

To Sifting Committee.  
March 26, 1929.

Senate File No. 467.  
By COMMITTEE ON WAYS AND MEANS.

## A BILL FOR

An Act providing for the imposition and collection of a tax, for general state purposes, upon the privilege of bartering, selling and/or exchanging within this state by any individual, partnership, corporation, joint stock company, syndicate or association of any property including real property, personal property, commodities, articles, goods, wares, merchandise, bonds, stocks, securities and/or other evidences of property or interest in property and/or the selling, or otherwise disposing of, or rendering for a consideration, and service within this state, by any public utility.

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

1 Section 1. That every public utility in the State of Iowa  
2 selling, or otherwise disposing of, or rendering for a considera-  
3 tion, any service in this state, shall pay to the state treasurer,  
4 for the year 1929 and each year thereafter, for such privilege,  
5 to be in addition to all other taxes, an annual tax in a sum  
6 equal to one-tenth of one (1/10 of 1%) per centum of the gross  
7 receipts of such public utility derived from the transaction of  
8 business within the State of Iowa. The term "public utility" as  
9 used in this Act, means and includes every individual or in-  
10 dividuals, corporation, partnership, joint stock company, syndi-  
11 cate or association, their lessees, trustees or receivers,  
12 appointed by any court whatsoever, that now or may hereafter own,  
13 operate, manage or control in this state equipment or facilities  
14 for:  
15 (a) Transporting persons or property by steam or other

16 railroads for compensation; this shall include all steam or other  
17 railroads, and shall also include all express companies, all sleep-  
18 ing car, dining car, drawing room car, palace car, refrigerator,  
19 oil, stock, fruit and other car companies, which transport persons  
20 or property over and upon the lines or rails by any steam or other  
21 railroad;

22 (b) Producing, generating, transmitting, delivering, or  
23 furnishing gas, electricity, steam, or any other agency for the  
24 production of light, heat or power to or for the public for com-  
25 pensation;

26 (c) Diverting, developing, dumping, impounding, distributing  
27 or furnishing water to or for the public for compensation;

28 (d) Transporting persons or property by motor vehicles or  
29 other vehicles for compensation, including taxicabs or truck serv-  
30 ice in cities or towns.

31 (e) Conveying or transmitting messages or communications by  
32 telephone or telegraph, where such service is offered to the pub-  
33 lic for compensation. The term "public utility" as used in this  
34 Act shall include in addition to those businesses hereinabove  
35 enumerated, every other individual or individuals, partnership,  
36 corporation, joint stock company, syndicate or association engaged  
37 in any business whose property is dedicated to the public use, or  
38 whose charges or rates for the furnishing of its products or serv-  
39 ice is, or may be subject to regulation by the State of Iowa.

1 Sec. 2. That every merchant doing business in the State  
2 of Iowa shall pay to the state treasurer for the year 1929, and each

3 and every year thereafter, to be in addition to all other taxes, an  
4 annual tax equal to one-tenth of one (1/10 of 1%) per centum of  
5 the gross receipts of such merchant derived from the transaction  
6 of business in the State of Iowa. The term "merchant" as used in  
7 this Act means and includes every individual or individuals, part-  
8 nership, corporation, joint stock company, syndicate or association  
9 engaged in the business of bartering, selling and/or exchanging, as  
10 a gainful pursuit, business or vocation, either in their own right  
11 or as brokers, factors, commission merchants or handlers of  
12 stocks of property, any real property, commodities, articles, goods,  
13 wares, merchandise, bonds, stocks, securities and/or other evidences  
14 of property or interests in property; provided that any gross re-  
15 ceipts of any such merchant derived from the sale and delivery, or  
16 sale for delivery, without the limits of the State of Iowa of any  
17 of the property, articles or evidences of property hereinabove  
18 enumerated shall not constitute a part of, nor be included in, the  
19 gross receipts of such merchant used in computing the amount of the  
20 tax owing by such merchant.

