion of the gross receipts from

1 a bundled services contract which is attributable to taxable
2 services provided under the contract.

3 NEW SUBSECTION. 17. A tax of five percent is imposed upon
4 the gross receipts from any mobile telecommunication service
5 which this state is allowed to tax by the provisions of the
6 federal Mobile Telecommunications Sourcing Act, Pub. L. No.
7 106252, 4 U.S.C. § 116 et seq. The tax shall be imposed at
8 the "place of primary use" as that term is defined by the
9 federal Mobile Telecommunications Sourcing Act.

10 Sec. 3. Section 422.45, subsection 3, Code 2001, is
11 amended by striking the subsection and inserting in lieu
12 thereof the following:

13 3. The gross receipts from sales or rental of tangible
14 personal property, or services rendered by any entity where
15 the profits from the sales or rental of the tangible personal
16 property, or services rendered are used by or donated to a
17 nonprofit entity which is exempt from federal income taxation
18 pursuant to section 501(c)(3) of the Internal Revenue Code, a
19 government entity, or a private educational institution, and
20 where the entire proceeds from the sales, rental, or services
21 are expended for any of the following purposes:

- 22 a. Educational.
- 23 b. Religious.
- 24 c. Charitable. A charitable act is an act done out of
25 goodwill, benevolence, and a desire to add or improve the good
26 of humankind in general or any class or portion of humankind,
27 with no pecuniary profit inuring to the person performing the
28 service or giving the gift.

29 This exemption does not apply to the gross receipts from
30 games of skill, games of chance, raffles, and bingo games as
31 defined in chapter 99B. This exemption is disallowed on the
32 amount of the gross receipts only to the extent the profits
33 from the sales, rental, or services are not used by or donated
34 to the appropriate entity and expended for educational,
35 religious, or charitable purposes.

1 Sec. 4. Section 422.45, subsection 8, Code 2001, is
2 amended to read as follows:

3 8. The gross receipts of all sales of goods, wares, or
4 merchandise, or services, used for educational purposes to any
5 private nonprofit educational institution in this state. The
6 ~~exemption provided by this subsection shall also apply to all~~
7 ~~such sales of goods, wares or merchandise, or services,~~
8 ~~subject to use tax under the provisions of chapter 423. For~~
9 the purpose of this subsection, "educational institution"
10 means an institution which primarily functions as a school,
11 college, or university with students, faculty, and an
12 established curriculum. The faculty of an educational
13 institution must be primarily employed by the institution and
14 the curriculum must include basic courses which are offered
15 every year. "Educational institution" includes an institution
16 primarily functioning as a library.

17 Sec. 5. Section 422.45, Code 2001, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 60. The gross receipts from sales of
20 goods, wares, or merchandise, or from services performed,
21 rendered, or furnished to a nonprofit private art center to be
22 used in the operation of the art center.

23 Sec. 6. Section 422.45, Code 2001, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 61. The gross receipts from charges made
26 for the use of self-service laundry facilities. "Self-service
27 laundry facilities" means clothes washers, dryers, and other
28 laundry equipment which are operated exclusively by the
29 purchaser or user by means of coins, tokens, or currency
30 without the assistance of the vendor or an employee of the
31 vendor.

32 Sec. 7. Section 423.1, subsection 10, Code 2001, is
33 amended to read as follows:

34 10. "Retailer maintaining a place of business in this
35 state" or any like term includes any retailer having or

1 maintaining within this state, directly or by a subsidiary,
 2 tangible personal property leased to a lessee of the retailer,
 3 an office, distribution house, sales house, warehouse, or
 4 other place of business, or any representative operating
 5 within this state under the authority of the retailer or its
 6 subsidiary, irrespective of whether that place of business or
 7 representative is located here permanently or temporarily, or
 8 whether the retailer or subsidiary is admitted to do business
 9 within this state pursuant to chapter 490.

10 Sec. 8. Section 423.1, subsection 12, Code 2001, is
 11 amended to read as follows:

12 12. "Tangible personal property" means tangible goods,
 13 wares, merchandise, optional service or warranty contracts,
 14 except residential service contracts regulated under chapter
 15 523C, vulcanizing, recapping, or retreading services,
 16 engraving, photography, retouching, printing, or binding
 17 services, and gas, electricity, and water, and communication
 18 service when furnished or delivered to consumers or users
 19 within this state.

20 Sec. 9. Section 423.4, subsection 9, Code 2001, is amended
 21 to read as follows:

22 9. Vehicles subject to registration which are transferred
 23 from a business or individual conducting a business within
 24 this state as a sole proprietorship, or partnership, or
 25 limited liability company to a corporation formed by the sole
 26 proprietorship, or partnership, or limited liability company
 27 for the purpose of continuing the business when all of the
 28 stock of the corporation so formed is owned by the sole
 29 proprietor and the sole proprietor's spouse, or by all the
 30 partners in the case of a partnership, or by all of the
 31 members in the case of a limited liability company. This
 32 exemption is equally available where the vehicles subject to
 33 registration are transferred from a corporation to a sole
 34 proprietorship, or partnership, or limited liability company
 35 formed by that corporation for the purpose of continuing the

1 business when all of the incidents of ownership are owned by
2 the same person or persons who were stockholders of the
3 corporation.

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

13 Sec. 10. Section 424.10, subsections 1 and 3, Code 2001,
14 are amended to read as follows:

15 1. As soon as practicable after a return is filed and in
16 any event within ~~five~~ three years after the return is filed
17 the department shall examine it, assess and determine the
18 charge due if the return is found to be incorrect, and give
19 notice to the depositor of ~~such~~ the assessment and
20 determination as provided in subsection 2. The period for the
21 examination and determination of the correct amount of the
22 charge is unlimited in the case of a false or fraudulent
23 return made with the intent to evade the charge or in the case
24 of a failure to file a return. If the determination that a
25 return is incorrect is the result of an audit of the books and
26 records of the depositor, the charge, or additional charge, if
27 any is found due, shall be assessed and determined and the
28 notice to the depositor shall be given by the department
29 within one year after the completion of the examination of the
30 books and records.

31 3. If the amount paid is greater than the correct charge,
32 penalty, and interest due, the department shall refund the
33 excess, with interest after sixty days from the date of
34 payment at the rate in effect under section 421.7, pursuant to
35 rules prescribed by the director. However, the director shall

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

17 Sec. 11. Section 424.12, Code 2001, is amended to read as
 18 follows:

19 424.12 RECORDS REQUIRED.

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

1 chapter. The giving of such information under such
2 circumstances shall not be deemed a violation of section
3 422.72 as applied to this chapter.

