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HSB 187

WAYS AND MEANS

HOUSE FILE

Preceded by (HF) 712

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

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of the tax and related laws
2 by the department of revenue and finance, including
3 administration of state individual income, corporate income,
4 sales and use, franchise, hotel and motel, environmental
5 protection charge on petroleum diminution, property, cigarette
6 and tobacco products, and inheritance taxes, local option
7 taxes, and including effective and retroactive applicability
8 date provisions.

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

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1 Section 1. Section 15.331A, subsection 2, Code 2001, is
2 amended to read as follows:

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

18 Sec. 2. Section 404.4, unnumbered paragraph 2, Code 2001,
19 is amended to read as follows:

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

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

5 Sec. 3. Section 421.17, subsection 16, Code 2001, is
6 amended to read as follows:

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

11 Sec. 4. Section 421.17, subsection 22A, Code 2001, is
12 amended to read as follows:

13 22A. To develop, modify, or contract with vendors to
14 create or administer systems or programs which identify
15 nonfilers of returns or nonpayers of taxes administered by the
16 department. Fees for services, reimbursements, costs incurred
17 by the department, or other remuneration ~~paid-under-contract~~
18 may be funded from the amount of tax, penalty, or interest~~-or~~
19 ~~fees~~ actually collected and shall be paid only after the
20 amount is collected. An amount is appropriated from the
21 amount of tax, penalty, and interest~~-and-fees~~ actually
22 collected, not to exceed the amount collected, which is
23 sufficient to pay for services, reimbursement, costs incurred
24 by the department, or other remuneration pursuant to this
25 subsection. Vendors entering into a contract with the
26 department pursuant to this subsection are subject to the
27 requirements and penalties of the confidentiality laws of this
28 state regarding tax information.

29 Sec. 5. Section 421B.2, subsection 6, Code 2001, is
30 amended by adding the following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a
32 person who does not meet the definition of retailer or
33 wholesaler but who is engaged in the business of selling
34 cigarettes in this state to a retailer or final consumer shall
35 be considered a retailer and subject to the minimum pricing

1 requirements of this chapter.

2 Sec. 6. Section 422.7, Code 2001, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 36. Add, to the extent not already
5 included, income from the sale of obligations of the state and
6 its political subdivisions. Income from the sale of these
7 obligations is exempt from the taxes imposed by this division
8 only if the law authorizing these obligations specifically
9 exempts the income from the sale from the state individual
10 income tax.

11 Sec. 7. Section 422.26, unnumbered paragraph 6, Code 2001,
12 is amended to read as follows:

13 The department shall pay~~7-from-moneys-appropriated-to-the~~
14 ~~department-for-this-purpose~~, a recording fee as provided in
15 section 331.604, for the recording of the lien, or for its
16 satisfaction. There is appropriated from moneys in the state
17 treasury not otherwise appropriated, an amount sufficient to
18 pay this fee and other fees incurred by the department
19 directly related to the collection of taxes.

20 Sec. 8. Section 422.35, Code 2001, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 18. Add, to the extent not already
23 included, income from the sale of obligations of the state and
24 its political divisions. Income from the sale of these
25 obligations is exempt from the taxes imposed by this division
26 only if the law authorizing these obligations specifically
27 exempts the income from the sale from the state corporate
28 income tax.

29 Sec. 9. Section 422.47, subsection 2, Code 2001, is
30 amended by striking the subsection.

31 Sec. 10. Section 422.53, subsection 3, Code 2001, is
32 amended to read as follows:

33 3. The department shall grant and issue to each applicant
34 a permit for each place of business within the state. A
35 permit is not assignable and is valid only for the person in

1 whose name it is issued and for the transaction of business at
2 the place designated or a place of relocation within the state
3 if the ownership remains the same.

4 Sec. 11. Section 422.61, subsection 3, paragraph b, Code
5 2001, is amended to read as follows:

6 b. Notwithstanding sections 262.41 and 262.51, or any
7 other provisions of law, income from obligations of the state
8 and its political subdivisions and franchise taxes paid or
9 accrued under this division during the taxable year shall be
10 added. Income from sales of obligations of the state and its
11 political subdivisions and interest and dividend income from
12 these obligations are exempt from the taxes imposed by this
13 division only if the law authorizing the obligations
14 specifically exempts the income from the sale and interest and
15 dividend income from the state franchise tax.

16 Sec. 12. Section 422.110, unnumbered paragraph 1, Code
17 2001, is amended to read as follows:

18 In lieu of the fuel tax refund provided in section 452A.17,
19 a person or corporation subject to taxation under divisions II
20 1260 or III of this chapter may elect to receive an income tax
21 credit. The person or corporation which elects to receive an
22 income tax credit shall cancel its refund permit obtained
23 under section 452A.18 within thirty days after the first day
24 of its tax year or the permit becomes invalid at that time.
25 For the purposes of this section, "person" includes a person
26 claiming a tax credit based upon the person's pro rata share
27 of the earnings from a partnership, limited liability company,
28 or corporation which is not subject to a tax under division II
29 or III of this chapter as a partnership, limited liability
30 company, or corporation. If the election to receive an income
31 tax credit has been made, it remains effective for at least
32 one tax year, and for subsequent tax years unless a change is
33 requested and a new refund permit applied for within thirty
34 days after the first day of the person's or corporation's tax
35 year. The income tax credit shall be the amount of the Iowa

1 fuel tax paid on fuel purchased by the person or corporation
2 and is subject to the conditions provided in section 452A.17
3 with the exception that the income tax credit is not available
4 for refunds relating to casualty losses, transport diversions,
5 pumping credits, blending errors, idle time, power takeoffs,
6 reefer units, and exports by ~~eligible-purchasers~~ distributors.

7 Sec. 13. Section 422A.1, Code 2001, is amended by adding
8 the following new unnumbered paragraph after unnumbered
9 paragraph 1:

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

16 Sec. 14. Section 422B.8, unnumbered paragraph 1, Code
17 2001, is amended to read as follows:

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

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

31 Sec. 15. Section 422B.9, subsection 1, paragraph a, Code
 32 2001, is amended to read as follows:

33 a. A local sales and services tax shall be imposed either
 34 January 1 or July 1 following the notification of the director
 35 of revenue and finance but not sooner than ninety days

1 following the favorable election. However, a jurisdiction
2 which has voted to continue imposition of the tax may impose
3 that tax without repeal of the prior tax.

4 Sec. 16. Section 422B.11, subsection 1, paragraph c, Code
5 2001, is amended to read as follows:

6 c. The claim is filed on forms provided by the department
7 and is filed within ~~six-months~~ one year of the date the tax is
8 paid.

9 Sec. 17. Section 422E.3, subsection 2, Code 2001, is
10 amended to read as follows:

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

1 lottery game conducted pursuant to chapter 99E and except the
2 tax shall not be imposed on the gross receipts from the sale
3 or use of natural gas, natural gas service, electricity, or
4 electric service in a city or county where the gross receipts
5 from the sale of natural gas or electric energy are subject to
6 a franchise fee or user fee during the period the franchise or
7 user fee is imposed.