1 Sec. 3. That every manufacturer in the State of Iowa shall  
2 pay to the state treasurer, for the year 1929, and each and every  
3 year thereafter, for the privilege of selling and or exchanging in  
4 this state, to be in addition to all other taxes, an annual tax  
5 equal to one-tenth of one per centum (1/10 of 1%) of the proceeds  
6 derived, as consideration, by such manufacturer from all sales and/  
7 or exchange of any article or articles of personal property manu-  
8 factured by him and sold and/or exchanged in this state. In com-

9 putting any tax to be paid by any manufacturer under the provisions  
10 of this Act, receipts from the sales and/or exchange by him of  
11 articles partly manufactured by him, as well as manufactured arti-  
12 cles shall be included.

1 Sec. 4. That all individuals, corporations, joint stock  
2 companies, syndicates, associations in this state exercising the  
3 privilege in this state of bartering, selling, and/or exchanging,  
4 as a gainful pursuit, business, and/or vocation or as an incident to  
5 any gainful pursuit, business and/or vocation, either for them-  
6 selves or as brokers, factors, or commission merchants, any prop-  
7 erty, either real or personal, or stocks, bonds, or other securities  
8 or evidences of the ownership of an interest in property or any  
9 service, not subject to the tax or taxes provided and imposed by  
10 sections one (1), two (2) and/or three (3) of this Act, shall pay  
11 to the state treasurer for the year 1929, and each year thereafter,  
12 for such privilege, to be in addition to all other taxes, an annual  
13 tax equal to one-tenth of one per centum (1/10 of 1%) of the pro-  
14 ceeds derived as consideration, from all such bartering, selling  
15 and/or exchanging of such property, real and/or personal, or bonds,  
16 stocks or other securities or evidences of ownership or an interest  
17 in property, and/or service, in this state, by such individual or  
18 individuals, partnerships, corporation, joint stock company, syndi-  
19 cate or other association; and provided further that this act and  
20 the tax or taxes herein imposed shall not apply to bona fide farmers  
21 selling produce of the soil grown by him or the meat or flesh of  
22 animals which have been raised by him, or which he has owned and

23 grazed or owned and fed for a period of at least sixty days prior  
24 to the offering for sale of such animals or of the meat or flesh  
25 thereof; nor shall this Act apply to the sale of capital assets  
26 nor to casual or occasional sales of real or personal property not  
27 made in, or in connection with a regular course of business engaged  
28 in as a gainful pursuit, business and/or vocation; provided, however,  
29 that this Act shall apply to the sale by the original miner or pro-  
30 ducer of any coal, sand gypsum, or other mineral product, or logs  
31 or timber, taken or severed from the soil within this state.

1 Sec. 5. That in computing the amount of any tax imposed by  
2 or levied under the terms of this Act on any individual or individ-  
3 uals, partnerships, corporations, joint stock companies, syndicate  
4 or association, there shall first be deducted from the sum used as  
5 the basis for the computation of the tax, the sum of ten thousand  
6 (\$10,000) dollars, and only the remainder of such sum after said  
7 deduction of ten thousand (\$10,000) dollars, is made shall be used  
8 in computing any tax herein imposed.

1 Sec. 6. That the tax or taxes imposed by this Act shall be  
2 due and payable on the 31st day of January following the calendar  
3 year for which the same is assessed, and the amount of such  
4 tax becoming due for each calendar year shall be paid to the state  
5 treasurer on or before the 31st day of January following the year  
6 for which the same is assessed or levied, beginning with the 31st  
7 day of January, 1930, for the tax or taxes assessed or levied for the  
8 year 1929, and the state treasurer shall issue receipts therefor upon  
9 payment thereof.