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

6 Sec. 12. Section 424.15, unnumbered paragraph 1, Code
7 2001, is amended to read as follows:

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

17 Sec. 13. Section 427.1, subsection 14, unnumbered
18 paragraph 1, Code 2001, is amended to read as follows:

19 A society or organization claiming an exemption under
20 subsection 5 or subsection 8 shall file with the assessor not
21 later than ~~April 15~~ February 1 a statement upon forms to be
22 prescribed by the director of revenue and finance, describing
23 the nature of the property upon which the exemption is claimed
24 and setting out in detail any uses and income from the
25 property derived from the rentals, leases, or other uses of
26 the property not solely for the appropriate objects of the
27 society or organization. Upon the filing and allowance of the
28 claim, the claim shall be allowed on the property for
29 successive years without further filing as long as the
30 property is used for the purposes specified in the original
31 claim for exemption. When the property is sold or
32 transferred, the county recorder shall provide notice of the
33 transfer to the assessor. The notice shall describe the
34 property transferred and the name of the person to whom title
35 to the property is transferred.

1 Sec. 14. Section 427.1, subsection 20, Code 2001, is
2 amended to read as follows:

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

30 PARAGRAPH DIVIDED. As used in this subsection,
31 "impoundment" means a reservoir or pond which has a storage
32 capacity of at least eighteen acre-feet of water or sediment
33 at the time of construction; "storage capacity" means the
34 total area below the crest elevation of the principal spillway
35 including the volume of any excavation in the area; and

1 "impoundment structure" means a dam, earthfill, or other
2 structure used to create an impoundment.

3 Sec. 15. Section 427.1, subsection 22, unnumbered
4 paragraph 2, Code 2001, is amended to read as follows:

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

29 Sec. 16. Section 427.1, subsection 30, Code 2001, is
30 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 as
33 defined in section 435.1. An application for this exemption
34 shall be filed with the assessing authority not later than
35 ~~April-fifteenth~~ February 1 of the first year for which the

1 exemption is requested, on forms provided by the department of
 2 revenue and finance. The application shall describe and
 3 locate the storm shelter to be exempted. If the storm shelter
 4 structure is used exclusively as a storm shelter, all of the
 5 structure's assessed value shall be exempt from taxation. If
 6 the storm shelter structure is not used exclusively as a storm
 7 shelter, the storm shelter structure shall be assessed for
 8 taxation at seventy-five percent of its value as commercial
 9 property.

10 Sec. 17. Section 427.16, subsection 2, Code 2001, is
 11 amended to read as follows:

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

23 Sec. 18. Section 427C.3, Code 2001, is amended to read as
 24 follows:

25 427C.3 FOREST RESERVATION.

26 A forest reservation shall contain not less than two
 27 hundred growing forest trees on each acre. If the area
 28 selected is a forest containing the required number of growing
 29 forest trees, it shall be accepted as a forest reservation
 30 under this chapter provided application is made or on file on
 31 or before ~~April-15~~ February 1 of the exemption year. If any
 32 buildings are standing on an area selected as a forest
 33 reservation under this section or a fruit-tree reservation
 34 under section 427C.7, one acre of that area shall be excluded
 35 from the tax exemption. However, the exclusion of that acre

1 shall not affect the area's meeting the acreage requirement of
2 section 427C.2.

3 Sec. 19. Section 427C.7, Code 2001, is amended to read as
4 follows:

5 427C.7 FRUIT-TREE RESERVATION -- DURATION OF EXEMPTION.

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

13 Sec. 20. Section 428A.8, Code 2001, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. Any tax or additional tax found
16 to be due shall be collected by the county recorder. If the
17 county recorder is unable to collect the tax, the director of
18 revenue and finance shall collect the tax in the same manner
19 as taxes are collected in chapter 422, division III. If
20 collected by the director of revenue and finance, the director
21 shall pay the county its proportionate share of the tax.
22 Section 422.25, subsections 1, 2, 3, and 4, and sections
23 422.26, 422.28 to 422.30, and 422.73, consistent with this
24 chapter, apply with respect to the collection of any tax or
25 additional tax found to be due, in the same manner and with
26 the same effect as if the deed, instrument, or writing were an
27 income tax return within the meaning of those statutes.

28 Sec. 21. NEW SECTION. 428A.9 REFUND OF TAX.

29 To receive a refund from the state the taxpayer shall
30 petition the state appeal board for a refund of the amount of
31 overpayment of the tax paid to the treasurer of state. To
32 receive a refund from the county the taxpayer shall petition
33 the board of supervisors for a refund of the remaining portion
34 of the overpayment paid to that county.

35 Sec. 22. Section 450.4, subsection 5, Code 2001, is

1 amended to read as follows:

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

7 Sec. 23. Section 450.4, Code 2001, is amended by adding
8 the following new subsections:

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

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

19 Sec. 24. Section 452A.2, Code 2001, is amended by adding
20 the following new subsections:

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

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

32 Sec. 25. Section 452A.2, subsection 17, paragraph a, Code
33 2001, is amended to read as follows:

34 a. All products commonly or commercially known or sold as
35 gasoline, including ethanol blended gasoline, casinghead, and

1 absorption or natural gasoline, regardless of their
2 classifications or uses, and including transmix which serves
3 as a buffer between fuel products in the pipeline distribution
4 process.

5 Sec. 26. Section 452A.3, subsection 5, paragraph a, Code
6 2001, is amended by adding the following new unnumbered
7 paragraph:

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

15 Sec. 27. Section 452A.17, subsection 1, paragraph a, Code
16 2001, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (10) Racing fuel.

18 Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

19 1. The sections of this Act amending Code section 422.45,
20 subsections 3 and 8, and adding Code section 422.45,
21 subsection 61, take effect January 1, 2002.

22 2. The sections of this Act amending Code sections 427.1,
23 427.16, 427C.3, and 427C.7 take effect January 1, 2002, and
24 apply to claims filed on or after that date.

25 EXPLANATION

26 This bill amends various tax provisions of state law.

27 A new Code section 421.46 is created which authorizes the
28 department of revenue and finance to enter into agreements
29 with an Indian tribe to collect and distribute a state tax or
30 a tribal tax. The new provision further provides that if the
31 department collects and distributes a tribal tax on behalf of
32 the Indian tribe, the department may charge a mutually agreed
33 upon administrative fee.

34 Code section 422.43 is amended to impose the state sales
35 tax on the gross receipts from sales of bundled services

1 contracts and to allow the director of revenue and finance the
 2 authority to enter into agreements to determine the taxable
 3 portion of a bundled services contract when both taxable and
 4 nontaxable services are provided and a consumer agrees to a
 5 single payment. Code section 422.43 is also amended to impose
 6 the sales tax on mobile telecommunication service which the
 7 state is allowed to tax under the federal Mobile
 8 Telecommunications Sourcing Act that was signed into law on
 9 July 28, 2000, and becomes effective August 1, 2002, and to
 10 recognize that communication services are furnished by out-of-
 11 state providers. Code section 423.1, subsection 12, is
 12 amended so that out-of-state providers are required to collect
 13 Iowa sales or use taxes on communication services they provide
 14 to consumers within the state.

