

February 26, 1962.

Senate File 294

Passed on File.

By HILL.

*Hayes and Mason 2/26*  
Passed Senate, Date.....

Passed House, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Approved.....

## A BILL FOR

An Act to amend section four hundred twenty-two point four (422.4), section four hundred twenty-two point seventeen (422.17) and section four hundred twenty-two point sixteen (422.16), Code 1962, to provide for withholding of state income taxes on income earned in Iowa; to provide for payment of estimated income tax by self-employed individuals having self-employment income derived from sources within the state of Iowa.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. Section four hundred twenty-two point seventeen  
2 (422.17), Code 1962, is hereby repealed.

1 Sec. 2. Section four hundred twenty-two point four (422.4),  
2 Code 1962, is hereby amended by striking subsection thirteen (13)  
3 thereof and inserting in lieu thereof the following:

4 "The term 'withholding agent' means any individual, fiduciary,  
5 corporation, partnership or association in whatever capacity  
6 acting and including all officers and employees of the state of  
7 Iowa, or any municipal corporation of the state of Iowa and of  
8 any school district or school board of the state, or of any  
9 political subdivision of the state of Iowa that is obligated to  
10 pay or has control of paying or does pay to any resident or  
11 nonresident of the state of Iowa or his agent any income that  
12 is subject to the Iowa income tax in the hands of such resident  
13 or nonresident."

1 Sec. 3. Strike all of section four hundred twenty-two point  
2 sixteen (422.16), Code 1962, and substitute in lieu thereof  
3 the following:

4 "1. Every employer as defined in the Internal Revenue Code of  
5 1954, as amended through December 31, 1962, including domestic  
6 and foreign corporations, with respect to income tax collected  
7 at source, making payment of wages as defined in the Internal  
8 Revenue Code of 1954, as amended through December 31, 1962, to a  
9 resident employee or employees shall deduct and withhold from  
10 such wages an amount which will approximate the employee's tax  
11 liability at year end on the annual basis, upon tables and  
12 schedules prepared by and prescribed by the state tax commission.

13 "2. In the case of nonresidents, every employer as referred  
14 to in subsection one (1) of this section, or withholding agent  
15 as defined in section two (2) of this Act, shall deduct and  
16 withhold during each calendar year two percent (2%) of all gross  
17 income paid in the form of wages as defined in the Internal  
18 Revenue Code of 1954, as amended through December 31, 1962.  
19 Payments of other gross incomes subject to the Iowa income tax  
20 in the hands of the nonresident shall be subject to withholding  
21 at the rate of four percent (4%). The 'gross income' referred  
22 to herein shall include the amount required to be withheld.  
23 The term 'gross income' shall have the same meaning as for  
24 federal income tax purposes under the Internal Revenue Code of  
25 1954, as amended through December 31, 1962.

26 The employers referred to in this subsection one (1) and  
27 subsection two (2) shall be deemed to be withholding agents as  
28 defined in section four hundred twenty-two point four (422.4),  
29 subsection thirteen (13), Code 1962.

30 "3. Every withholding agent required to deduct and withhold  
31 tax under subsections one (1) or two (2) of this section shall,  
32 for the quarterly period beginning July 1, 1963, and for each

33 quarterly period thereafter, on or before the last day of the  
34 month following the close of each quarterly period make a return  
35 on forms prescribed by the state tax commission and pay over to  
36 the state tax commission in the form of remittances made payable  
37 to the state tax commission, the tax required to be withheld  
38 under the provisions of subsections one (1) and two (2) hereof.  
39 If the state tax commission in any case has reason to believe  
40 that the collection of the tax provided for in subsections one  
41 (1) and/or two (2) hereof is in jeopardy, it may require the  
42 employer or withholding agent to make such return and pay such  
43 tax at any time.

44 "4. Every withholding agent who fails to withhold or pay to  
45 the commission any sums required by this Act to be withheld and  
46 paid, shall be personally and individually liable therefor to  
47 the state of Iowa, and any sum or sums withheld in accordance  
48 with the provisions of subsections one (1) or two (2) hereof,  
49 shall be deemed to be held in trust for the state of Iowa.

50 "5. In the event a withholding agent fails to withhold and/or  
51 pay over to the commission any amount required to be withheld  
52 under subsections one (1) or two (2) of this section, such  
53 amount may be assessed against such employer or withholding  
54 agent in the same manner as prescribed for the assessment of  
55 income tax under the provisions of chapter four hundred twenty-  
56 two (422), Code 1962.

