

January 30, 1961.  
Passed on File.

**Senate File 134**  
By HILL and POTTER.

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

## A BILL FOR

An Act relating to the formula by which income of corporations is to be apportioned between the state of Iowa and 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. Section four hundred twenty-two point thirty-  
2 three (422.33), Code 1958, is hereby repealed and the follow-  
3 ing enacted in lieu thereof:

4 "A tax is hereby imposed upon each corporation organized  
5 under the laws of this state, and upon every foreign corpora-  
6 tion engaged in income producing activities in this state,  
7 annually in an amount equivalent to three percent of the net  
8 income received by such corporation during the income year.

9 1. If the income producing activities of the corporation  
10 are carried on entirely within the state, the tax shall be  
11 imposed on the entire net income, but if such income producing  
12 activities are carried on partly within and partly without the  
13 state, the tax shall be imposed only on the portion of the net  
14 income reasonably attributable to the state, said net income  
15 attributable to the state to be determined as follows:

16 a. Interest, dividends, rents, and royalties (less stated  
17 expenses) received in connection with income producing activi-  
18 ties in the state, shall be allocated to the state, and where  
19 received in connection with income producing activities outside  
20 the state shall be allocated outside the state.

21 b. Net income of the above class having been separately  
22 allocated and deducted as above provided, the remainder of  
23 the net income of the taxpayer shall be allocated and appor-  
24 tioned as follows:

25 Where income is derived from income producing activities  
26 other than the manufacture or sale of tangible personal  
27 property or compensation for performance of labor or personal  
28 services, such income shall be specifically allocated or equit-  
29 ably apportioned within and without the state under rules and  
30 regulations of the commission.

31 Where income is derived from the manufacture or sale of  
32 tangible personal property, the part thereof attributable to  
33 income producing activities within the state shall be allo-  
34 cated to Iowa on the basis of the percentage computed by  
35 taking the arithmetical average of the following three  
36 percentages:

37 (1). The percentage which the sales made in Iowa is of total  
38 sales wherever made. Sales made in Iowa include sales made  
39 through, from, or by offices, agencies, branches, stores or  
40 personal solicitation of salesmen or representatives in Iowa,  
41 whether or not such salesmen or representatives are residents of  
42 Iowa.

43 (2). The percentage which the total tangible property, real,  
44 personal, and mixed, owned or used by the taxpayer in this state  
45 in connection with such income producing activities, is of the  
46 total tangible property, real, personal, or mixed, wherever  
47 located, owned, or used by the taxpayer in connection with such  
48 income producing activities; and

49 (3). The percentage which the taxpayer's total payrolls

50 paid or incurred in this state or paid in respect to labor  
51 performed in this state in connection with such income  
52 producing activities is of the taxpayer's total payrolls paid  
53 or incurred in connection with such income producing activities.

54 (4). In computing the percentages under subparagraphs one  
55 (1), two (2) and three (3) above the valuation of transient  
56 property, such as motor vehicles, shall be apportioned in a  
57 manner to reflect the use of such property within and without  
58 the state of Iowa. The valuation of tangible property, other  
59 than inventories, shall be its depreciated tax cost for income  
60 tax purposes at the end of the tax year, except that if such  
61 valuation does not fairly reflect the total tangible property  
62 owned or used by the taxpayer in this state during such tax  
63 year, such valuation shall be the average valuation of such  
64 property so owned or used during the tax year to be determined  
65 on the basis of sound accounting practices. All inventories  
66 shall be valued at total book cost at the end of the tax year,  
67 except that if such book cost does not fairly reflect the total  
68 inventory owned or used by the taxpayer during the tax year,  
69 such valuation shall be the average valuation of such property  
70 so owned or used during the tax year to be determined on the  
71 basis of sound accounting practices. For corporations occupy-  
72 ing rented properties or using leased equipment, such property  
73 shall be valued at eight (8) times the annual net rental  
74 payments. For purposes of this computation, payrolls shall  
75 include wages, salaries, commissions, bonuses, and all remuner-  
76 ation paid as compensation for employees' personal services  
77 and shall be considered payrolls paid or incurred in this  
78 state, or paid in respect to labor performed in this state,

79 if the duties of the employee normally require said employee  
80 to spend one-half or more of his working time in Iowa, with-  
81 out regard to the legal residence of the employee.