15 Code section 422.45, subsection 3, is rewritten to exempt
 16 from tax the proceeds from sales and services to the extent
 17 the proceeds are expended for a qualifying educational,
 18 religious, or charitable purpose and to eliminate the
 19 requirement that the fund-raising activity must be
 20 educational, religious, or charitable. In addition, the
 21 amendment defines "charitable" as meaning something done out
 22 of goodwill, benevolence, and a desire to add or improve the
 23 good of humankind in general, or any class, without pecuniary
 24 profit inuring to the giver.

25 Code section 422.45, subsection 8, is amended to provide a
 26 more narrow application of the exemption of "educational
 27 institution" under the sales tax exemption for sales used by
 28 those educational institutions. This amendment results in the
 29 exemption applied to those institutions which are primarily
 30 educational institutions as opposed to those institutions
 31 whose educational activities are an additional or incidental
 32 activity. In addition, this amendment deletes reference to
 33 the exemption being available to items subject to Iowa use tax
 34 which is governed by Code chapter 423.

35 Code section 422.45 is amended to exempt sales to or

1 services performed for a nonprofit private art center if used
2 in its operation.

3 Code section 422.45 is also amended to exempt from sales
4 and use taxes charges paid for use of self-service clothes
5 washers, dryers, or other laundry equipment where the
6 purchaser or user by means of coins, tokens, or currency
7 operates the equipment without assistance of the vendor or
8 employee of the vendor.

9 Code section 423.1, subsection 10, amends the definition of
10 "retailer maintaining a place of business in this state" under
11 the state use tax to specify that it includes lessors of
12 tangible personal property within its terms.

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

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

29 Code section 424.12 is amended to reduce the requirement
30 that depositors of underground petroleum must keep records
31 from a period of five years to a period of three years for
32 purposes of the environmental protection charge.

33 Code section 427.1, subsection 14, section 427.1,
34 subsection 20, section 427.1, subsection 22, section 427.1,
35 subsection 30, section 427.16, subsection 2, and sections

1 427C.3 and 427C.7 are amended to change the dates for filing
2 claims for various property tax exemptions to February 1 for
3 purposes of uniformity.

4 Code section 428A.8 is amended to provide that any
5 additional tax owed that cannot be collected by the local
6 county recorder shall be collected by the department in the
7 same manner as individual income tax. This amendment is
8 necessary because there is no provision in Code chapter 428A
9 to collect unpaid real estate transfer taxes. If the tax is
10 collected by the department, the county is to be paid its
11 proportionate share of the tax.

12 Code chapter 428A is amended to permit a person who has
13 overpaid the real estate transfer tax to be refunded the
14 amount of overpayment.

15 Code section 450.4, subsection 5, is amended to allow
16 distributions to beneficiaries to be exempt from Iowa
17 inheritance tax whether such distributions are lump sum in
18 nature or in the form of installments. Installment payments
19 are currently exempt from tax. Code section 450.4 is also
20 amended to provide for the exemption from Iowa inheritance tax
21 of distributions from nonresident employment-related pensions
22 and pension income excluded from net income under Code section
23 422.7, subsection 31. This amendment relates to Code section
24 422.7, subsection 31, and Code section 422.8, which exempt
25 such distributions from Iowa income tax.

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

28 Code section 452A.2, subsection 17, paragraph "a", is
29 amended to redefine "motor fuel" to include ethanol blended
30 gasoline.

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

35 Code section 452A.17, subsection 1, paragraph "a", is

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LSB
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1 amended to permit a refund of tax paid on fuel used for
2 racing. This change is being made to conform with federal
3 regulations.

4 The bill has provisions with different effective and
5 applicability dates.

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APR 25 2001
WAYS & MEANS CALENDAR

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HOUSE FILE 736
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 241)

Passed House, Date 5/3/01 (p.1821) Passed Senate, Date 5/7/01
Vote: Ayes 93 Nays 0 Vote: Ayes 44 Nays 0
Approved May 18, 2001

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 sales and use, real estate transfer,
4 environmental protection charge on petroleum diminution,
5 property, motor fuel, special fuel, and inheritance taxes,
6 authorizing tax agreements with Indian tribes, and including
7 effective and applicability date provisions.

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

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HF 736

1 Section 1. NEW SECTION. 421.46 TAX AGREEMENTS WITH
2 INDIAN TRIBES.

3 1. "Indian country" means the Indian country as defined in
4 18 U.S.C. § 1151, and includes trust land as defined by the
5 United States secretary of the interior.

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

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

17 Sec. 2. Section 422.43, Code 2001, is amended by adding
18 the following new subsections:

19 NEW SUBSECTION. 16. a. A tax of five percent is imposed
20 upon the gross receipts from sales of bundled services
21 contracts. For purposes of this subsection, a "bundled
22 services contract" means an agreement providing for a
23 retailer's performance of services, one or more of which is a
24 taxable service enumerated in this section and one or more of
25 which is not, in return for a consumer's or user's single
26 payment for the performance of the services, with no separate
27 statement to the consumer or user of what portion of that
28 payment is attributable to any one service which is a part of
29 the contract.

30 b. For purposes of the administration of the tax on
31 bundled services contracts, the director may enter into
32 agreements of limited duration with individual retailers,
33 groups of retailers, or organizations representing retailers
34 of bundled services contracts. Such an agreement shall impose
35 the tax rate only upon that portion of the gross receipts from

1 a bundled services contract which is attributable to taxable
2 services provided under the contract.

3 NEW SUBSECTION. 17. A tax of five percent is imposed upon
4 the gross receipts from any mobile telecommunication service
5 which this state is allowed to tax by the provisions of the
6 federal Mobile Telecommunications Sourcing Act, Pub. L. No.
7 106-252, 4 U.S.C. § 116 et seq. For purposes of this
8 subsection, taxes on mobile telecommunications service, as
9 defined under the federal Mobile Telecommunications Sourcing
10 Act that are deemed to be provided by the customer's home
11 service provider shall be paid to the taxing jurisdiction
12 whose territorial limits encompass the customer's place of
13 primary use, regardless of where the mobile telecommunication
14 service originates, terminates, or passes through and shall in
15 all other respects be taxed in conformity with the federal
16 Mobile Telecommunications Sourcing Act. All other provisions
17 of the federal Mobile Telecommunications Sourcing Act are
18 adopted by the state of Iowa and incorporated into this
19 subsection by reference. With respect to mobile
20 telecommunications service under the federal Mobile
21 Telecommunications Sourcing Act the director shall, if
22 requested, enter into agreements consistent with the
23 provisions of the federal Act.