8 Sec. 18. Section 423.4, subsection 4, Code 2001, is
9 amended to read as follows:

10 4. ~~Tangible-personal-property,~~ The gross receipts from
11 the sale of or rental of tangible personal property or from
12 the rendering, furnishing, or performing of services which are
13 exempted from the retail sales tax by the terms of section
14 422.45, except subsection 4 and subsection 6 of section 422.45
15 as it relates to the sale of vehicles subject to registration
16 or subject only to the issuance of a certificate of title and
17 as it relates to aircraft subject to registration under
18 section 328.20.

19 Sec. 19. Section 424.10, subsection 2, Code 2001, is
20 amended to read as follows:

21 2. If a return required by this chapter is not filed, or
22 if a return when filed is incorrect or insufficient and the
23 maker fails to file a corrected or sufficient return within
24 twenty days after the return is required by notice from the
25 department, the department shall determine the amount of
26 charge due from information as the department may be able to
27 obtain and, if necessary, may estimate the charge on the basis
28 of external indices or factors. The department shall give
29 notice of the determination to the person liable for the
30 charge. The determination shall fix the charge unless the
31 person against whom it is assessed shall, within sixty days
32 after the date of the notice of the determination, apply to
33 the director for a hearing or unless the taxpayer person
34 against whom it is assessed contests the determination by
35 paying the tax charge, interest, and penalty and timely filing

1 a claim for refund. At the hearing evidence may be offered to
2 support the determination or to prove that it is incorrect.
3 After the hearing the director shall give notice of the
4 decision to the person liable for the charge.

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

9 Sec. 20. Section 424.13, subsection 2, Code 2001, is
10 amended to read as follows:

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

17 Sec. 21. Section 427.1, subsection 16, Code 2001, is
18 amended to read as follows:

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

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

11 Sec. 22. Section 427.1, Code 2001, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 33. MACHINERY AND EQUIPMENT USED IN
14 AGRICULTURAL PROCESSING. Machinery and equipment, otherwise
15 taxable as real property which is first assessed in this state
16 on or after January 1, 2000, used in value-added agricultural
17 processing or in direct support of value-added agricultural
18 processing, including but not limited to machinery and
19 equipment and related components used for the cooking,
20 refrigeration, or freezing of value-added agricultural
21 products. For purposes of this subsection, "direct support"
22 includes storage by public refrigerated warehouses for
23 processors of value-added agricultural products. Such
24 machinery and equipment shall be exempt whether owned directly
25 by the processor or warehouse operator or by another who
26 leases the machinery and equipment to the processor or
27 warehouse operator. This exemption shall not apply to
28 machinery and equipment used in any one of the following
29 situations:

- 30 a. Primarily for retail sale or distribution or display.
31 b. In warehouses of less than ten thousand square feet.
32 c. In warehouses in which less than fifty percent of the
33 storage is used for value-added agricultural products.

34 Sec. 23. Section 427B.19A, subsection 2, Code 2001, is
35 amended to read as follows:

1 2. If an amount appropriated for a fiscal year is
2 insufficient to pay all claims as a result of action by the
3 general assembly limiting the amount appropriated to the fund,
4 the director shall prorate the disbursements from the fund to
5 the county treasurers and shall notify the county auditors of
6 the pro rata percentage on or before September 30.

7 Sec. 24. Section 427B.19B, Code 2001, is amended to read
8 as follows:

9 427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

10 For the fiscal years beginning July 1, 1996, and ending
11 June 30, 2006, if the industrial machinery, equipment and
12 computers property tax replacement fund is insufficient to pay
13 in full the total of the amounts certified to the director of
14 revenue and finance as a result of action by the general
15 assembly limiting the amount appropriated to the fund, the
16 director shall compute for each county the difference between
17 the total of all replacement claims for each taxing district
18 within the county and the amount paid to the county treasurer
19 for disbursement to each taxing district in the county. The
20 assessor, for the assessment year for which taxes are due and
21 payable in the fiscal year for which a sufficient
22 appropriation was not made as a result of action by the
23 general assembly limiting the amount appropriated to the fund,
24 shall revalue all industrial machinery, equipment and
25 computers described in section 427B.17, subsections 2 and 3,
26 in the county at a percentage of net acquisition cost which
27 will yield from each taxing district its shortfall and the
28 property shall be assessed and taxed in such manner for taxes
29 due and payable in the following fiscal year in addition to
30 being assessed and taxed in the applicable manner under
31 section 427B.17. When conducting the revaluation, the
32 assessor shall increase the percentage of net acquisition cost
33 of such property by the same percentage point. Property tax
34 dollar amounts certified pursuant to this section shall not be
35 considered property tax dollars certified for purposes of the

1 property tax limitation in chapter 444.

2 Sec. 25. Section 450.10, subsection 4, Code 2001, is
3 amended to read as follows:

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

13 Fifteen percent on the entire amount so passing.

14 Sec. 26. Section 453A.2, subsection 4, Code 2001, is
15 amended to read as follows:

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

22 Sec. 27. Section 453A.7, unnumbered paragraph 2, Code
23 2001, is amended to read as follows:

24 There is appropriated annually from ~~the general fund of the~~
25 ~~state the sum of one hundred fifteen thousand dollars~~ funds in
26 the state treasury not otherwise appropriated an amount
27 sufficient to carry out the provisions of this section.

28 Sec. 28. Section 499B.11, subsection 2, Code 2001, is
29 amended by striking the subsection.

30 Sec. 29. IMPLEMENTATION OF ACT. Section 25B.7 does not
31 apply to the exemption provided in new subsection 33 of
32 section 427.1 as enacted in this Act.

33 Sec. 30. EFFECTIVE AND APPLICABILITY DATES.

34 1. The sections of this Act amending Code sections 422.7,
35 422.35, and 422.61, relating to income exemptions, being

1 deemed of immediate importance, take effect upon enactment and
2 apply retroactively to January 1, 2001, for tax years
3 beginning on or after that date.

4 2. The section of this Act amending Code section 450.10,
5 relating to property passing to certain types of legal
6 entities, takes effect July 1, 2001, for estates of decedents
7 dying on or after that date.

8 3. The section of this Act amending section 427.1,
9 relating to machinery and equipment used in value-added
10 agricultural processing, being deemed of immediate importance,
11 takes effect upon enactment and applies retroactively to
12 January 1, 2000, for assessment years beginning on or after
13 that date.

14 EXPLANATION

15 This bill amends various tax provisions of state law.

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

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

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

31 Code section 421.17 is amended to authorize the department
32 to pay costs, incurred by the department associated with
33 contracts with vendors to identify nonfilers or nonpayers of
34 taxes, from tax, penalty, and interest actually collected by
35 the vendors from the identified nonfilers or nonpayers.

1 Code section 421B.2 is amended by specifying that a seller
2 of cigarettes who does not meet the definition of a retailer
3 or wholesaler shall be considered a retailer for purposes of
4 computing minimum price if the person is engaged in the
5 business of selling cigarettes to a retailer or final
6 consumer.

7 Code sections 422.7, 422.35, and 422.61, subsection 3, are
8 amended to provide that income from the sale of obligations of
9 Iowa and its political subdivisions are taxable for purposes
10 of the state individual income and corporate taxes and the
11 state franchise tax unless the law authorizing the obligation
12 specifically exempts the income from the sale from the tax.

13 Code section 422.26 is amended to provide a standing
14 unlimited appropriation for recording and other fees incurred
15 by the department in the collection of taxes.

