

February 25, 1959.  
Passed on File.

**Senate File 415**  
By HILL and POTTER.

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

## A BILL FOR

An Act to amend section four hundred twenty-two point thirty-three (422.33), Code 1958, relating to revision of the formula by which income of corporations is to be apportioned between the state of Iowa and the other states for purposes of the Iowa income tax on corporations.

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

1 Section 1. Subsection one (1) of section four hundred  
2 twenty-two point thirty-three (422.33), Code 1954, is hereby  
3 stricken, and the following enacted in lieu thereof:  
4 "1. If the trade or business of the corporation is  
5 carried on entirely within the state, the tax shall be imposed  
6 on the entire net income, but if such trade or business is  
7 carried on partly within and partly without the state, the tax  
8 shall be imposed only on the portion of the net income reasonably  
9 attributable to the state, said net income attributable to the  
10 state to be determined as follows:  
11 a. The entire net income of all resident or  
12 domestic corporations from compensation for labor or personal  
13 services, or from a business consisting principally of the  
14 performance of personal or professional services, shall be  
15 assigned to this state, and the net income of non-resident  
16 corporations from such sources shall be assigned to this state  
17 if, and to the extent that, the labor or services are performed  
18 within it; all other income from such sources shall be treated  
19 as income from sources without this state.

20 b. Net income including capital gains, rents  
21 and royalties received from tangible property having a situs in  
22 Iowa shall be assignable to Iowa and such income including  
23 capital gains, rents and royalties received from tangible prop-  
24 erty having a situs outside of Iowa shall be assignable outside  
25 of this state.

26 c. Net income including capital gains from intan-  
27 gible personal property, whether employed in the business of the  
28 recipient or not, shall be assigned to this state, if the  
29 recipient thereof is domiciled within this state.

30 d. When a trade or business is carried on partly  
31 within and partly without the state, the entire income received  
32 from such trade or business, including income from tangible and  
33 intangible property employed in such business, shall be governed  
34 by the provisions of paragraphs e. through h., inclusive, of  
35 this subsection.

36 e. For all corporations engaged in the manufac-  
37 ture in Iowa or within and without Iowa, of tangible personal  
38 property and the sale of said property within, without, or both  
39 within and without the state, for domestic or domicillary  
40 corporations engaged in such sale alone within this state but  
41 which also makes such sales in other states, and for all corpora-  
42 tions engaged in such manufacture alone within this state but  
43 which are so engaged in other states, the remainder, after making  
44 the allocations provided for by paragraphs a., b. and c. of this  
45 subsection, shall be allocated to Iowa on the basis of the  
46 percentage computed by taking the arithmetical average of the  
47 following three percentages:

48 (1). The percentage which the sales made

49 within this state and through, from  
50 or by offices, agencies, branches,  
51 stores or personal solicitation of a  
52 salesman or representative in Iowa,  
53 whether such salesman or representa-  
54 tive is a resident of this state or  
55 not or assigned to an office, agency,  
56 branch or store in Iowa or not, whether  
57 or not such sales are consummated by  
58 delivery of the goods sold in inter-  
59 state commerce. is of the total sales  
60 wherever made;

61 (2). The percentage which the total tangible  
62 property, real, personal, and mixed,  
63 owned or used by the taxpayer in this  
64 state in connection with such trade or  
65 business, is of the total tangible  
66 property, real, personal, or mixed,  
67 wherever located, owned, or used by the  
68 taxpayer in connection with such trade  
69 or business; and,

70 (3). The percentage which the taxpayer's total  
71 payrolls paid or incurred in this state  
72 or paid in respect to labor performed in  
73 this state in connection with such trade  
74 or business is of the taxpayer's total  
75 payrolls paid or incurred in connection  
76 with such trade or business.

77 (4). In computing the percentages under

78 subparagraphs one (1), two (2) and three  
79 (3) of this paragraph, the valuation of  
80 transient property, such as motor vehicles,  
81 shall be apportioned in a manner to reflect  
82 the use of such property within and without  
83 the state of Iowa. The valuation of tangi-  
84 ble property, other than inventories, shall  
85 be its depreciated tax cost for income tax  
86 purposes at the end of the tax year, except  
87 in the event such valuation does not fairly  
88 reflect the total tangible property owned  
89 or used by the taxpayer in this state during  
90 such tax year. In such event such valuation  
91 shall be the average valuation of such  
92 property so owned or used during the tax  
93 year to be determined on the basis of sound  
94 accounting practices. All inventories shall  
95 be valued at total book cost at the end of  
96 the tax year, except in the event such book  
97 cost does not fairly reflect the total  
98 inventory owned or used by the taxpayer  
99 during the tax year. In such event such  
100 valuation shall be the average valuation of  
101 such property so owned or used during the  
102 tax year to be determined on the basis of  
103 sound accounting practices. For businesses  
104 occupying rented properties and/or using  
105 leased equipment, such property shall be  
106 valued at 8 times the annual net rental pay-

107 ments. For purposes of this computation,  
108 payrolls shall include wages, salaries,  
109 commissions, bonuses, and all remuneration  
110 paid as compensation for employees'  
111 personal services and shall be  
112 considered payrolls paid or incurred  
113 in this state, or paid in respect to  
114 labor performed in this state if the  
115 duties of the employee normally  
116 require said employee to spend one-  
117 half, or more, of his working time in  
118 Iowa, without regard to the legal  
119 residence of the employee.