24 Sec. 3. Section 422.45, subsection 3, Code 2001, is
25 amended by striking the subsection and inserting in lieu
26 thereof the following:

27 3. The gross receipts from sales or rental of tangible
28 personal property, or services rendered by any entity where
29 the profits from the sales or rental of the tangible personal
30 property, or services rendered are used by or donated to a
31 nonprofit entity which is exempt from federal income taxation
32 pursuant to section 501(c)(3) of the Internal Revenue Code, a
33 government entity, or a private educational institution, and
34 where the entire proceeds from the sales, rental, or services
35 are expended for any of the following purposes:

- 1 a. Educational.
- 2 b. Religious.
- 3 c. Charitable. A charitable act is an act done out of
- 4 goodwill, benevolence, and a desire to add or improve the good
- 5 of humankind in general or any class or portion of humankind,
- 6 with no pecuniary profit inuring to the person performing the
- 7 service or giving the gift.

8 This exemption does not apply to the gross receipts from
9 games of skill, games of chance, raffles, and bingo games as
10 defined in chapter 99B. This exemption is disallowed on the
11 amount of the gross receipts only to the extent the profits
12 from the sales, rental, or services are not used by or donated
13 to the appropriate entity and expended for educational,
14 religious, or charitable purposes.

15 Sec. 4. Section 422.45, subsection 8, Code 2001, is
16 amended to read as follows:

17 8. The gross receipts of all sales of goods, wares, or
18 merchandise, or services, used for educational purposes to any
19 private nonprofit educational institution in this state. ~~The~~
20 ~~exemption-provided-by-this-subsection-shall-also-apply-to-all~~
21 ~~such-sales-of-goods, wares-or-merchandise, or services,~~
22 ~~subject-to-use-tax-under-the-provisions-of-chapter-423.~~ For
23 the purpose of this subsection, "educational institution"
24 means an institution which primarily functions as a school,
25 college, or university with students, faculty, and an
26 established curriculum. The faculty of an educational
27 institution must be associated with the institution and the
28 curriculum must include basic courses which are offered every
29 year. "Educational institution" includes an institution
30 primarily functioning as a library.

31 Sec. 5. Section 422.45, Code 2001, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 60. The gross receipts from sales of
34 goods, wares, or merchandise, or from services performed,
35 rendered, or furnished to a nonprofit private art center to be

1 used in the operation of the art center.

2 Sec. 6. Section 423.1, subsection 10, Code 2001, is
3 amended to read as follows:

4 10. "Retailer maintaining a place of business in this
5 state" or any like term includes any retailer having or
6 maintaining within this state, directly or by a subsidiary,
7 tangible personal property leased to a lessee of the retailer,
8 an office, distribution house, sales house, warehouse, or
9 other place of business, or any representative operating
10 within this state under the authority of the retailer or its
11 subsidiary, irrespective of whether that place of business or
12 representative is located here permanently or temporarily, or
13 whether the retailer or subsidiary is admitted to do business
14 within this state pursuant to chapter 490.

15 Sec. 7. Section 423.1, subsection 12, Code 2001, is
16 amended to read as follows:

17 12. "Tangible personal property" means tangible goods,
18 wares, merchandise, optional service or warranty contracts,
19 except residential service contracts regulated under chapter
20 523C, vulcanizing, recapping, or retreading services,
21 engraving, photography, retouching, printing, or binding
22 services, and gas, electricity, and water, and communication
23 service when furnished or delivered to consumers or users
24 within this state.

25 Sec. 8. Section 423.4, subsection 9, Code 2001, is amended
26 to read as follows:

27 9. Vehicles subject to registration which are transferred
28 from a business or individual conducting a business within
29 this state as a sole proprietorship, or partnership, or
30 limited liability company to a corporation formed by the sole
31 proprietorship, or partnership, or limited liability company
32 for the purpose of continuing the business when all of the
33 stock of the corporation so formed is owned by the sole
34 proprietor and the sole proprietor's spouse, or by all the
35 partners in the case of a partnership, or by all of the

1 members in the case of a limited liability company. This
2 exemption is equally available where the vehicles subject to
3 registration are transferred from a corporation to a sole
4 proprietorship, or partnership, or limited liability company
5 formed by that corporation for the purpose of continuing the
6 business when all of the incidents of ownership are owned by
7 the same person or persons who were stockholders of the
8 corporation.

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

18 Sec. 9. Section 424.10, subsections 1 and 3, Code 2001,
19 are amended to read as follows:

20 1. As soon as practicable after a return is filed and in
21 any event within ~~five~~ three years after the return is filed
22 the department shall examine it, assess and determine the
23 charge due if the return is found to be incorrect, and give
24 notice to the depositor of ~~such~~ the assessment and
25 determination as provided in subsection 2. The period for the
26 examination and determination of the correct amount of the
27 charge is unlimited in the case of a false or fraudulent
28 return made with the intent to evade the charge or in the case
29 of a failure to file a return. If the determination that a
30 return is incorrect is the result of an audit of the books and
31 records of the depositor, the charge, or additional charge, if
32 any is found due, shall be assessed and determined and the
33 notice to the depositor shall be given by the department
34 within one year after the completion of the examination of the
35 books and records.

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

22 Sec. 10. Section 424.12, Code 2001, is amended to read as
23 follows:

24 424.12 RECORDS REQUIRED.

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

1 the sale of any personal property, or by any other person
2 having a legitimate interest in such information, the
3 director, upon being satisfied that such a situation exists,
4 shall inform such that person as to the amount of unpaid
5 charges due by the charge payer under ~~the-provisions-of~~ this
6 chapter. The giving of such information under such
7 circumstances shall not be deemed a violation of section
8 422.72 as applied to this chapter.

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

11 Sec. 11. Section 424.15, unnumbered paragraph 1, Code
12 2001, is amended to read as follows:

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

22 Sec. 12. Section 427.1, subsection 14, unnumbered
23 paragraph 1, Code 2001, is amended to read as follows:

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

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

6 Sec. 13. Section 427.1, subsection 20, Code 2001, is
7 amended to read as follows:

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

35 PARAGRAPH DIVIDED. As used in this subsection,

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

8 Sec. 14. Section 427.1, subsection 22, unnumbered
9 paragraph 2, Code 2001, is amended to read as follows:

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

34 Sec. 15. Section 427.1, subsection 30, Code 2001, is
35 amended to read as follows:

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

15 Sec. 16. Section 427.16, subsection 2, Code 2001, is
16 amended to read as follows:

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

28 Sec. 17. Section 427C.3, Code 2001, is amended to read as
29 follows:

30 427C.3 FOREST RESERVATION.