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

21 Code section 422.53, subsection 3, is amended to allow a
22 sales tax permit holder to keep the same permit when the
23 business is relocated in the state if the ownership remains
24 the same.

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

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

33 Code sections 422B.8 and 422E.3 are amended to impose local
34 options sales and services tax only on motor fuels and special
35 fuels in which tax pursuant to Code chapter 452A has not been

1 imposed and, if paid, has not nor cannot be refunded.

2 Code section 422B.9, subsection 1, paragraph "a", is
3 amended to prevent a lapse in time from the sunset of a local
4 option tax if a jurisdiction votes to continue the tax.

5 Code section 422B.11, subsection 1, paragraph "c", is
6 amended to change the period of time for a construction
7 contractor to claim a refund of local sales and services tax
8 paid from six months to one year.

9 Code section 423.4, subsection 4, is amended to provide
10 that in addition to the sale of tangible property being exempt
11 from the use tax if exempt from the sales tax, the rental of
12 tangible property and providing of services are exempt if
13 exempt for sales tax purposes.

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

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

26 Code section 427.1, new subsection 33, provides a property
27 tax exemption for machinery and equipment first assessed in
28 this state on or after January 1, 2000, which is used in
29 value-added agricultural processing or in storage by public
30 refrigerated warehouses for processors of value-added
31 agricultural products. Machinery and equipment used in
32 processing of value-added agricultural products includes
33 machinery and equipment used for cooking, refrigeration, or
34 freezing. The exemption applies even if the machinery and
35 equipment is leased.

1 Code sections 427B.19A, subsection 2, and 427B.19B are
 2 amended to provide that the industrial machinery, equipment
 3 and computers property tax replacement fund, currently funded
 4 with a standing unlimited appropriation, will be prorated to
 5 pay claims if the general assembly elects to place a cap on
 6 the fund in the future.

7 Code section 450.10 is amended to remove outdated
 8 reciprocity language and to include additional language to
 9 specify the tax treatment of fraternal and social
 10 organizations.

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

17 Code section 453A.7 is amended to provide a standing
 18 unlimited appropriation to the department of revenue and
 19 finance for the printing of cigarette tax stamps.

20 Code section 499B.11, subsection 2, is stricken because its
 21 provisions relating to the classification of condominiums used
 22 or intended for use for human habitation on January 1, 1999,
 23 are no longer needed because of subsequent legislation.

24 The bill has several different effective and applicability
 25 dates.

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REPRINTED

APR 13 2001
WAYS & MEANS CALENDAR

HOUSE FILE 715
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 187)

Passed House, Date ^(P. 1289) 4-19-01 Passed Senate, Date ^(P. 1338) 4/26/01
Vote: Ayes 95 Nays 1 Vote: Ayes 48 Nays 0
Approved May 3, 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 individual income, corporate income,
4 sales and use, franchise, hotel and motel, environmental
5 protection charge on petroleum diminution, property, cigarette
6 and tobacco products, and inheritance taxes, local option
7 taxes, and including effective and retroactive applicability
8 date provisions.

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

HF 715

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1 Section 1. Section 15.331A, subsection 2, Code 2001, is
2 amended to read as follows:

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

18 Sec. 2. Section 15.333, subsection 1, Code Supplement
19 1999, as amended by 2000 Iowa Acts, chapter 1213, section 1,
20 is amended to read as follows:

21 1. An eligible business may claim a corporate tax credit
22 up to a maximum of ten percent of the new investment which is
23 directly related to new jobs created by the location or
24 expansion of an eligible business under the program. Any
25 credit in excess of the tax liability for the tax year may be
26 credited to the tax liability for the following seven years or
27 until depleted, whichever occurs earlier. Subject to prior
28 approval by the department of economic development in
29 consultation with the department of revenue and finance, an
30 eligible business, which for purposes of this section includes
31 a cooperative described in section 521 of the Internal Revenue
32 Code which is not required to file an Iowa corporate income
33 tax return, whose project primarily involves the production of
34 value-added agricultural products may elect to refund all or a
35 portion of an unused tax credit. The refund may be used

1 against a tax liability imposed under chapter 422, division
2 II, III, or V. If the business is a partnership, subchapter S
3 corporation, limited liability company, or estate or trust
4 electing to have the income taxed directly to the individual,
5 an individual may claim the tax credit allowed. The amount
6 claimed by the individual shall be based upon the pro rata
7 share of the individual's earnings of the partnership,
8 subchapter S corporation, limited liability company, or estate
9 or trust. For purposes of this section, "new investment
10 directly related to new jobs created by the location or
11 expansion of an eligible business under the program" means the
12 cost of machinery and equipment, as defined in section 427A.1,
13 subsection 1, paragraphs "e" and "j", purchased for use in the
14 operation of the eligible business, the purchase price of
15 which has been depreciated in accordance with generally
16 accepted accounting principles, and the cost of improvements
17 made to real property which is used in the operation of the
18 eligible business and which receives a partial property tax
19 exemption for the actual value added under section 15.332.

20 1A. An eligible business, which for purposes of this
21 section includes a cooperative described in section 521 of the
22 Internal Revenue Code which is not required to file an Iowa
23 corporate income tax return, whose project primarily involves
24 the production of value-added agricultural products, that
25 elects to receive a refund of all or a portion of an unused
26 tax credit, shall apply to the department of economic
27 development for tax credit certificates. An eligible business
28 whose project primarily involves the production of value-added
29 agricultural products shall not claim a tax credit under this
30 section unless a tax credit certificate issued by the
31 department of economic development is attached to the
32 taxpayer's tax return for the tax year during which the tax
33 credit is claimed. A tax credit certificate shall not be
34 valid until the tax year following the date of the project
35 completion. A tax credit certificate shall contain the

1 taxpayer's name, address, tax identification number, the date
2 of project completion, the amount of the tax credit, other
3 information required by the department of revenue and finance.
4 The department of economic development shall not issue tax
5 credit certificates which total more than four million dollars
6 during a fiscal year. If the department receives applications
7 for tax credit certificates in excess of four million dollars,
8 the applicants shall receive certificates for a prorated
9 amount. The tax credit certificates shall not be transferred.
10 For cooperatives described in section 521 of the Internal
11 Revenue Code which are not required to file Iowa corporate
12 income tax returns, the tax credit certificates shall only be
13 issued to the cooperatives which will then distribute the
14 proceeds to their members.

15 Sec. 3. Section 404.4, unnumbered paragraph 2, Code 2001,
16 is amended to read as follows:

17 An application shall be filed for each new exemption
18 claimed. The first application for an exemption shall be
19 filed by the owner of the property with the governing body of
20 the city or county in which the property is located by
21 February 1 of the assessment year for which the exemption is
22 first claimed, but not later than the year in which all
23 improvements included in the project are first assessed for
24 taxation, unless, upon the request of the owner at any time,
25 the governing body of the city or county provides by
26 resolution that the owner may file an application by February
27 1 of any other assessment year selected by the governing body
28 in which case the exemption is allowed for the number of years
29 remaining in the exemption schedule selected. The application
30 shall contain, but not be limited to, the following
31 information: The nature of the improvement, its cost, the
32 estimated or actual date of completion, the tenants that
33 occupied the owner's building on the date the city or county
34 adopted the resolution referred to in section 404.2,
35 subsection 1, and which exemption in section 404.3 or in the

1 different schedule, if one has been adopted, will be elected.