82 For the purpose of this section, the word 'sale' shall  
83 include exchange, and the word 'manufacture' shall include the  
84 extraction and recovery of natural resources and all processes  
85 of fabricating and curing. The words 'tangible personal prop-  
86 erty' shall be taken to mean corporeal personal property,  
87 such as machinery, tools, implements, goods, wares, and merchan-  
88 dise, and shall not be taken to mean money deposits in banks,  
89 shares of stock, bonds, notes, credits, or evidence of an  
90 interest in property and evidence of debt.

91 2. If any taxpayer believes that the method of allocation  
92 and apportionment hereinbefore prescribed, as administered by  
93 the commission and applied to his income producing activities  
94 has operated or will so operate as to subject him to taxation  
95 on a greater portion of his net income than is reasonably attri-  
96 butable to income producing activities within the state, he shall  
97 be entitled to file with the commission a statement of his  
98 objections and of such alternative method of allocation and  
99 apportionment as he believes to be proper under the circum-  
100 stances with such detail and proof and within such time as the  
101 commission may reasonably prescribe; and if the commission shall  
102 conclude that the method of allocation and apportionment thereto-  
103 fore employed is in fact inapplicable and inequitable it  
104 shall redetermine the taxable income by such other method  
105 of allocation and apportionment as seems best calculated  
106 to assign to the state for taxation the portion of the income  
107 reasonably attributable to income producing activities within

108 the state.

109 3. If it shall appear to the tax commission that any  
 110 allocation percentage determined as hereinabove provided does  
 111 not properly reflect the income producing activities of a  
 112 taxpayer within the state, the tax commission shall be author-  
 113 ized in its discretion, in case of the corporation allocation  
 114 percentage, to adjust it by (a) excluding one or more of the  
 115 factors therein, (b) including one or more other factors, or  
 116 (c) any other similar or different method calculated to effect  
 117 a fair and proper allocation of income reasonably attributable  
 118 to the state. Upon such action by the tax commission the  
 119 taxpayer will be informed in writing of the method to be used  
 120 to allocate and apportion the income attributable to the state."

- 1 Sec. 2. Section four hundred twenty-two point forty (422.40),
- 2 Code 1958, is hereby amended by striking from lines five (5) and
- 3 six (6) of subsection one (1) the words, "doing business in this
- 4 state for profit" and by inserting in lieu thereof the words,
- 5 "engaged in income producing activities in this state."

EXPLANATION OF SENATE FILE 134

ADOPTION OF THE THREE-FACTOR ALLOCATION FORMULA

It is proposed that the present method of allocation (using only the sales factor) be replaced by a three-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 located would be computed. In this computation rented property would be included and valued at eight times the annual rent.
3. The percentage of the payroll paid to Iowa employees to total payroll would be computed.
4. 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%
Average .....	100%

Income allocated to Iowa—present law .....	\$100,000
Tax under present law .....	\$ 3,000
Income allocated by three-factor formula .....	\$100,000
Tax using three-factor formula .....	\$ 3,000
Example 2: Iowa manufacturer selling on nationwide market	
Percent of sales in Iowa .....	10%
Percent of employees in Iowa .....	90%
Percent of property in Iowa .....	95%
Average .....	65%
Income allocate to Iowa—present law .....	\$ 10,000
Tax under present law .....	\$ 300
Income allocated by three-factor formula .....	\$ 65,000
Tax using three-factor formula .....	\$ 1,950
Example 3: Iowa wholesaler selling in several state areas	
Percent of sales in Iowa .....	40%
Payroll in Iowa .....	100%
Property in Iowa .....	100%
Average .....	80%
Income allocated to Iowa—present law .....	\$ 40,000
Tax under present law .....	\$ 1,200
Income allocated by three-factor formula .....	\$ 80,000
Tax using three-factor formula .....	\$ 2,400
Examples 4: Out-of-state wholesaler or manufacturer selling on the national market	
Percent of sales in Iowa .....	10%
Percent of employees in Iowa .....	2%
Percent of property in Iowa .....	0%
Average .....	4%
Income allocated to Iowa—present law .....	\$ 10,000
Tax under present law .....	\$ 300
Income allocated to Iowa —under this Act .....	\$ 400
Tax using three-factor formula .....	\$ 12