31 A forest reservation shall contain not less than two
32 hundred growing forest trees on each acre. If the area
33 selected is a forest containing the required number of growing
34 forest trees, it shall be accepted as a forest reservation
35 under this chapter provided application is made or on file on

1 or before ~~April-15~~ February 1 of the exemption year. If any
2 buildings are standing on an area selected as a forest
3 reservation under this section or a fruit-tree reservation
4 under section 427C.7, one acre of that area shall be excluded
5 from the tax exemption. However, the exclusion of that acre
6 shall not affect the area's meeting the acreage requirement of
7 section 427C.2.

8 Sec. 18. Section 427C.7, Code 2001, is amended to read as
9 follows:

10 427C.7 FRUIT-TREE RESERVATION -- DURATION OF EXEMPTION.

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

18 Sec. 19. Section 428A.8, Code 2001, is amended by adding
19 the following new unnumbered paragraph:

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

33 Sec. 20. NEW SECTION. 428A.9 REFUND OF TAX.

34 To receive a refund from the state the taxpayer shall
35 petition the state appeal board for a refund of the amount of

1 overpayment of the tax paid to the treasurer of state. To
2 receive a refund from the county the taxpayer shall petition
3 the board of supervisors for a refund of the remaining portion
4 of the overpayment paid to that county.

5 Sec. 21. Section 450.4, subsection 5, Code 2001, is
6 amended to read as follows:

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

12 Sec. 22. Section 450.4, Code 2001, is amended by adding
13 the following new subsections:

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

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

24 Sec. 23. Section 452A.2, Code 2001, is amended by adding
25 the following new subsections:

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

33 NEW SUBSECTION. 18A. "Racing fuel" means leaded gasoline
34 of one hundred ten octane or more that does not meet American
35 society of testing materials designation D-4814 for gasoline

1 and is sold in bulk for use in nonregistered motor vehicles.

2 Sec. 24. Section 452A.2, subsection 17, paragraph a, Code
3 2001, is amended to read as follows:

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

10 Sec. 25. Section 452A.3, subsection 5, paragraph a, Code
11 2001, is amended by adding the following new unnumbered
12 paragraph:

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

20 Sec. 26. Section 452A.17, subsection 1, paragraph a, Code
21 2001, is amended by adding the following new subparagraph:

22 NEW SUBPARAGRAPH. (10) Racing fuel.

23 Sec. 27. EFFECTIVE AND APPLICABILITY DATES.

24 1. The sections of this Act amending Code section 422.45,
25 subsections 3 and 8, take effect January 1, 2002.

26 2. The sections of this Act amending Code sections 427.1,
27 427.16, 427C.3, and 427C.7 take effect January 1, 2002, and
28 apply to claims filed on or after that date.

29 EXPLANATION

30 This bill amends various tax provisions of state law.

31 A new Code section 421.46 is created which authorizes the
32 department of revenue and finance to enter into agreements
33 with an Indian tribe to collect and distribute or refund a
34 state tax or a tribal tax. The new provision further provides
35 that if the department collects and distributes a tribal tax

1 on behalf of the Indian tribe, the department may charge a
2 mutually agreed upon administrative fee.

3 Code section 422.43 is amended to impose the state sales
4 tax on the gross receipts from sales of bundled services
5 contracts and to allow the director of revenue and finance the
6 authority to enter into agreements to determine the taxable
7 portion of a bundled services contract when both taxable and
8 nontaxable services are provided and a consumer agrees to a
9 single payment. Code section 422.43 is also amended to impose
10 the sales tax on mobile telecommunication service which the
11 state is allowed to tax under the federal Mobile
12 Telecommunications Sourcing Act that was signed into law on
13 July 28, 2000, and becomes effective August 1, 2002, and to
14 recognize that communication services are furnished by out-of-
15 state providers. The tax on mobile telecommunication service
16 is imposed at the customer's place of primary use, regardless
17 of where the mobile telecommunication service originates,
18 terminates, or passes through. Code section 423.1, subsection
19 12, is amended so that out-of-state providers are required to
20 collect Iowa sales or use taxes on communication services they
21 provide to consumers within the state.

22 Code section 422.45, subsection 3, is rewritten to exempt
23 from tax the proceeds from sales and services to the extent
24 the proceeds are expended for a qualifying educational,
25 religious, or charitable purpose and to eliminate the
26 requirement that the fund-raising activity must be
27 educational, religious, or charitable. In addition, the
28 amendment defines "charitable" as meaning something done out
29 of goodwill, benevolence, and a desire to add or improve the
30 good of humankind in general, or any class, without pecuniary
31 profit inuring to the giver.

32 Code section 422.45, subsection 8, is amended to provide a
33 more narrow application of the exemption of "educational
34 institution" under the sales tax exemption for sales used by
35 those educational institutions. This amendment results in the

1 exemption applied to those institutions which are primarily
2 educational institutions as opposed to those institutions
3 whose educational activities are an additional or incidental
4 activity. In addition, this amendment deletes reference to
5 the exemption being available to items subject to Iowa use tax
6 which is governed by Code chapter 423.

7 Code section 422.45 is amended to exempt sales to or
8 services performed for a nonprofit private art center if used
9 in its operation.

10 Code section 423.1, subsection 10, amends the definition of
11 "retailer maintaining a place of business in this state" under
12 the state use tax to specify that it includes lessors of
13 tangible personal property within its terms.

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

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

30 Code section 424.12 is amended to reduce the requirement
31 that depositors of underground petroleum must keep records
32 from a period of five years to a period of three years for
33 purposes of the environmental protection charge.

34 Code section 427.1, subsection 14, section 427.1,
35 subsection 20, section 427.1, subsection 22, section 427.1,

1 subsection 30, section 427.16, subsection 2, and sections
2 427C.3 and 427C.7 are amended to change the dates for filing
3 claims for various property tax exemptions to February 1 for
4 purposes of uniformity.

5 Code section 428A.8 is amended to provide that any
6 additional tax owed that cannot be collected by the local
7 county recorder shall be collected by the department in the
8 same manner as individual income tax. This amendment is
9 necessary because there is no provision in Code chapter 428A
10 to collect unpaid real estate transfer taxes. If the tax is
11 collected by the department, the county is to be paid its
12 proportionate share of the tax.

13 Code chapter 428A is amended to permit a person who has
14 overpaid the real estate transfer tax to be refunded the
15 amount of overpayment.

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

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

29 Code section 452A.2, subsection 17, paragraph "a", is
30 amended to redefine "motor fuel" to include ethanol blended
31 gasoline.

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

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

5 The bill has provisions with different effective and
6 applicability dates.

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HOUSE FILE 736

H-1729

1 Amend House File 736 as follows:
2 1. Page 1, line 12, by inserting after the word
3 "distribution" the following: "or refund".