2 Sec. 4. Section 421.17, subsection 16, Code 2001, is
3 amended to read as follows:

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

8 Sec. 5. Section 421B.2, subsection 6, Code 2001, is
9 amended by adding the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a
11 person who does not meet the definition of retailer or
12 wholesaler but who is engaged in the business of selling
13 cigarettes in this state to a retailer or final consumer shall
14 be considered a retailer and subject to the minimum pricing
15 requirements of this chapter.

16 Sec. 6. Section 422.7, Code 2001, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 36. Add, to the extent not already
19 included, income from the sale of obligations of the state and
20 its political subdivisions. Income from the sale of these
21 obligations is exempt from the taxes imposed by this division
22 only if the law authorizing these obligations specifically
23 exempts the income from the sale from the state individual
24 income tax.

25 Sec. 7. Section 422.35, Code 2001, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 18. Add, to the extent not already
28 included, income from the sale of obligations of the state and
29 its political divisions. Income from the sale of these
30 obligations is exempt from the taxes imposed by this division
31 only if the law authorizing these obligations specifically
32 exempts the income from the sale from the state corporate
33 income tax.

34 Sec. 8. Section 422.47, subsection 2, Code 2001, is
35 amended by striking the subsection.

1 Sec. 9. Section 422.53, subsection 3, Code 2001, is
2 amended to read as follows:

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

9 Sec. 10. Section 422.61, subsection 3, paragraph b, Code
10 2001, is amended to read as follows:

11 b. Notwithstanding sections 262.41 and 262.51, or any
12 other provisions of law, income from obligations of the state
13 and its political subdivisions and franchise taxes paid or
14 accrued under this division during the taxable year shall be
15 added. Income from sales of obligations of the state and its
16 political subdivisions and interest and dividend income from
17 these obligations are exempt from the taxes imposed by this
18 division only if the law authorizing the obligations
19 specifically exempts the income from the sale and interest and
20 dividend income from the state franchise tax.

21 Sec. 11. Section 422.110, unnumbered paragraph 1, Code
22 2001, is amended to read as follows:

23 In lieu of the fuel tax refund provided in section 452A.17,
24 a person or corporation subject to taxation under divisions II
25 1260 or III of this chapter may elect to receive an income tax
26 credit. The person or corporation which elects to receive an
27 income tax credit shall cancel its refund permit obtained
28 under section 452A.18 within thirty days after the first day
29 of its tax year or the permit becomes invalid at that time.
30 For the purposes of this section, "person" includes a person
31 claiming a tax credit based upon the person's pro rata share
32 of the earnings from a partnership, limited liability company,
33 or corporation which is not subject to a tax under division II
34 or III of this chapter as a partnership, limited liability
35 company, or corporation. If the election to receive an income

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

12 Sec. 12. Section 422A.1, Code 2001, is amended by adding
13 the following new unnumbered paragraph after unnumbered
14 paragraph 1:

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

21 Sec. 13. Section 422B.8, unnumbered paragraph 1, Code
22 2001, is amended to read as follows:

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

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

1 Sec. 14. Section 422B.9, subsection 1, paragraph a, Code
2 2001, is amended to read as follows:

3 a. A local sales and services tax shall be imposed either
4 January 1 or July 1 following the notification of the director
5 of revenue and finance but not sooner than ninety days
6 following the favorable election. However, a jurisdiction
7 which has voted to continue imposition of the tax may impose
8 that tax without repeal of the prior tax.

9 Sec. 15. Section 422B.11, subsection 1, paragraph c, Code
10 2001, is amended to read as follows:

11 c. The claim is filed on forms provided by the department
12 and is filed within ~~six-months~~ one year of the date the tax is
13 paid.

14 Sec. 16. Section 422E.3, subsection 2, Code 2001, is
15 amended to read as follows:

16 2. The tax shall be imposed on the same basis as the state
17 sales and services tax or in the case of the use of natural
18 gas, natural gas service, electricity, or electric service on
19 the same basis as the state use tax and shall not be imposed
20 on the sale of any property or on any service not taxed by the
21 state, except the tax shall not be imposed on the gross
22 receipts from the sale of motor fuel or special fuel as
23 defined in chapter 452A which is consumed for highway use or
24 in watercraft or aircraft if the fuel tax is paid on the
25 transaction and a refund has not or will not be allowed, on
26 the gross receipts from the rental of rooms, apartments, or
27 sleeping quarters which are taxed under chapter 422A during
28 the period the hotel and motel tax is imposed, on the gross
29 receipts from the sale of equipment by the state department of
30 transportation, on the gross receipts from the sale of self-
31 propelled building equipment, pile drivers, motorized
32 scaffolding, or attachments customarily drawn or attached to
33 self-propelled building equipment, pile drivers, and motorized
34 scaffolding, including auxiliary attachments which improve the
35 performance, safety, operation, or efficiency of the

1 equipment, and replacement parts and are directly and
2 primarily used by contractors, subcontractors, and builders
3 for new construction, reconstruction, alterations, expansion,
4 or remodeling of real property or structures, and on the gross
5 receipts from the sale of a lottery ticket or share in a
6 lottery game conducted pursuant to chapter 99E and except the
7 tax shall not be imposed on the gross receipts from the sale
8 or use of natural gas, natural gas service, electricity, or
9 electric service in a city or county where the gross receipts
10 from the sale of natural gas or electric energy are subject to
11 a franchise fee or user fee during the period the franchise or
12 user fee is imposed.

13 Sec. 17. Section 423.4, subsection 4, Code 2001, is
14 amended to read as follows:

15 4. ~~Tangible-personal-property,~~The The gross receipts from
16 the sale ~~of~~ or rental of tangible personal property or from
17 the rendering, furnishing, or performing of services which are
18 exempted from the retail sales tax by the terms of section
19 422.45, except subsection 4 and subsection 6 of section 422.45
20 as it relates to the sale of vehicles subject to registration
21 or subject only to the issuance of a certificate of title and
22 as it relates to aircraft subject to registration under
23 section 328.20.

24 Sec. 18. Section 424.10, subsection 2, Code 2001, is
25 amended to read as follows:

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

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

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

14 Sec. 19. Section 424.13, subsection 2, Code 2001, is
15 amended to read as follows:

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

22 Sec. 20. Section 427.1, subsection 16, Code 2001, is
23 amended to read as follows:

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

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

16 Sec. 21. Section 427A.1, Code 2001, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 3A. Notwithstanding the definition of
19 "attached" in subsection 2, property is not "attached" if it
20 is a fixture used for cooking, refrigeration, or freezing of
21 value-added agricultural products, used in value-added
22 agricultural processing or used in direct support of value-
23 added agricultural processing. For purposes of this
24 subsection, "direct support" includes storage by public
25 refrigerated warehouses for processors of value-added
26 agricultural products. Such fixtures shall not be considered
27 "attached" whether owned directly by the processor or
28 warehouse operator or by another who leases the fixture to the
29 processor or warehouse operator. This subsection shall not
30 apply to fixtures used primarily for retail sale or display.

