

FILED APR 1 1971  
*Sharp and Means 4/1*

SENATE FILE 445

By ARBUCKLE, POTGETER, BALLOUN,  
BASS, SCHABEN, VAN DRIE,  
ERSKINE, GILLEY, MILLER,  
TAPSCOTT, and VAN GILST

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the imposition of a tax on intangible per-  
2 sonal property, and providing procedures for administration  
3 and penalties for violation.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 Section 1. Chapter four hundred twenty-two (422), Code  
2 1971, is amended by adding as a new division sections two  
3 (2) through ten (10), inclusive, of this Act.

4 Sec. 2. DEFINITIONS.

5 1. "Intangible personal property" means personal property  
6 which is not in itself intrinsically valuable but which derives  
7 its chief value from that which it represents.

8 Intangible personal property includes, but is not limited  
9 to:

10 a. Money and negotiable instruments, including cash, money  
11 on deposit, certificates of deposit, United States legal  
12 tender notes, circulating notes of national banking  
13 associations, notes and certificates of the United States  
14 payable on demand and circulating or intended to circulate  
15 as currency, all other notes, checks, cashier's and certified  
16 checks, bills of exchange, and drafts.

17 b. Credits, including every contract, claim, or demand,  
18 due or to become due, for money, labor, or other valuable  
19 thing, every annuity or claim for a sum of money receivable  
20 at stated periods, every beneficial interest in the property  
21 of an estate or trust, accounts receivable, judgments, liens,  
22 debentures, bonds, and money or property secured by deed,  
23 title bond, mortgage, or otherwise.

24 However, if a taxpayer owns or controls a credit which  
25 consists of an underlying obligation evidenced by one or more  
26 forms of security, the intangible personal property tax shall  
27 be imposed only on the underlying obligation.

28 c. Shares of stock of domestic corporations, as provided  
29 in section five (5) of this Act.

30 d. Capital employed in the business of making loans or  
31 investments within this state, by foreign corporations or  
32 unincorporated entities, as provided in section six (6) of  
33 this Act.

34 e. Domestic corporation and foreign corporation shares  
35 or stocks not otherwise taxed under sections five (5) or six

1 (6) of this Act, including mutual fund shares, and cooperative  
2 association shares.

3 2. "Person" means an individual, partnership, corporation,  
4 estate, trust, fiduciary, or other legal entity.

5 3. "Domestic corporation" means a corporation or associ-  
6 ation organized under the laws of this state, except a credit  
7 union or a corporation or association whose property is exempt  
8 from taxation, and includes insurance companies, state banks  
9 as defined in section five hundred fifty-four point one hundred  
10 three (554.103) of the Code, and associations organized under  
11 chapter five hundred thirty-four (534) of the Code. Effective  
12 January 1, 1972, "domestic corporation" includes a national  
13 bank which has its principal office located within this state.

14 4. "Foreign corporation" includes every type of corporation  
15 or association not a domestic corporation.

16 5. "Fiduciary" means a guardian, conservator, trustee,  
17 executor, administrator, or receiver.

18 Sec. 3. IMPOSITION OF TAX. An annual tax of five mills  
19 per dollar of actual value is imposed on intangible personal  
20 property owned by a resident of this state, or having a  
21 business, commercial, or taxable situs in this state.

22 Determinations of value, residency, and situs shall be  
23 made as of December thirty-first each year, for the tax due  
24 the following year, under rules promulgated by the director.

25 However, property exempt under the provisions of chapter  
26 four hundred twenty-seven (427) of the Code, or other state  
27 or federal law, is exempt from the tax imposed by this section.  
28 Also, salaries, wages, or payments expected for services to  
29 be rendered, and pensions of the United States or of any  
30 state, are exempt from the tax imposed by this section.

31 Sec. 4. DEDUCTIONS.

32 1. A taxpayer, other than a taxpayer subject to sections  
33 five (5) or six (6) of this Act, who owns intangible personal  
34 property subject to the tax imposed by section three (3) of  
35 this Act, may deduct from the total value of his intangible

1 personal property subject to taxation under this division  
2 the amount of his debts owed in good faith.

3 A fiduciary or other taxpayer who controls intangible per-  
4 sonal property subject to the tax imposed by section three  
5 (3) of this Act, may deduct debts owed by the guardianship,  
6 conservatorship, trust, estate, or receivership, or otherwise  
7 fairly attributable to the property controlled by the taxpayer,  
8 in accordance with rules made by the director.

9 If a taxpayer is liable as surety or security for another,  
10 he may deduct only the amount he expects to be required to  
11 pay.

12 However, the following items are not deductible:

13 a. A deposit or security note given in aid of the organi-  
14 zation of a mutual insurance company for the premiums of  
15 insurance.

16 b. An unpaid subscription for the formation of any insti-  
17 tution, society, corporation, or company.

18 c. An indebtedness contracted for the purchase of United  
19 States bonds or other nontaxable property.

20 2. A taxpayer, other than a taxpayer subject to sections  
21 five (5) or six (6) of this Act, may deduct from the total  
22 value of his intangible personal property subject to taxation  
23 under this division the amount of five thousand dollars and  
24 may also deduct the following types of property:

25 a. Noninterest-bearing intangible personal property of  
26 the types described in section two (2), subsection one (1),  
27 paragraphs a and b, of this Act, to the extent it exceeds  
28 the amount of five thousand dollars.