1     Sec. 7. That the administration of the provisions of this  
2 Act shall be conducted by the state treasurer, and the necessary  
3 expenses of carrying out the provisions of this Act including the  
4 necessary clerical help and incidental expenses, shall be defrayed  
5 out of the receipts collected hereunder, not, however, to exceed  
6 two per centum of such collections, said expense to be approved by  
7 the state treasurer. In carrying out the provisions of this Act, the  
8 state treasurer shall have the power to employ such agent or agents  
9 and employe or employes, as may be necessary to effectuate the pur-  
10 poses of this Act. He shall have the power to make all such  
11 reasonable rules and regulations as are necessary to carry out the  
12 provisions of this Act, and in all matters connected with the admin-  
13 istration of the provisions of this Act, requiring the exercise of  
14 judgment and discretion, the judgment and opinion of the state  
15 treasurer shall be final and conclusive, and there shall be no re-  
16 view thereof, excepting the constitutional right of redress in the  
17 courts under existing or future laws.

1     Sec. 8. That each and every individual or individuals,  
2 partnership, corporation, joint stock company, syndicate, and/or  
3 other association, subject to the provisions of this Act, and to  
4 any taxes levied herein, shall keep a record in such form or forms  
5 as the state treasurer shall prescribe or require showing in detail:

6     (a) In the case of public utilities: the total gross receipts  
7 of such public utility during the year; the total gross receipts of  
8 the public utility derived from the transaction of business done  
9 wholly within the State of Iowa during the year; and showing all

10 such other things and matters, as the state treasurer may, in his  
11 discretion, require and as may be necessary, in the opinion of the  
12 state treasurer, to effectuate the purposes of this Act.

13 (b) In the case of merchants: the total amount of sales of  
14 all real property, commodities, articles, goods, wares, merchandise  
15 bonds, stock, securities, and/or other evidences of property, or an  
16 interest in property sold, bartered and/or exchanged by him, within  
17 this state during the year; and showing in detail the consideration  
18 received therefor; and showing all such other things and matters as  
19 the state treasurer may, in his discretion, require, and as may be  
20 necessary in the opinion of the state treasurer to effectuate the  
21 purposes of this Act.

22 (c) In the case of manufacturers: the total amount of sales  
23 of all commodities, goods, wares, and/or articles sold and/or ex-  
24 changed by him in this state during the year; and showing in detail  
25 the consideration received therefor, and showing all such other  
26 and matters as the state treasurer may, in his discretion, require, <sup>things</sup>  
27 and as may be necessary in the opinion of the state treasurer to  
28 effectuate the purposes of this Act.

29 (d) In the case of individuals, copartnerships, corporations,  
30 joint stock companies, syndicates or associations subject to the tax  
31 provided by section 4 of this Act, the total gross receipts received  
32 by them as consideration from any bartering, selling and/or <sup>exchange</sup>  
33 of property, real and/or personal, or bonds, stocks, or other securi-  
34 ties or evidences of ownership or an interest in property, and/or  
35 service, in this state during the year; the source or sources from

36 which such receipts are derived; and showing all such other things  
37 and matters as the state treasurer may, in his discretion, require,  
38 and as may be necessary in the opinion of the state treasurer to  
39 effectuate the purposes of this Act.

40 (e) The state treasurer may require, as to any or all of the  
41 business subject to the taxes imposed by this Act, that any or all  
42 of the records required by this section or which the state treasurer  
43 is authorized to require and does require, shall be kept for each  
44 day and/or other period or periods of the year. All such records  
45 shall be subject to the inspection of the state treasurer, his agents,  
46 representatives, or employes, at all times during the business hours  
47 of each day.