31 Sec. 22. Section 427B.19A, subsection 2, Code 2001, is
32 amended to read as follows:

33 2. If an amount appropriated for a fiscal year is
34 insufficient to pay all claims as a result of action by the
35 general assembly limiting the amount appropriated to the fund,

1 the director shall prorate the disbursements from the fund to
2 the county treasurers and shall notify the county auditors of
3 the pro rata percentage on or before September 30.

4 Sec. 23. Section 427B.19B, Code 2001, is amended to read
5 as follows:

6 427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

7 For the fiscal years beginning July 1, 1996, and ending
8 June 30, 2006, if the industrial machinery, equipment and
9 computers property tax replacement fund is insufficient to pay
10 in full the total of the amounts certified to the director of
11 revenue and finance as a result of action by the general
12 assembly limiting the amount appropriated to the fund, the
13 director shall compute for each county the difference between
14 the total of all replacement claims for each taxing district
15 within the county and the amount paid to the county treasurer
16 for disbursement to each taxing district in the county. The
17 assessor, for the assessment year for which taxes are due and
18 payable in the fiscal year for which a sufficient
19 appropriation was not made as a result of action by the
20 general assembly limiting the amount appropriated to the fund,
21 shall revalue all industrial machinery, equipment and
22 computers described in section 427B.17, subsections 2 and 3,
23 in the county at a percentage of net acquisition cost which
24 will yield from each taxing district its shortfall and the
25 property shall be assessed and taxed in such manner for taxes
26 due and payable in the following fiscal year in addition to
27 being assessed and taxed in the applicable manner under
28 section 427B.17. When conducting the revaluation, the
29 assessor shall increase the percentage of net acquisition cost
30 of such property by the same percentage point. Property tax
31 dollar amounts certified pursuant to this section shall not be
32 considered property tax dollars certified for purposes of the
33 property tax limitation in chapter 444.

34 Sec. 24. Section 450.10, subsection 4, Code 2001, is
35 amended to read as follows:

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

10 Fifteen percent on the entire amount so passing.

11 Sec. 25. Section 453A.2, subsection 4, Code 2001, is
12 amended to read as follows:

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

19 Sec. 26. Section 499B.11, subsection 2, Code 2001, is
20 amended by striking the subsection.

21 Sec. 27. IMPLEMENTATION OF ACT. Section 25B.7 does not
22 apply to the exemption provided in new subsection 33 of
23 section 427.1 as enacted in this Act.

24 Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

25 1. The sections of this Act amending Code sections 422.7,
26 422.35, and 422.61, relating to income exemptions, being
27 deemed of immediate importance, take effect upon enactment and
28 apply retroactively to January 1, 2001, for tax years
29 beginning on or after that date.

30 2. The section of this Act amending Code section 450.10,
31 relating to property passing to certain types of legal
32 entities, takes effect July 1, 2001, for estates of decedents
33 dying on or after that date.

34 3. The section of this Act amending section 427A.1,
35 relating to fixtures used in value-added agricultural

1 processing, being deemed of immediate importance, takes effect
2 upon enactment and applies retroactively to January 1, 2000,
3 for assessment years beginning on or after that date.

4 4. The section of this Act amending section 15.333
5 relating to investment tax credits for cooperatives primarily
6 involved in the production of value-added agricultural
7 products takes effect July 1, 2001, and applies to tax years
8 beginning on or after that date.

9 EXPLANATION

10 This bill amends various tax provisions of state law.

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

17 Code section 15.333, subsection 1, is amended to allow
18 farmers' cooperatives that are not required to file Iowa
19 corporate income tax returns to receive the investment tax
20 credits under the new jobs and income program and to pass the
21 amount of credits on to their members.

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

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

31 Code section 421B.2 is amended by specifying that a seller
32 of cigarettes who does not meet the definition of a retailer
33 or wholesaler shall be considered a retailer for purposes of
34 computing minimum price if the person is engaged in the
35 business of selling cigarettes to a retailer or final

1 consumer.

2 Code sections 422.7, 422.35, and 422.61, subsection 3, are
3 amended to provide that income from the sale of obligations of
4 Iowa and its political subdivisions are taxable for purposes
5 of the state individual income and corporate taxes and the
6 state franchise tax unless the law authorizing the obligation
7 specifically exempts the income from the sale from the tax.

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

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

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

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

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

29 Code section 422B.9, subsection 1, paragraph "a", is
30 amended to prevent a lapse in time from the sunset of a local
31 option tax if a jurisdiction votes to continue the tax.

32 Code section 422B.11, subsection 1, paragraph "c", is
33 amended to change the period of time for a construction
34 contractor to claim a refund of local sales and services tax
35 paid from six months to one year.

1 Code section 423.4, subsection 4, is amended to provide
2 that in addition to the sale of tangible property being exempt
3 from the use tax if exempt from the sales tax, the rental of
4 tangible property and providing of services are exempt if
5 exempt for sales tax purposes.

6 Code section 424.10, subsection 2, and Code section 424.13,
7 subsection 2, are amended to replace the word "tax" with the
8 word "charge". Code section 424.3 imposes a "petroleum
9 diminution charge" and not a "petroleum diminution tax". Code
10 section 424.10, subsection 2, is also amended to change the
11 reference to "taxpayer" to "person against whom (a charge) is
12 assessed".

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

18 Code section 427A.1, new subsection 3A, is enacted, which
19 provides that for taxation as real property, fixtures used for
20 cooking, refrigeration, or freezing of value-added
21 agricultural products or used in the processing of such
22 products are not considered attached to real property.
23 Because it is not considered attached, the fixture is not
24 taxable as real property.

25 Code sections 427B.19A, subsection 2, and 427B.19B are
26 amended to provide that the industrial machinery, equipment
27 and computers property tax replacement fund, currently funded
28 with a standing unlimited appropriation, will be prorated to
29 pay claims if the general assembly elects to place a cap on
30 the fund in the future.

31 Code section 450.10 is amended to remove outdated
32 reciprocity language and to include additional language to
33 specify the tax treatment of fraternal and social
34 organizations.

35 Code section 453A.2, subsection 4, is amended to specify

1 that an appeal of a cigarette permit suspension or revocation
2 must be made to the authority that issued the permit. Cities
3 and counties issue permits to retail establishments in their
4 jurisdictions and the department of revenue and finance issues
5 distributor, manufacturer, wholesaler, and vendor permits.

6 Code section 499B.11, subsection 2, is stricken because its
7 provisions relating to the classification of condominiums used
8 or intended for use for human habitation on January 1, 1999,
9 are no longer needed because of subsequent legislation.

10 The bill has several different effective and applicability
11 dates.

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HOUSE FILE 715

H-1582

- 1 Amend House File 715 as follows:
2 1. Page 4, by inserting after line 7, the
3 following:
4 "Sec. ____ . Section 421.17, subsection 22A, Code
5 2001, is amended to read as follows:
6 22A. To develop, modify, or contract with vendors
7 to create or administer systems or programs which
8 identify nonfilers of returns or nonpayers of taxes
9 administered by the department. Fees for services,
10 reimbursements, costs incurred by the department, or
11 other remuneration paid under contract may be funded
12 from the amount of tax, penalty, or interest, or fees
13 actually collected and shall be paid only after the
14 amount is collected. An amount is appropriated from
15 the amount of tax, penalty, and interest, and fees
16 actually collected, not to exceed the amount
17 collected, which is sufficient to pay for services,
18 reimbursement, costs incurred by the department, or
19 other remuneration pursuant to this subsection.
20 Vendors entering into a contract with the department
21 pursuant to this subsection are subject to the
22 requirements and penalties of the confidentiality laws
23 of this state regarding tax information. The director
24 shall report annually to the legislative fiscal bureau
25 and the chairpersons and ranking members of the ways
26 and means committees on the amount of costs incurred
27 and paid during the previous fiscal year pursuant to
28 this subsection."
29 2. Page 13, lines 22 and 23, by striking the
30 words and figures "33 of section 427.1" and inserting
31 the following: "3A of section 427A.1".