57 "6. The state of Iowa shall have a lien upon all the property  
58 of any employer or withholding agent who fails to withhold and/or  
59 pay over to the state tax commission sums required to be withheld  
60 under subsections one (1) or two (2) of this section. If the  
61 employer or withholding agent withholds but fails to pay the

62 amounts withheld to the tax commission, the lien shall attach as  
63 of the date the amounts withheld were required to be paid over  
64 to the commission. If the employer or withholding agent fails  
65 to withhold, the lien shall attach as of the date the amounts  
66 which should have been withheld were required to be paid over to  
67 the commission had they been withheld under the provisions of  
68 subsections one (1) or two (2) of this section.

69 "7. Every withholding agent required to deduct and withhold  
70 from an employee or other person receiving taxable Iowa income,  
71 a tax under subsections one (1) or two (2) of this section shall  
72 furnish to such employee or other person in respect of the  
73 remuneration paid by such employer or withholding agent to such  
74 employee or other person during the calendar year, on or before  
75 January 31 of the succeeding year, or, if the employee's employment  
76 is terminated before the close of such calendar year, within  
77 thirty (30) days from the day on which the last payment of  
78 wages is made, a written statement showing the following:

79 a. The name of such employer or withholding agent.

80 b. The name of the employee or other person and his federal  
81 social security account number.

82 c. The total amount of wages, as defined in the Internal  
83 Revenue Code of 1954, as amended through December 31, 1962, or  
84 other taxable income paid to the employee or other person.

85 d. The total amount deducted and withheld as tax under the  
86 provisions of subsections (1) or two (2) of this section.

87 e. The total amount of federal income tax withheld.

88 The statement required to be furnished by this subsection  
89 in respect of any wages or other taxable Iowa income shall be  
90 in such form as the state tax commission may by regulations

91 prescribe.

92 "8. An employer or withholding agent shall be liable for  
93 the payment of the tax required to be deducted and withheld  
94 under subsections one (1) or two (2) of this section and any  
95 amount deducted and withheld as tax under subsections one (1)  
96 or two (2) of this section during any calendar year upon the  
97 wages of any employee or other person shall be allowed as a  
98 credit to the employee or other person against the tax imposed  
99 by section four hundred twenty-two point five (422.5), Code 1962,  
100 irrespective of whether or not such tax has been, or will be,  
101 paid over by the employer or withholding agent to the state tax  
102 commission as provided by this Act.

103 "9. The amount of any overpayment of the individual income  
104 tax liability of the employee taxpayer or other person which  
105 may result from the withholding and payment of withheld tax by  
106 the employer or withholding agent to the commission under  
107 subsections one (1) or two (2) hereof, as compared to the  
108 individual income tax liability of the employee taxpayer or  
109 other person properly and correctly determined under the provisions  
110 of section four hundred twenty-two point four (422.4), to and  
111 including section four hundred twenty-two point thirteen (422.13),  
112 Code 1962, may be credited against any income tax or installment  
113 thereof then due the state of Iowa and any balance of two dollars  
114 (\$2.00) or more shall be refunded to the employee taxpayer or  
115 other person with interest at six percent (6%) per annum, such  
116 interest to begin to accrue one hundred eighty (180) days after  
177 the due date of the return. Amounts less than two dollars (\$2.00)  
118 shall be refunded to the taxpayer only upon written application,  
119 and only if such application is filed within twelve (12) months

120 after the due date of the return. Refunds provided for by this  
121 subsection shall be paid by the state treasurer by means of  
122 warrants drawn by the comptroller at the direction of an  
123 authorized employee of the state tax commission, without requiring  
124 the taxpayer to file a claim for such refund. There is hereby  
125 appropriated out of any funds in the state treasury not otherwise  
126 appropriated, a sum sufficient to carry out the provisions of  
127 this section.

128 "10. a. Any person or corporation required under the  
129 provisions of this Act to furnish a statement required by this  
130 Act who willfully furnishes a false or fraudulent statement, or  
131 who willfully fails to furnish such statement shall, for each  
132 such failure be subject to a civil penalty of one hundred dollars  
133 (\$100.00), such penalty to be in addition to any criminal  
134 penalty otherwise provided for by the Code 1962.