1 Sec. 9. That each and every individual or individuals,  
2 partnership, corporation, joint stock company, syndicate and/or  
3 other association subject to any of the provisions of this Act, and  
4 the tax or taxes levied herein, shall on or before the 31st day of  
5 January of each year, beginning with January, 1930, make out in du-  
6 plicate, on forms to be prescribed by the state treasurer, a verified  
7 statement or report showing in detail, the things and matters con-  
8 tained in the respective records required to be kept by section eight  
9 (8) of this Act covering their business for the preceding calendar  
10 year; and showing the total amount due the State of Iowa for such  
11 taxes for such preceding calendar year; and, if required by the state  
12 treasurer, such statements or report shall show, in detail, all such  
13 things and matters for each day and/or other period or periods of  
14 preceding calendar year. All such statements or reports shall show  
such

15 and contain all such other information as the state treasurer may  
16 All such statements or reports herein required, or which the state <sup>require.</sup>  
17 treasurer may require and does require, shall be in duplicate and  
18 shall be signed and verified by the oath of the individual or in-  
19 dividuals, or by the President, Vice-President, Treasurer, Assistant  
20 Treasurer or Managing Agent in this State of the corporation, joint  
21 stock company, syndicate or associations making the same. Where  
22 any individual or individuals, partnerships, corporation, joint  
23 stock company, syndicate or association has two or more separate  
24 places of business, the state treasurer may, in his discretion, re-  
25 quire any such report or statement to be made for each of the re-  
26 spective places of business conducted by them; provided, however,  
27 any taxpayer shall be allowed only a single time, the exemption <sup>that</sup> pro-  
28 vided in section five (5) of this Act regardless of the number of  
29 places of business operated by said taxpayer.

1 Sec. 10. That if any individual or individuals, partnership,  
2 corporation, joint stock company, syndicate or association shall  
3 fail, neglect or refuse to make out and file with the state treasurer  
4 any statement or report required by section nine (9) of this Act with-  
5 in the time therein provided, the treasurer shall, immediately after  
6 such time has expired, proceed to inform himself as best he may re-  
7 garding the matters and things required to be set forth in such  
8 statements or reports, and from such information as he may be able  
9 to obtain, make a statement showing such matters and things, and  
10 termine and fix the amount of the privilege tax due to the State from <sup>de-</sup>  
11 such delinquent for such preceding calendar year, adding to the <sup>amount</sup>

12 of such privilege tax a penalty of twenty-five (25%) per centum of  
13 amount of the tax, to be in addition to the penalty provided by <sup>the</sup>  
14 section thirteen (13) of this Act.

15 The state treasurer, for the purpose of ascertaining the  
16 correctness of any report or statement, or for the purpose of ascer-  
17 taining the things and matters required to be set forth in such re-  
18 ports or statements where no report or statement is filed when due,  
19 is hereby authorized either in his own proper person or by an agent,  
20 representative or employe designated by him for that purpose, to  
21 examine any books, records or memoranda bearing upon the matters  
22 required to be included in the report or statement, bearing upon any <sup>re-</sup>  
23 matter required by the terms of this Act to be kept as a record. In  
24 addition, in order to effectuate the purpose of this Act the state  
25 treasurer and any authorized agent, employe or representative may  
26 require the attendance of any person or persons having knowledge  
27 of any of the matters relevant to such examination or inquiry, and, for  
28 this purpose, the state treasurer or any authorized agent, employe  
29 or representative, may issue a subpoena or subpoenas in the name of  
30 the State of Iowa requiring attendance of such witnesses as may be  
31 designated therein at such place or places, at either the office of  
32 the state treasurer at Des Moines, or at any place in the county in  
33 which the business which is the subject of investigation has an <sup>office,</sup>  
34 and at such time or times as may be designated in such subpoena or  
35 subpoenas. All such subpoenas shall be served by the sheriff or any  
36 deputy of the county where the same is directed, and such sheriff or  
37 deputy shall be entitled to the same fees for serving such subpoenas

38 as in the case of serving subpoenas in civil cases in the district  
39 court. The state treasurer or any authorized agent, employe or  
40 representative is authorized and empowered to administer oaths to  
41 any person or persons so summoned. Any such person or persons so  
42 summoned shall give all such evidence relevant to the matter under  
43 investigation as may be required by the state treasurer or his au-  
44 thorized agent, employe or representative. The usual fees and  
45 mileage expenses allowed witnesses in cass in the district court of  
46 this State shall be allowed any witnesses so summoned. All such  
47 mileage expenses and fees of sheriffs shall be paid by the state <sup>fees,</sup>  
48 treasurer out of the funds in his hands collected under the provisions  
49 of this Act, after the approval by him of such fees, and shall be  
50 and constitute lawful expenditures hereunder by the state treasurer.