By SUKUP of Franklin

H-1582 FILED APRIL 17, 2001

Adopted
4-19-01 (p. 1288)

HOUSE FILE 715

H-1594

- 1 Amend House File 715 as follows:
2 1. By striking page 1, line 18 through page 3,
3 line 14.
4 2. Page 14, by striking lines 4 through 8.
5 3. By renumbering as necessary.

By SUKUP of Franklin

H-1594 FILED APRIL 19, 2001

Adopted
4-17-01 (p. 1288)

S 4/19/01
S 4/24/01 Do Pass

HOUSE FILE 715
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 187)

(As Amended and Passed by the House April 19, 2001)

Passed House, (P. 1289) Date 4-19-01 Passed Senate, (P. 1337) Date 4/26/01
Vote: Ayes 95 Nays 1 Vote: Ayes 48 Nays 0
Approved May 3, 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 individual income, corporate income,
4 sales and use, franchise, hotel and motel, environmental
5 protection charge on petroleum diminution, property, cigarette
6 and tobacco products, and inheritance taxes, local option
7 taxes, and including effective and retroactive applicability
8 date provisions.

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

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House Amendments _____
Deleted Language *

1 Section 1. Section 15.331A, subsection 2, Code 2001, is
2 amended to read as follows:

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

* 18 Sec. 2. Section 404.4, unnumbered paragraph 2, Code 2001,
19 is amended to read as follows:

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

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

5 Sec. 3. Section 421.17, subsection 16, Code 2001, is
6 amended to read as follows:

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

11 Sec. 4. Section 421.17, subsection 22A, Code 2001, is
12 amended to read as follows:

13 22A. To develop, modify, or contract with vendors to
14 create or administer systems or programs which identify
15 nonfilers of returns or nonpayers of taxes administered by the
16 department. Fees for services, reimbursements, costs incurred
17 by the department, or other remuneration paid-under-contract
18 may be funded from the amount of tax, penalty, or interest, or
19 fees actually collected and shall be paid only after the
20 amount is collected. An amount is appropriated from the
21 amount of tax, penalty, and interest, and fees actually
22 collected, not to exceed the amount collected, which is
23 sufficient to pay for services, reimbursement, costs incurred
24 by the department, or other remuneration pursuant to this
25 subsection. Vendors entering into a contract with the
26 department pursuant to this subsection are subject to the
27 requirements and penalties of the confidentiality laws of this
28 state regarding tax information. The director shall report
29 annually to the legislative fiscal bureau and the chairpersons
30 and ranking members of the ways and means committees on the
31 amount of costs incurred and paid during the previous fiscal
32 year pursuant to this subsection.

33 Sec. 5. Section 421B.2, subsection 6, Code 2001, is
34 amended by adding the following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a

1 person who does not meet the definition of retailer or
2 wholesaler but who is engaged in the business of selling
3 cigarettes in this state to a retailer or final consumer shall
4 be considered a retailer and subject to the minimum pricing
5 requirements of this chapter.

6 Sec. 6. Section 422.7, Code 2001, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 36. Add, to the extent not already
9 included, income from the sale of obligations of the state and
10 its political subdivisions. Income from the sale of these
11 obligations is exempt from the taxes imposed by this division
12 only if the law authorizing these obligations specifically
13 exempts the income from the sale from the state individual
14 income tax.

15 Sec. 7. Section 422.35, Code 2001, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 18. Add, to the extent not already
18 included, income from the sale of obligations of the state and
19 its political divisions. Income from the sale of these
20 obligations is exempt from the taxes imposed by this division
21 only if the law authorizing these obligations specifically
22 exempts the income from the sale from the state corporate
23 income tax.

24 Sec. 8. Section 422.47, subsection 2, Code 2001, is
25 amended by striking the subsection.

26 Sec. 9. Section 422.53, subsection 3, Code 2001, is
27 amended to read as follows:

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

34 Sec. 10. Section 422.61, subsection 3, paragraph b, Code
35 2001, is amended to read as follows:

1 b. Notwithstanding sections 262.41 and 262.51, or any
2 other provisions of law, income from obligations of the state
3 and its political subdivisions and franchise taxes paid or
4 accrued under this division during the taxable year shall be
5 added. Income from sales of obligations of the state and its
6 political subdivisions and interest and dividend income from
7 these obligations are exempt from the taxes imposed by this
8 division only if the law authorizing the obligations
9 specifically exempts the income from the sale and interest and
10 dividend income from the state franchise tax.

11 Sec. 11. Section 422.110, unnumbered paragraph 1, Code
12 2001, is amended to read as follows:

13 In lieu of the fuel tax refund provided in section 452A.17,
14 a person or corporation subject to taxation under divisions II
15 1260 or III of this chapter may elect to receive an income tax
16 credit. The person or corporation which elects to receive an
17 income tax credit shall cancel its refund permit obtained
18 under section 452A.18 within thirty days after the first day
19 of its tax year or the permit becomes invalid at that time.
20 For the purposes of this section, "person" includes a person
21 claiming a tax credit based upon the person's pro rata share
22 of the earnings from a partnership, limited liability company,
23 or corporation which is not subject to a tax under division II
24 or III of this chapter as a partnership, limited liability
25 company, or corporation. If the election to receive an income
26 tax credit has been made, it remains effective for at least
27 one tax year, and for subsequent tax years unless a change is
28 requested and a new refund permit applied for within thirty
29 days after the first day of the person's or corporation's tax
30 year. The income tax credit shall be the amount of the Iowa
31 fuel tax paid on fuel purchased by the person or corporation
32 and is subject to the conditions provided in section 452A.17
33 with the exception that the income tax credit is not available
34 for refunds relating to casualty losses, transport diversions,
35 pumping credits, blending errors, idle time, power takeoffs,

1 reefer units, and exports by ~~eligible-purchasers~~ distributors.