120 f. For businesses engaged in the sale of tangi-  
121 ble personal property within this state but not engaged in the  
122 manufacture of tangible personal property within this state  
123 and which are neither domestic corporations of this state or  
124 domiciled in this state, the income remaining, after the  
125 deductions provided for in paragraphs a., b. and c. of this  
126 subsection, shall be allocated to Iowa in that proportion which  
127 the gross sales made within the state bear to the total gross  
128 sales. The words 'gross sales made within the state' shall  
129 include all sales to be included in the Iowa portion of total  
130 sales under the provisions of subparagraph e.(1) of this  
131 subsection.

132 g. Where income is derived from businesses other  
133 than manufacture or sale of tangible personal property, the  
134 remainder of such income, after making the allocations provided  
135 by paragraphs a., b. and c. of this subsection, shall be specifi-

136 cally allocated or equitably apportioned within and without the  
137 state under rules and regulations of the commission.

138 h. For the purpose of this section, the word  
139 'sale' shall include exchange, and the word 'manufacture' shall  
140 include the extraction and recovery of natural resources and all  
141 processes of fabricating and curing. The words 'tangible  
142 personal property' shall be taken to mean corporeal personal  
143 property, such as machinery, tools, implements, goods, wares,  
144 and merchandise, and shall not be taken to mean money deposits  
145 in banks, shares of stock, bonds, notes, credits, or evidence  
146 of an interest in property and evidences of debt."

1 Sec. 2. The provisions of this Act shall be effective as  
2 to all returns based upon income for the calendar years of 1957  
3 and 1958, and as to all income from fiscal years beginning  
4 during the calendar years of 1957 and 1958.

1 Sec. 3. The provisions of this Act shall constitute a  
2 temporary emergency tax to make possible meeting budgetary  
3 needs for the biennium beginning July 1, 1957 and ending June  
4 30, 1959.

1 Sec. 4. This Act being deemed of immediate importance  
2 shall be in full force and effect after publication in the  
3 Baxter New Era, a newspaper published at  
4 Baxter, Iowa, and the Colfax Tribune,  
5 a newspaper published at Colfax, Iowa.

EXPLANATION OF ~~SENATE FILE 415~~

ADOPTION OF THE THREE-FACTOR ALLOCATION FORMULA

~~Nature of the Amendment~~

It is proposed that the present method of allocation (using only the sales factor) be replaced by a 3-factor formula using sales, property and payroll as elements of the formula. Net income attributable to Iowa would then be computed as follows:

1. The percentage of Iowa sales to total sales would be computed.
2. The percentage of real and personal property in Iowa to total property wherever lo-

- cated would be computed. In this computation rented property would be included and valued at eight times the annual rent.
- The percentage of the payroll paid to Iowa employees to total payroll would be computed.
  - The average of these three percentages would then be computed. This average would be the percentage of total net income allocated to Iowa for taxation.

In cases where either the tax commission or taxpayer was able to demonstrate that the formula would not result in an allocation which fairly reflected the taxpayer's Iowa income, the tax commission would be authorized to require or permit the use of a different method to achieve a fair result.

**Examples of How the Amendment Would Work**

The following examples show how the present law and the proposed amendment would operate for several fictitious example corporations, each having an income after federal taxes of \$100,000.

**Example 1: Retailer doing business exclusively in Iowa**

Percent of sales in Iowa .....	100%
Percent property in Iowa .....	100%
Percent of payroll in Iowa .....	100%
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Average .....	100%
Income allocated to Iowa—present law .....	\$100,000
Tax under present law .....	\$ 2,000
Income allocated by 3-factor formula .....	\$100,000
Tax using 3-factor formula .....	\$ 2,000

**Example 2: Iowa manufacturer selling on nation-wide market**

Percent of sales in Iowa .....	10%
Percent of employees in Iowa .....	90%
Percent of property in Iowa .....	95%
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Average .....	65%
Income allocated to Iowa—present law .....	\$ 10,000
Tax under present law .....	\$ 200
Income allocated by 3-factor formula .....	\$ 65,000
Tax using 3-factor formula .....	\$ 1,300

**Example 3: Iowa wholesaler selling in several state areas**

Percent of sales in Iowa .....	40%
Payroll in Iowa .....	100%
Property in Iowa .....	100%
<hr/>	
Average .....	80%
Income allocated to Iowa—present law .....	\$ 40,000
Tax under present law .....	\$ 800
Income allocated by 3-factor formula .....	\$ 80,000
Tax using 3-factor formula .....	\$ 1,600

**Example 4: Out-of-state wholesaler or manufacturer selling on the national market**

Percent of sales in Iowa .....	10%
Percent of employees in Iowa .....	<del>10%</del>
Percent of property in Iowa .....	<del>10%</del>
<hr/>	
Average .....	<del>10%</del>
Income allocated to Iowa—present law .....	\$ 10,000
Tax under present law .....	\$ 200
Income allocated to Iowa— <del>3-factor formula</del> <i>under this Act</i> .....	\$ 4,000
Tax using <del>3-factor formula</del> <i>this Act</i> .....	\$ 80

Note: Actually, even under the present law, this corporation would probably only pay \$80 tax to Iowa. Present Iowa law permits the use of a different formula if the statutory "sales only" formula produces an unfair result. Usually corporations situated such as in this example use a different formula, generally the 3-factor formula.

States now using 3-factor allocation formula: Arizona, Connecticut, Alabama, California, Kentucky, Kansas, Idaho, Massachusetts, Minnesota, Louisiana, New York, North Carolina, Maryland, Pennsylvania, South Carolina, Mississippi, Rhode Island, Tennessee, Montana, Utah, Wisconsin, Oregon and Vermont.

*Strike*

*10,000  
200*