1 Sec. 11. That any person failing to respond to any sub-  
2 poena issued under the provisions or authority of this Act, after  
3 service upon him, or failing to answer any question or questions  
4 relative to the matters under consideration that may be propounded  
5 on examination, shall be guilty of a misdemeanor, and, upon con-  
6 viction thereof, shall be fined not less than Fifty (\$50.00) Dollars  
7 nor more than Five Hundred (\$500.00) Dollars for each offense.

1 Sec. 12. That any person required by the terms of this  
2 Act to keep any record or records, or required by the terms of  
3 this Act to make a report, statement or return, who willfully or  
4 negligently fails to keep any and all such records required by the  
5 terms of this Act, or which the state treasurer is authorized to  
6 require and does require, or who fails or refuses to permit the

7 inspection and examination of any such records or memoranda by <sup>the</sup>  
8 state treasurer or his duly authorized agent, representative or  
9 employe, or who keeps, makes or prepares any false record or any  
10 record or memoranda containing a false statement or entry, or who  
11 makes or prepares a false report, statement or return, or report,  
12 statement or return containing any false statement or entry there-  
13 in, shall be guilty of a felony, and upon conviction thereof, shall  
14 be punished by confinement in the penitentiary for not less than  
15 one year nor more than five years, and/or by a fine of not less  
16 than Five Hundred (\$500.00) Dollars nor more than One Thousand  
17 Dollars (\$1000.00) ; provided, that the jury, in its discretion, may  
18 fix the punishment at not less than three months nor more than  
19 twelve months in the county jail. The term "person", as used in  
20 this section, includes any officer, agent or employe of a corpora-  
21 tion, joint stock company, syndicate or association, or a member or  
22 employe of a partnership, who, as such officer, employe or member  
23 is under the duty to perform the act in respect of which the viola-  
24 tion occurs, or who may attempt to perform such act or acts or who  
25 may assist in performing such act or acts.

1 Sec. 13. That the state treasurer is authorized and empowered,  
2 and it shall be his duty to issue a distress warrant in the name of  
3 the State for the collection of the tax imposed under the provisions  
4 of this Act, when past due, and for all penalties, interest and  
5 costs, including the cost of issuing and serving any subpoenas issued  
6 and served under the provisions of section ten (10) of this Act.  
7 Interest at six per centum per annum shall be due and payable on.

8 tax not paid when due. A penalty of one per centum per day is  
9 by imposed for failure to pay such tax when due; provided, <sup>here-</sup>  
10 when the penalty reaches fifty per centum no further penalty shall <sup>however,</sup>  
11 accrue. All the provisions of Chapter three hundred forty-six  
12 of the Code, 1927, relating to the collection of delinquent taxes <sup>(346)</sup>  
13 by the county treasurers shall be applicable to the provisions of this  
14 Act and the state treasurer shall have all the rights, powers and  
15 duties of the county treasurers with respect to the collection of the  
16 taxes imposed hereby.

1 Sec. 14. The taxes imposed by this Act shall be a lien upon  
2 the property, articles or commodities with respect to the sale, barter  
3 or exchange of which the tax is imposed, and upon the stock of  
4 wares and merchandise, plant equipment and/or materials of any <sup>goods,</sup>  
5 utility, merchant, manufacturer or other individual or person <sup>public</sup> sub-  
6 ject to the provisions of this Act; and if any stock of goods, wares  
7 or merchandise, public utility plant, factory and/or business shall  
8 be sold in bulk or as a going business or concern, and the tax imposed  
9 hereby shall not have been paid, said tax and all interest and pen-  
10 alties shall be and continue a lien upon such stock of goods, wares,  
11 merchandise, public utility plant and/or factory, and the purchasers  
12 or person in control or possession thereof shall be liable for the  
13 payment of the tax thereon.