2 Sec. 12. Section 422A.1, Code 2001, is amended by adding
3 the following new unnumbered paragraph after unnumbered
4 paragraph 1:

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

11 Sec. 13. Section 422B.8, unnumbered paragraph 1, Code
12 2001, is amended to read as follows:

13 A local sales and services tax at the rate of not more than
14 one percent may be imposed by a county on the gross receipts
15 taxed by the state under chapter 422, division IV. A local
16 sales and services tax shall be imposed on the same basis as
17 the state sales and services tax or in the case of the use of
18 natural gas, natural gas service, electricity, or electric
19 service on the same basis as the state use tax and shall not
20 be imposed on the sale of any property or on any service not
21 taxed by the state, except the tax shall not be imposed on the
22 gross receipts from the sale of motor fuel or special fuel as
23 defined in chapter 452A which is consumed for highway use or
24 in watercraft or aircraft if the fuel tax is paid on the
25 transaction and a refund has not or will not be allowed, on
26 the gross receipts from the rental of rooms, apartments, or
27 sleeping quarters which are taxed under chapter 422A during
28 the period the hotel and motel tax is imposed, on the gross
29 receipts from the sale of equipment by the state department of
30 transportation, on the gross receipts from the sale of self-
31 propelled building equipment, pile drivers, motorized
32 scaffolding, or attachments customarily drawn or attached to
33 self-propelled building equipment, pile drivers, and motorized
34 scaffolding, including auxiliary attachments which improve the
35 performance, safety, operation, or efficiency of the equipment

1 and replacement parts and are directly and primarily used by
2 contractors, subcontractors, and builders for new
3 construction, reconstruction, alterations, expansion, or
4 remodeling of real property or structures, and on the gross
5 receipts from the sale of a lottery ticket or share in a
6 lottery game conducted pursuant to chapter 99E and except the
7 tax shall not be imposed on the gross receipts from the sale
8 or use of natural gas, natural gas service, electricity, or
9 electric service in a city or county where the gross receipts
10 from the sale of natural gas or electric energy are subject to
11 a franchise fee or user fee during the period the franchise or
12 user fee is imposed. A local sales and services tax is
13 applicable to transactions within those incorporated and
14 unincorporated areas of the county where it is imposed and
15 shall be collected by all persons required to collect state
16 gross receipts taxes. However, a person required to collect
17 state retail sales tax under chapter 422, division IV, is not
18 required to collect local sales and services tax on
19 transactions delivered within the area where the local sales
20 and services tax is imposed unless the person has physical
21 presence in that taxing area. All cities contiguous to each
22 other shall be treated as part of one incorporated area and
23 the tax would be imposed in each of those contiguous cities
24 only if the majority of those voting in the total area covered
25 by the contiguous cities favor its imposition.

26 Sec. 14. Section 422B.9, subsection 1, paragraph a, Code
27 2001, is amended to read as follows:

28 a. A local sales and services tax shall be imposed either
29 January 1 or July 1 following the notification of the director
30 of revenue and finance but not sooner than ninety days
31 following the favorable election. However, a jurisdiction
32 which has voted to continue imposition of the tax may impose
33 that tax without repeal of the prior tax.

34 Sec. 15. Section 422B.11, subsection 1, paragraph c, Code
35 2001, is amended to read as follows:

1 c. The claim is filed on forms provided by the department
2 and is filed within ~~six-months~~ one year of the date the tax is
3 paid.

4 Sec. 16. Section 422E.3, subsection 2, Code 2001, is
5 amended to read as follows:

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

1 a franchise fee or user fee during the period the franchise or
2 user fee is imposed.

3 Sec. 17. Section 423.4, subsection 4, Code 2001, is
4 amended to read as follows:

5 4. ~~Tangible-personal-property,~~ The gross receipts from
6 the sale of or rental of tangible personal property or from
7 the rendering, furnishing, or performing of services which are
8 exempted from the retail sales tax by the terms of section
9 422.45, except subsection 4 and subsection 6 of section 422.45
10 as it relates to the sale of vehicles subject to registration
11 or subject only to the issuance of a certificate of title and
12 as it relates to aircraft subject to registration under
13 section 328.20.

14 Sec. 18. Section 424.10, subsection 2, Code 2001, is
15 amended to read as follows:

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

35 If a depositor's, receiver's, or other person's challenge

1 relates to the diminution rate, the burden of proof upon the
2 challenger shall only be satisfied by clear and convincing
3 evidence.

4 Sec. 19. Section 424.13, subsection 2, Code 2001, is
5 amended to read as follows:

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

12 Sec. 20. Section 427.1, subsection 16, Code 2001, is
13 amended to read as follows:

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

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

6 Sec. 21. Section 427A.1, Code 2001, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 3A. Notwithstanding the definition of
9 "attached" in subsection 2, property is not "attached" if it
10 is a fixture used for cooking, refrigeration, or freezing of
11 value-added agricultural products, used in value-added
12 agricultural processing or used in direct support of value-
13 added agricultural processing. For purposes of this
14 subsection, "direct support" includes storage by public
15 refrigerated warehouses for processors of value-added
16 agricultural products. Such fixtures shall not be considered
17 "attached" whether owned directly by the processor or
18 warehouse operator or by another who leases the fixture to the
19 processor or warehouse operator. This subsection shall not
20 apply to fixtures used primarily for retail sale or display.

21 Sec. 22. Section 427B.19A, subsection 2, Code 2001, is
22 amended to read as follows:

23 2. If an amount appropriated for a fiscal year is
24 insufficient to pay all claims as a result of action by the
25 general assembly limiting the amount appropriated to the fund,
26 the director shall prorate the disbursements from the fund to
27 the county treasurers and shall notify the county auditors of
28 the pro rata percentage on or before September 30.

29 Sec. 23. Section 427B.19B, Code 2001, is amended to read
30 as follows:

31 427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

32 For the fiscal years beginning July 1, 1996, and ending
33 June 30, 2006, if the industrial machinery, equipment and
34 computers property tax replacement fund is insufficient to pay
35 in full the total of the amounts certified to the director of

1 revenue and finance as a result of action by the general
2 assembly limiting the amount appropriated to the fund, the
3 director shall compute for each county the difference between
4 the total of all replacement claims for each taxing district
5 within the county and the amount paid to the county treasurer
6 for disbursement to each taxing district in the county. The
7 assessor, for the assessment year for which taxes are due and
8 payable in the fiscal year for which a sufficient
9 appropriation was not made as a result of action by the
10 general assembly limiting the amount appropriated to the fund,
11 shall revalue all industrial machinery, equipment and
12 computers described in section 427B.17, subsections 2 and 3,
13 in the county at a percentage of net acquisition cost which
14 will yield from each taxing district its shortfall and the
15 property shall be assessed and taxed in such manner for taxes
16 due and payable in the following fiscal year in addition to
17 being assessed and taxed in the applicable manner under
18 section 427B.17. When conducting the revaluation, the
19 assessor shall increase the percentage of net acquisition cost
20 of such property by the same percentage point. Property tax
21 dollar amounts certified pursuant to this section shall not be
22 considered property tax dollars certified for purposes of the
23 property tax limitation in chapter 444.

24 Sec. 24. Section 450.10, subsection 4, Code 2001, is
25 amended to read as follows:

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

35 Fifteen percent on the entire amount so passing.

1 Sec. 25. Section 453A.2, subsection 4, Code 2001, is
2 amended to read as follows:

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

9 Sec. 26. Section 499B.11, subsection 2, Code 2001, is
10 amended by striking the subsection.

11 Sec. 27. IMPLEMENTATION OF ACT. Section 25B.7 does not
12 apply to the exemption provided in new subsection 3A of
13 section 427A.1 as enacted in this Act.

14 Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

15 1. The sections of this Act amending Code sections 422.7,
16 422.35, and 422.61, relating to income exemptions, being
17 deemed of immediate importance, take effect upon enactment and
18 apply retroactively to January 1, 2001, for tax years
19 beginning on or after that date.

20 2. The section of this Act amending Code section 450.10,
21 relating to property passing to certain types of legal
22 entities, takes effect July 1, 2001, for estates of decedents
23 dying on or after that date.