By EICHHORN of Hamilton

H-1729 FILED APRIL 26, 2001

o/o 5/3/01 (p. 1820)

HOUSE FILE 736

H-1910

1 Amend House File 736 as follows:
2 1. Page 1, by striking lines 1 through 16.
3 2. Title page, line 6, by striking the words
4 "authorizing tax agreements with Indian tribes,".

By EICHHORN of Hamilton

H-1910 FILED MAY 2, 2001

Adopted 5/3/01 (p. 1820)

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5/13/01
S-5/7/01 No Pass

HOUSE FILE 736
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 241)

(As Amended and Passed by the House May 3, 2001)

Passed House, Date _____ Passed Senate, Date 5/7/01 (p.1536)
Vote: Ayes _____ Nays _____ Vote: Ayes 44 Nays 0
Approved May 18, 2001

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 sales and use, real estate transfer,
4 environmental protection charge on petroleum diminution,
*5 property, motor fuel, special fuel, and inheritance taxes, and
6 including effective and applicability date provisions.

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

8
9 Deleted Language *

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* 1 Section 1. Section 422.43, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 16. a. A tax of five percent is imposed
4 upon the gross receipts from sales of bundled services
5 contracts. For purposes of this subsection, a "bundled
6 services contract" means an agreement providing for a
7 retailer's performance of services, one or more of which is a
8 taxable service enumerated in this section and one or more of
9 which is not, in return for a consumer's or user's single
10 payment for the performance of the services, with no separate
11 statement to the consumer or user of what portion of that
12 payment is attributable to any one service which is a part of
13 the contract.

14 b. For purposes of the administration of the tax on
15 bundled services contracts, the director may enter into
16 agreements of limited duration with individual retailers,
17 groups of retailers, or organizations representing retailers
18 of bundled services contracts. Such an agreement shall impose
19 the tax rate only upon that portion of the gross receipts from
20 a bundled services contract which is attributable to taxable
21 services provided under the contract.

22 NEW SUBSECTION. 17. A tax of five percent is imposed upon
23 the gross receipts from any mobile telecommunication service
24 which this state is allowed to tax by the provisions of the
25 federal Mobile Telecommunications Sourcing Act, Pub. L. No.
26 106-252, 4 U.S.C. § 116 et seq. For purposes of this
27 subsection, taxes on mobile telecommunications service, as
28 defined under the federal Mobile Telecommunications Sourcing
29 Act that are deemed to be provided by the customer's home
30 service provider shall be paid to the taxing jurisdiction
31 whose territorial limits encompass the customer's place of
32 primary use, regardless of where the mobile telecommunication
33 service originates, terminates, or passes through and shall in
34 all other respects be taxed in conformity with the federal
35 Mobile Telecommunications Sourcing Act. All other provisions

1 of the federal Mobile Telecommunications Sourcing Act are
2 adopted by the state of Iowa and incorporated into this
3 subsection by reference. With respect to mobile
4 telecommunications service under the federal Mobile
5 Telecommunications Sourcing Act the director shall, if
6 requested, enter into agreements consistent with the
7 provisions of the federal Act.

8 Sec. 2. Section 422.45, subsection 3, Code 2001, is
9 amended by striking the subsection and inserting in lieu
10 thereof the following:

11 3. The gross receipts from sales or rental of tangible
12 personal property, or services rendered by any entity where
13 the profits from the sales or rental of the tangible personal
14 property, or services rendered are used by or donated to a
15 nonprofit entity which is exempt from federal income taxation
16 pursuant to section 501(c)(3) of the Internal Revenue Code, a
17 government entity, or a private educational institution, and
18 where the entire proceeds from the sales, rental, or services
19 are expended for any of the following purposes:

20 a. Educational.

21 b. Religious.

22 c. Charitable. A charitable act is an act done out of
23 goodwill, benevolence, and a desire to add or improve the good
24 of humankind in general or any class or portion of humankind,
25 with no pecuniary profit inuring to the person performing the
26 service or giving the gift.

27 This exemption does not apply to the gross receipts from
28 games of skill, games of chance, raffles, and bingo games as
29 defined in chapter 99B. This exemption is disallowed on the
30 amount of the gross receipts only to the extent the profits
31 from the sales, rental, or services are not used by or donated
32 to the appropriate entity and expended for educational,
33 religious, or charitable purposes.

34 Sec. 3. Section 422.45, subsection 8, Code 2001, is
35 amended to read as follows:

1 8. The gross receipts of all sales of goods, wares, or
2 merchandise, or services, used for educational purposes to any
3 private nonprofit educational institution in this state. The
4 ~~exemption-provided-by-this-subsection-shall-also-apply-to-all~~
5 ~~such-sales-of-goods, wares or merchandise, or services,~~
6 ~~subject-to-use-tax-under-the-provisions-of-chapter-423.~~ For
7 the purpose of this subsection, "educational institution"
8 means an institution which primarily functions as a school,
9 college, or university with students, faculty, and an
10 established curriculum. The faculty of an educational
11 institution must be associated with the institution and the
12 curriculum must include basic courses which are offered every
13 year. "Educational institution" includes an institution
14 primarily functioning as a library.

15 Sec. 4. Section 422.45, Code 2001, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 60. The gross receipts from sales of
18 goods, wares, or merchandise, or from services performed,
19 rendered, or furnished to a nonprofit private art center to be
20 used in the operation of the art center.

21 Sec. 5. Section 423.1, subsection 10, Code 2001, is
22 amended to read as follows:

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

34 Sec. 6. Section 423.1, subsection 12, Code 2001, is
35 amended to read as follows:

1 12. "Tangible personal property" means tangible goods,
2 wares, merchandise, optional service or warranty contracts,
3 except residential service contracts regulated under chapter
4 523C, vulcanizing, recapping, or retreading services,
5 engraving, photography, retouching, printing, or binding
6 services, and gas, electricity, and water, and communication
7 service when furnished or delivered to consumers or users
8 within this state.

9 Sec. 7. Section 423.4, subsection 9, Code 2001, is amended
10 to read as follows:

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

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

1 or persons who were stockholders of the corporation.

2 Sec. 8. Section 424.10, subsections 1 and 3, Code 2001,
3 are amended to read as follows:

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

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

1 hearing the director shall determine the correct charge,
2 penalty, and interest due or refund owing, and notify the
3 appellant of the decision by mail. The decision of the
4 director is final unless the appellant seeks judicial review
5 of the director's decision under section 424.13.

6 Sec. 9. Section 424.12, Code 2001, is amended to read as
7 follows:

8 424.12 RECORDS REQUIRED.