1 Sec. 15. In any case in which the person, firm or corporation  
2 liable for the payment of the tax hereby imposed shall have been in  
3 business for a period less than twelve (12) months prior to the close  
4 of the calendar year, the reports required in this Act shall be for

5 the portion of the year in which such person, firm or corporation  
6 was in business and the exemption provided for in section five (5)  
7 hereof shall be in proportion to the part of the year in which such  
8 person, firm or corporation is in business. In the case of the first  
9 reports required hereunder the same shall cover the portion of the  
10 year 1929 after the effective date of this Act, and the exemption pro-  
11 vided for in section five (5) hereof shall in like manner be in pro-  
12 portion to the part of the year 1929 during which this Act shall have  
13 been in effect.

1 Sec. 16. The proceeds of the tax collected under the provi-  
2 sions of this act shall be paid into the general fund of the state and  
3 shall be used for general state purposes.

1 Sec. 17. That it is not intended by the terms of this Act to  
2 levy or impose any tax or taxes on interstate or foreign commerce or  
3 upon the exercise of any privilege, or the engaging in any pursuit,  
4 business or commerce, which may be exempt from taxation under  
5 the Constitution of the United States or under the Constitution of the <sup>either</sup>  
6 State of Iowa, and the exercise of any such privilege and the engag-  
7 ing in any such pursuit, business, vocation or commerce shall be ex-  
8 empt from taxation under this Act, and no such tax or taxes are <sup>levied</sup>  
9 or imposed by this Act, and any expressions or provisions <sup>hereinabove</sup>  
10 contained, which may be otherwise construed, are hereby expressly  
11 limited so as not to levy or impose such tax or taxes.

1 Sec. 18. That it shall be lawful for any officer, agent,  
2 employe or representative of the State of Iowa to make known, in

3 manner, except as may be required by law, any information,  
4 the business of any individual or individuals, copartnership, cor-  
5 poration, joint stock company, syndicate or association subject to  
6 the provisions of this Act, which he may have obtained, directly  
7 or indirectly, by virtue of any records, memoranda, reports, testi-  
8 mony, books and/or documents kept, filed, given or exhibited in pur-  
9 suance of this Act, by any such individual or individuals, copartner-  
10 ship, corporation, joint stock company, syndicate or association.  
11 Any person violating the provisions of this section shall be guilty  
12 of a misdemeanor, and upon conviction thereof, shall be punished by  
13 a fine of not less than fifty (\$50) dollars nor more than five  
14 hundred (\$500) dollars for each offense. In addition, any such  
15 officer, agent, employe, or representative shall be discharged from  
16 the service or employ of the state.

1 Sec. 19. That the provisions of this Act are severable, and  
2 if any section or sections, paragraph or paragraphs, sentence or  
3 sentences, clause or clauses, word or words of this Act shall be  
4 held to be unconstitutional by the valid judgment or decree of any  
5 court of competent jurisdiction, such particular section or sections,  
6 paragraph or paragraphs, sentence or sentences, clause or clauses,  
7 word or words may be rejected without affecting the remainder of  
8 Act, and the decisions of the courts shall not effect or impair any  
9 of the remaining sections, paragraphs, sentences, clauses or words  
10 of this Act. It is hereby declared that it is the legislative in-  
11 tent that this Act and each word, clause, sentence, paragraph and

12 section thereof would have been enacted had such unconstitutional  
13 section or sections, paragraph or paragraphs, sentence or sentences,  
14 clause or clauses, word or words not been included.