135 b. Any employer or withholding agent required under the  
136 provisions of this Act to withhold taxes on wages or other  
137 taxable Iowa income who fails to withhold such taxes, or to make  
138 the required returns or who fails to remit to the commission the  
139 amounts withheld, shall be liable for the amount of such taxes  
140 which should have been withheld and paid and in addition shall  
141 be subject to a civil penalty, equal to five percent (5%) of the  
142 amount which should have been withheld and/or paid over to the  
143 commission, for each month or fraction thereof during which such  
144 failure continues, not to exceed twenty-five percent (25%) in  
145 the aggregate. Interest at the rate of six percent (6%) per  
146 annum shall be added to the amount of the tax required to be  
147 withheld and paid to the tax commission.

148 c. If the employer, being a domestic or foreign corporation,

149 required under the provisions of this section to withhold on  
150 wages or other taxable Iowa income fails to withhold the amounts  
151 required to be withheld, make the required returns or remit to  
152 the state tax commission the amounts withheld, the commission may  
153 certify such fact or facts to the secretary of state, who shall  
154 thereupon cancel the articles of incorporation or certificate of  
155 authority (as the case may be) of such corporation and the  
156 rights of such corporation to carry on business in the state of  
157 Iowa shall thereupon cease. Any person or persons who shall  
158 exercise or attempt to exercise any rights, powers, privileges  
159 or franchises under articles of incorporation or certificate of  
160 authority after the same are cancelled shall pay a penalty of  
161 not less than one hundred dollars (\$100.00) or more than one  
162 thousand dollars (\$1,000.00), to be recovered in an action  
163 brought by the commission, such penalty to be in addition to all  
164 other penalties provided under chapter four hundred twenty-two  
165 (422), Code 1962.

166 "11. a. Every individual or married couple filing a joint  
167 return, shall make a declaration of estimated tax if his or  
168 their Iowa income tax attributable to income other than wages  
169 subject to withholding can reasonably be expected to amount to  
170 fifty dollars (\$50.00) or more for the taxable year, except that  
171 in the case of farmers the provisions of the Internal Revenue  
172 Code of 1954, as amended through December 31, 1962, with respect  
173 to declarations shall apply.

174 The declaration provided for herein shall be filed at such  
175 time and in such form as the state tax commission may require  
176 by regulations, and the estimated tax shall be paid in four (4)  
177 equal installments, the first installment to be paid at the

178 time of filing the declaration, except that at the election of  
179 the individual, or married couple filing jointly, any installment  
180 of the estimated tax may be paid prior to the date prescribed  
181 for its payment.

182 b. In the case of individuals or married couples filing  
183 jointly the total balance of the tax payable after credits for  
184 taxes paid through withholding, as provided in subsections one  
185 (1) or two (2) of this section, or through declaration and  
186 payment of estimated tax, as provided in subsection eleven (11)  
187 of this section, shall be due and payable on or before April 15,  
188 following the close of the calendar year, or if the return should  
189 be made on the basis of a fiscal year, then on or before the fif-  
190 teenth (15th) day of the fourth (4th) month following the close  
191 of such fiscal year.

192 c. The declaration provided for in this section may be  
193 amended during the taxable year under regulations prescribed by  
194 the state tax commission.

195 d. If a taxpayer is unable to make his own declaration, the  
196 declaration may be made by duly authorized agent or by the  
197 guardian or other person charged with the care of the person or  
198 property of such taxpayer.

199 e. Any amount paid on a declaration of estimated tax shall  
200 be a credit against the amount of tax found payable on a final,  
201 completed return as provided in subsection nine (9) hereof  
202 relating to the credit for the tax withheld against the tax  
203 found payable on a return properly and correctly prepared under  
204 the provisions of section four hundred twenty-two point five  
205 (422.5) to and including section four hundred twenty-two point  
206 thirteen (422.13), Code 1962, and any overpayment of two dollars

207 (\$2.00) or more shall be refunded to the taxpayer as provided in  
208 subsection nine (9) hereof, relating to overpayments of tax  
209 through withholding. Amounts less than two dollars (\$2.00)  
210 shall be refunded to the taxpayer only upon written application,  
211 and only if such application is filed within twelve (12) months  
212 after the due date for the return. The penalties provided by  
213 the Internal Revenue Code of 1954, as amended through December 31,  
214 1962, for failure to file a declaration or for underpayment of  
215 the tax payable shall apply to persons required to file  
216 declarations and make payments of estimated tax under the  
217 provisions of this section.”

1 Sec. 4. This Act, being deemed of immediate importance shall  
2 be in full force and effect from and after July 1, 1963, and  
3 following its publication in The Newton Daily News, a newspaper  
4 published at Newton, Iowa, and in the Waterloo Daily Courier,  
5 a newspaper published at Waterloo, Iowa.