9 It ~~shall-be~~ is the duty of every depositor required to make
10 a report and pay any charge under this chapter, to preserve
11 such records as the director may require, and it ~~shall-be~~ is
12 the duty of every depositor to preserve for a period of ~~five~~
13 three years all invoices and other records; and all such
14 books, invoices, and other records shall be open to
15 examination at any time by the department, and shall be made
16 available within this state for ~~such~~ examination upon
17 reasonable notice when the director shall so order. When
18 requested to do so by any person from whom a charge payer is
19 seeking credit, or with whom the charge payer is negotiating
20 the sale of any personal property, or by any other person
21 having a legitimate interest in such information, the
22 director, upon being satisfied that such a situation exists,
23 shall inform ~~such~~ that person as to the amount of unpaid
24 charges due by the charge payer under ~~the-provisions-of~~ this
25 chapter. The giving of ~~such~~ information under such
26 circumstances shall not be deemed a violation of section
27 422.72 as applied to this chapter.

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

30 Sec. 10. Section 424.15, unnumbered paragraph 1, Code
31 2001, is amended to read as follows:

32 If it appears that, as a result of mistake, an amount of a
33 charge, penalty, or interest has been paid which was not due
34 under ~~the-provisions-of~~ this chapter, then ~~such~~ that amount
35 shall be refunded to ~~such-person~~ the charge payer by the

1 department. A claim for refund that has not been filed with
2 the department within ~~five~~ three years after the charge
3 payment upon which a refund is claimed became due, or one year
4 after ~~such~~ that charge payment was made, whichever time is the
5 later, shall not be allowed by the director.

6 Sec. 11. Section 427.1, subsection 14, unnumbered
7 paragraph 1, Code 2001, is amended to read as follows:

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

25 Sec. 12. Section 427.1, subsection 20, Code 2001, is
26 amended to read as follows:

27 20. IMPOUNDMENT STRUCTURES. The impoundment structure and
28 any land underlying an impoundment located outside an
29 incorporated city, which are not developed or used directly or
30 indirectly for nonagricultural income-producing purposes and
31 which are maintained in a condition satisfactory to the soil
32 and water conservation district commissioners of the county in
33 which the impoundment structure and the impoundment are
34 located. A person owning land which qualifies for a property
35 tax exemption under this subsection shall apply to the county

1 assessor each year ~~before-the-first-of-July~~ not later than
2 February 1 for the exemption. The application shall be made
3 on forms prescribed by the department of revenue and finance.
4 The first application shall be accompanied by a copy of the
5 water storage permit approved by the administrator of the
6 environmental protection division of the department of natural
7 resources and a copy of the plan for the construction of the
8 impoundment structure and the impoundment. The construction
9 plan shall be used to determine the total acre-feet of the
10 impoundment and the amount of land which is eligible for the
11 property tax exemption status. The county assessor shall
12 annually review each application for the property tax
13 exemption under this subsection and submit it, with the
14 recommendation of the soil and water conservation district
15 commissioners, to the board of supervisors for approval or
16 denial. An applicant for a property tax exemption under this
17 subsection may appeal the decision of the board of supervisors
18 to the district court.

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

27 Sec. 13. Section 427.1, subsection 22, unnumbered
28 paragraph 2, Code 2001, is amended to read as follows:

29 Application for this exemption shall be filed with the
30 commissioners of the soil and water conservation district in
31 which the property is located, not later than ~~April-15~~
32 February 1 of the assessment year, on forms provided by the
33 department of revenue and finance. The application shall
34 describe and locate the property to be exempted and have
35 attached to it an aerial photo of that property on which is

1 outlined the boundaries of the property to be exempted. In
2 the case of an open prairie which is or includes a gully area
3 susceptible to severe erosion, an approved erosion control
4 plan must accompany the application. Upon receipt of the
5 application, the commissioners shall certify whether the
6 property is eligible to receive the exemption. The
7 commissioners shall not withhold certification of the
8 eligibility of property because of the existence upon the
9 property of an abandoned building or structure which is not
10 used for economic gain. If the commissioners certify that the
11 property is eligible, the application shall be forwarded to
12 the board of supervisors by May 1 of that assessment year with
13 the certification of the eligible acreage. An application
14 must be accompanied by an affidavit signed by the applicant
15 that if an exemption is granted, the property will not be used
16 for economic gain during the assessment year in which the
17 exemption is granted.

18 Sec. 14. Section 427.1, subsection 30, Code 2001, is
19 amended to read as follows:

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

34 Sec. 15. Section 427.16, subsection 2, Code 2001, is
35 amended to read as follows:

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

12 Sec. 16. Section 427C.3, Code 2001, is amended to read as
13 follows:

14 427C.3 FOREST RESERVATION.

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

27 Sec. 17. Section 427C.7, Code 2001, is amended to read as
28 follows:

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

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

1 February 1 of the exemption year.

2 Sec. 18. Section 428A.8, Code 2001, is amended by adding
3 the following new unnumbered paragraph:

4 NEW UNNUMBERED PARAGRAPH. Any tax or additional tax found
5 to be due shall be collected by the county recorder. If the
6 county recorder is unable to collect the tax, the director of
7 revenue and finance shall collect the tax in the same manner
8 as taxes are collected in chapter 422, division III. If
9 collected by the director of revenue and finance, the director
10 shall pay the county its proportionate share of the tax.

11 Section 422.25, subsections 1, 2, 3, and 4, and sections
12 422.26, 422.28 to 422.30, and 422.73, consistent with this
13 chapter, apply with respect to the collection of any tax or
14 additional tax found to be due, in the same manner and with
15 the same effect as if the deed, instrument, or writing were an
16 income tax return within the meaning of those statutes.

17 Sec. 19. NEW SECTION. 428A.9 REFUND OF TAX.

18 To receive a refund from the state the taxpayer shall
19 petition the state appeal board for a refund of the amount of
20 overpayment of the tax paid to the treasurer of state. To
21 receive a refund from the county the taxpayer shall petition
22 the board of supervisors for a refund of the remaining portion
23 of the overpayment paid to that county.

24 Sec. 20. Section 450.4, subsection 5, Code 2001, is
25 amended to read as follows:

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

31 Sec. 21. Section 450.4, Code 2001, is amended by adding
32 the following new subsections:

33 NEW SUBSECTION. 7. On the value of that portion of any
34 lump sum or installment payments which are received by a
35 beneficiary under an annuity which was purchased under an

1 employee's pension or retirement plan where the employee is a
2 nonresident of Iowa at the time of death.

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

8 Sec. 22. Section 452A.2, Code 2001, is amended by adding
9 the following new subsections:

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

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

21 Sec. 23. Section 452A.2, subsection 17, paragraph a, Code
22 2001, is amended to read as follows:

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

29 Sec. 24. Section 452A.3, subsection 5, paragraph a, Code
30 2001, is amended by adding the following new unnumbered
31 paragraph:

32 NEW UNNUMBERED PARAGRAPH. Tax shall not be paid when the
33 sale of alcohol occurs within a terminal from an alcohol
34 manufacturer to an Iowa licensed supplier. The tax shall be
35 paid by the Iowa licensed supplier when the invoiced gross

1 gallonage of the alcohol or the alcohol part of ethanol
2 blended gasoline is withdrawn from a terminal for delivery in
3 this state.