24 3. The section of this Act amending section 427A.1,
25 relating to fixtures used in value-added agricultural
26 processing, being deemed of immediate importance, takes effect
27 upon enactment and applies retroactively to January 1, 2000,
28 for assessment years beginning on or after that date.

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HOUSE FILE 715

AN ACT

RELATING TO THE ADMINISTRATION OF THE TAX AND RELATED LAWS
BY THE DEPARTMENT OF REVENUE AND FINANCE, INCLUDING
ADMINISTRATION OF STATE INDIVIDUAL INCOME, CORPORATE INCOME,
SALES AND USE, FRANCHISE, HOTEL AND MOTEL, ENVIRONMENTAL
PROTECTION CHARGE ON PETROLEUM DIMINUTION, PROPERTY,
CIGARETTE AND TOBACCO PRODUCTS, AND INHERITANCE TAXES, LOCAL
OPTION TAXES, AND INCLUDING EFFECTIVE AND RETROACTIVE
APPLICABILITY DATE PROVISIONS.

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

Section 1. Section 15.331A, subsection 2, Code 2001, is amended to read as follows:

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

Sec. 2. Section 404.4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

An application shall be filed for each new exemption claimed. The first application for an exemption shall be

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

Sec. 3. Section 421.17, subsection 16, Code 2001, is amended to read as follows:

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

Sec. 4. Section 421.17, subsection 22A, Code 2001, is amended to read as follows:

22A. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, costs incurred by the department, or other remuneration paid-under-contract may be funded from the amount of tax, penalty, or interest, or fees actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, and interest, and fees actually

collected, not to exceed the amount collected, which is sufficient to pay for services, reimbursement, costs incurred by the department, or other remuneration pursuant to this subsection. Vendors entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. The director shall report annually to the legislative fiscal bureau and the chairpersons and ranking members of the ways and means committees on the amount of costs incurred and paid during the previous fiscal year pursuant to this subsection.

Sec. 5. Section 421B.2, subsection 6, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a person who does not meet the definition of retailer or wholesaler but who is engaged in the business of selling cigarettes in this state to a retailer or final consumer shall be considered a retailer and subject to the minimum pricing requirements of this chapter.

Sec. 6. Section 422.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state individual income tax.

Sec. 7. Section 422.35, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Add, to the extent not already included, income from the sale of obligations of the state and its political divisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically

exempts the income from the sale from the state corporate income tax.

Sec. 8. Section 422.47, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 9. Section 422.53, subsection 3, Code 2001, is amended to read as follows:

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

Sec. 10. Section 422.61, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Notwithstanding sections 262.41 and 262.51, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the taxable year shall be added. Income from sales of obligations of the state and its political subdivisions and interest and dividend income from these obligations are exempt from the taxes imposed by this division only if the law authorizing the obligations specifically exempts the income from the sale and interest and dividend income from the state franchise tax.

Sec. 11. Section 422.110, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In lieu of the fuel tax refund provided in section 452A.17, a person or corporation subject to taxation under divisions II or III of this chapter may elect to receive an income tax credit. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share

of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by ~~eligible-purchasers~~ distributors.

Sec. 12. Section 422A.1, Code 2001, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

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

Sec. 13. Section 422B.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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

gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each

other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 14. Section 422B.9, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

Sec. 15. Section 422B.11, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The claim is filed on forms provided by the department and is filed within ~~six-months~~ one year of the date the tax is paid.

Sec. 16. Section 422E.3, subsection 2, Code 2001, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized

scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 17. Section 423.4, subsection 4, Code 2001, is amended to read as follows:

4. ~~Tangible personal property, the~~ The gross receipts from the sale of or rental of tangible personal property or from the rendering, furnishing, or performing of services which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration or subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

Sec. 18. Section 424.10, subsection 2, Code 2001, is amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to

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

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

Sec. 19. Section 424.13, subsection 2, Code 2001, is amended to read as follows:

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

Sec. 20. Section 427.1, subsection 16, Code 2001, is amended to read as follows:

16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation or modification for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside or modify any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give

notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance, and shall hold a hearing prior to issuing any order for revocation or modification. An order made by the director of revenue and finance revoking or modifying an exemption shall be applicable to the tax year commencing with the tax year in which the application is made to the director of revenue and finance or the tax year commencing with the tax year in which the director's own motion is filed. An order made by the director of revenue and finance revoking or modifying an exemption is subject to judicial review in accordance with chapter 17A, the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking or modifying an exemption is made by the director of revenue and finance.

Sec. 21. Section 427A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Notwithstanding the definition of "attached" in subsection 2, property is not "attached" if it is a fixture used for cooking, refrigeration, or freezing of value-added agricultural products, used in value-added agricultural processing or used in direct support of value-added agricultural processing. For purposes of this subsection, "direct support" includes storage by public refrigerated warehouses for processors of value-added agricultural products. Such fixtures shall not be considered "attached" whether owned directly by the processor or warehouse operator or by another who leases the fixture to the processor or warehouse operator. This subsection shall not apply to fixtures used primarily for retail sale or display.

Sec. 22. Section 427B.19A, subsection 2, Code 2001, is amended to read as follows:

2. If an amount appropriated for a fiscal year is insufficient to pay all claims as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall prorate the disbursements from the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before September 30.

Sec. 23. Section 427B.19B, Code 2001, is amended to read as follows:

427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

For the fiscal years beginning July 1, 1996, and ending June 30, 2006, if the industrial machinery, equipment and computers property tax replacement fund is insufficient to pay in full the total of the amounts certified to the director of revenue and finance as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall compute for each county the difference between the total of all replacement claims for each taxing district within the county and the amount paid to the county treasurer for disbursement to each taxing district in the county. The assessor, for the assessment year for which taxes are due and payable in the fiscal year for which a sufficient appropriation was not made as a result of action by the general assembly limiting the amount appropriated to the fund, shall revalue all industrial machinery, equipment and computers described in section 427B.17, subsections 2 and 3, in the county at a percentage of net acquisition cost which will yield from each taxing district its shortfall and the property shall be assessed and taxed in such manner for taxes due and payable in the following fiscal year in addition to being assessed and taxed in the applicable manner under section 427B.17. When conducting the revaluation, the assessor shall increase the percentage of net acquisition cost of such property by the same percentage point. Property tax

dollar amounts certified pursuant to this section shall not be considered property tax dollars certified for purposes of the property tax limitation in chapter 444.

Sec. 24. Section 450.10, subsection 4, Code 2001, is amended to read as follows:

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

Fifteen percent on the entire amount so passing.

Sec. 25. Section 453A.2, subsection 4, Code 2001, is amended to read as follows:

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

Sec. 26. Section 499B.11, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 27. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the exemption provided in new subsection 3A of section 427A.1 as enacted in this Act.

Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending Code sections 422.7, 422.35, and 422.61, relating to income exemptions, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2001, for tax years beginning on or after that date.

2. The section of this Act amending Code section 450.10, relating to property passing to certain types of legal entities, takes effect July 1, 2001, for estates of decedents dying on or after that date.

3. The section of this Act amending section 427A.1, relating to fixtures used in value-added agricultural processing, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2000, for assessment years beginning 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 715, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved May 3, 2001

THOMAS J. VILSACK
Governor