4 Sec. 25. Section 452A.17, subsection 1, paragraph a, Code
5 2001, is amended by adding the following new subparagraph:

6 NEW SUBPARAGRAPH. (10) Racing fuel.

7 Sec. 26. EFFECTIVE AND APPLICABILITY DATES.

8 1. The sections of this Act amending Code section 422.45,
9 subsections 3 and 8, take effect January 1, 2002.

10 2. The sections of this Act amending Code sections 427.1,
11 427.16, 427C.3, and 427C.7 take effect January 1, 2002, and
12 apply to claims filed on or after that date.

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HOUSE FILE 736

AN ACT

RELATING TO THE ADMINISTRATION OF THE TAX AND RELATED LAWS
BY THE DEPARTMENT OF REVENUE AND FINANCE, INCLUDING
ADMINISTRATION OF STATE SALES AND USE, REAL ESTATE TRANSFER,
ENVIRONMENTAL PROTECTION CHARGE ON PETROLEUM DIMINUTION,
PROPERTY, MOTOR FUEL, SPECIAL FUEL, AND INHERITANCE TAXES,
AND INCLUDING EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 422.43, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 16. a. A tax of five percent is imposed upon the gross receipts from sales of bundled services contracts. For purposes of this subsection, a "bundled services contract" means an agreement providing for a retailer's performance of services, one or more of which is a taxable service enumerated in this section and one or more of which is not, in return for a consumer's or user's single payment for the performance of the services, with no separate statement to the consumer or user of what portion of that payment is attributable to any one service which is a part of the contract.

b. For purposes of the administration of the tax on bundled services contracts, the director may enter into agreements of limited duration with individual retailers, groups of retailers, or organizations representing retailers of bundled services contracts. Such an agreement shall impose the tax rate only upon that portion of the gross receipts from a bundled services contract which is attributable to taxable services provided under the contract.

NEW SUBSECTION. 17. A tax of five percent is imposed upon the gross receipts from any mobile telecommunication service

which this state is allowed to tax by the provisions of the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et seq. For purposes of this subsection, taxes on mobile telecommunications service, as defined under the federal Mobile Telecommunications Sourcing Act that are deemed to be provided by the customer's home service provider shall be paid to the taxing jurisdiction whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunication service originates, terminates, or passes through and shall in all other respects be taxed in conformity with the federal Mobile Telecommunications Sourcing Act. All other provisions of the federal Mobile Telecommunications Sourcing Act are adopted by the state of Iowa and incorporated into this subsection by reference. With respect to mobile telecommunications service under the federal Mobile Telecommunications Sourcing Act the director shall, if requested, enter into agreements consistent with the provisions of the federal Act.

Sec. 2. Section 422.45, subsection 3, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

3. The gross receipts from sales or rental of tangible personal property, or services rendered by any entity where the profits from the sales or rental of the tangible personal property, or services rendered are used by or donated to a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code, a government entity, or a private educational institution, and where the entire proceeds from the sales, rental, or services are expended for any of the following purposes:

- a. Educational.
- b. Religious.

c. Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add or improve the good of humankind in general or any class or portion of humankind,

with no pecuniary profit inuring to the person performing the service or giving the gift.

This exemption does not apply to the gross receipts from games of skill, games of chance, raffles, and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the gross receipts only to the extent the profits from the sales, rental, or services are not used by or donated to the appropriate entity and expended for educational, religious, or charitable purposes.

Sec. 3. Section 422.45, subsection 8, Code 2001, is amended to read as follows:

8. The gross receipts of all sales of goods, wares, or merchandise, or services, used for educational purposes to any private nonprofit educational institution in this state. ~~The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise, or services, subject to use tax under the provisions of chapter 423.~~ For the purpose of this subsection, "educational institution" means an institution which primarily functions as a school, college, or university with students, faculty, and an established curriculum. The faculty of an educational institution must be associated with the institution and the curriculum must include basic courses which are offered every year. "Educational institution" includes an institution primarily functioning as a library.

Sec. 4. Section 422.45, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 60. The gross receipts from sales of goods, wares, or merchandise, or from services performed, rendered, or furnished to a nonprofit private art center to be used in the operation of the art center.

Sec. 5. Section 423.1, subsection 10, Code 2001, is amended to read as follows:

10. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary,

tangible personal property leased to a lessee of the retailer, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

Sec. 6. Section 423.1, subsection 12, Code 2001, is amended to read as follows:

12. "Tangible personal property" means tangible goods, wares, merchandise, optional service or warranty contracts, except residential service contracts regulated under chapter 523C, vulcanizing, recapping, or retreading services, engraving, photography, retouching, printing, or binding services, and gas, electricity, and water, and communication service when furnished or delivered to consumers or users within this state.

Sec. 7. Section 423.4, subsection 9, Code 2001, 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. 8. Section 424.10, subsections 1 and 3, Code 2001, 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. 9. Section 424.12, Code 2001, 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. 10. Section 424.15, unnumbered paragraph 1, Code 2001, 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. 11. Section 427.1, subsection 14, unnumbered paragraph 1, Code 2001, 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. 12. Section 427.1, subsection 20, Code 2001, 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. 13. Section 427.1, subsection 22, unnumbered paragraph 2, Code 2001, 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. 14. Section 427.1, subsection 30, Code 2001, 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. 15. Section 427.16, subsection 2, Code 2001, 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. 16. Section 427C.3, Code 2001, 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. 17. Section 427C.7, Code 2001, 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. 18. Section 428A.8, Code 2001, 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, the director of revenue and finance shall collect the tax 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, and 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. 19. NEW SECTION. 428A.9 REFUND OF TAX.

To receive a refund from the state the taxpayer shall petition the state appeal board for a refund of the amount of overpayment of the tax paid to the treasurer of state. To receive a refund from the county the taxpayer shall petition the board of supervisors for a refund of the remaining portion of the overpayment paid to that county.

Sec. 20. Section 450.4, subsection 5, Code 2001, 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. 21. Section 450.4, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 7. On 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. On 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. 22. Section 452A.2, Code 2001, 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. 23. Section 452A.2, subsection 17, paragraph a, Code 2001, 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. 24. Section 452A.3, subsection 5, paragraph a, Code 2001, 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. 25. Section 452A.17, subsection 1, paragraph a, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) Racing fuel.

Sec. 26. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending Code section 422.45, subsections 3 and 8, take effect January 1, 2002.

2. The sections of this Act amending Code sections 427.1, 427.16, 427C.3, and 427C.7 take effect January 1, 2002, and apply to claims filed on or after that date.

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 736, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 5/18, 2001

THOMAS J. VILSACK
Governor