29 b. Interest-bearing savings accounts and other interest-  
30 bearing deposits which have been in the custody of a bank  
31 located in this state for a period of three months or more  
32 preceding December thirty-first each year, for the deter-  
33 mination of the tax due the following year.

34 c. An interest in a real estate contract, or a mortgage  
35 or note secured by real property, to the extent that the

1 real property involved is subject to taxation by this state  
2 or a political subdivision of this state.

3 3. Any person having control of property subject to taxa-  
4 tion under this division but not owned by the person, may  
5 deduct the amount of the property which is subject to being  
6 taxed under this division to the owner of the property, if  
7 the owner is a resident of this state.

8 Sec. 5. SPECIAL PROVISIONS RELATING TO DOMESTIC CORPORA-  
9 TIONS. Every domestic corporation shall file a return and  
10 pay the tax imposed by section three (3) of this Act, based  
11 upon the actual value of the shares of stock of its  
12 stockholders on the preceding December thirty-first. If  
13 capital of the corporation is invested in real property  
14 otherwise subject to taxation by this state or a political  
15 subdivision of this state, the value of that capital may be  
16 deducted in determining the value of the shares of stock.  
17 A corporation subject to this section shall not be otherwise  
18 taxed upon its intangible personal property.

19 A corporation may apportion to the owners of its shares  
20 a pro rata portion of the tax imposed by this section, may  
21 have a lien upon the value of the shares for this tax, and  
22 may deduct the pro rata amount from the dividends or earnings  
23 credited to each shareholder.

24 A corporation may enforce its lien, if the unpaid dividends  
25 are not sufficient to pay the tax on each share, by a public  
26 sale by the sheriff at the principal office of the corporation,  
27 after giving thirty days' notice to shareholders by certified  
28 mail of the time and place of the sale.

29 Sec. 6. SPECIAL PROVISIONS RELATING TO LOAN OR INVESTMENT  
30 COMPANIES. Every foreign corporation, and every nonresident  
31 individual or unincorporated entity, engaged in the business  
32 of making loans or investments within the state of Iowa shall  
33 file a return and pay the tax imposed by section three (3)  
34 of this Act based upon its capital employed within this state  
35 on the preceding December thirty-first. However, this section

1 does not apply to production credit associations, or rural  
2 electrification associations. As used in this section,  
3 "capital" means capital employed in the business of making  
4 loans or investments, either unsecured or on security other  
5 than real property.

6 In computing the tax imposed by this section, a pro rata  
7 portion of debts may be deducted in the same proportion that  
8 the capital employed within this state is to the total capital.  
9 However, the debts deducted may not exceed eighty percent  
10 of the capital employed within this state, and the amount  
11 of the debt deduction must be reduced by the amount of any  
12 assets available for use in connection with loans or invest-  
13 ments in this state, which have not been included in the  
14 computation of capital employed within this state.

15 Sec. 7. FILING REQUIREMENTS. Any person owning or having  
16 control of intangible personal property subject to taxation  
17 under this division shall file an annual return listing all  
18 such property, allowable deductions, amount of tax due, and  
19 other matters as required by the director.

20 Every domestic corporation shall file an annual information  
21 return listing each registered holder of its debentures and  
22 bonds, and every foreign corporation authorized to do business  
23 in this state shall file an annual information return listing  
24 each registered holder of its shares, debentures, and bonds,  
25 whose mailing address is within this state, of record as of  
26 the preceding December thirty-first. The return shall list  
27 the names and addresses of each such registered holder,  
28 together with the number and class of shares, and the face  
29 amount and class of debentures or bonds registered in the  
30 holder's name.

31 Every security broker and dealer registered under the laws  
32 of this state shall file an annual information return listing  
33 the name, address, number and class of shares, and face amount  
34 and class of debentures or bonds held by each customer whose  
35 mailing address is within this state as of the preceding

1 December thirty-first.

2 Every person accepting deposits of money within this state  
3 shall file an annual information return listing the name,  
4 address, and balance on deposit for each depositor on the  
5 preceding December thirty-first, and indicating the amount  
6 continuously on deposit for each depositor during the period  
7 beginning on the preceding October first through the preceding  
8 December thirty-first.

9 All returns required by this section are due January first  
10 of each year and are delinquent beginning the following May  
11 first. Any person subject to the tax imposed by this division  
12 and subject to a tax imposed by division two (II) or division  
13 three (III) of this chapter shall file the returns required  
14 by this section with the returns required by divisions two  
15 (II) or three (III).

16 Sec. 8. ADMINISTRATIVE PROVISIONS. The director shall  
17 provide appropriate forms for persons required to file a  
18 return under this division, including a simplified form for  
19 persons required to file a return, but not required to pay  
20 tax because their allowable deductions exceed their total  
21 taxable property.

22 The director shall make all rules necessary for the adminis-  
23 tration of this division, subject to the provisions of chapter  
24 seventeen A (17A) of the Code, including rules for determining  
25 actual value of intangible personal property which does not  
26 have a readily ascertainable market value. In order to deter-  
27 mine the value of shares of domestic corporations or foreign  
28 corporations authorized to do business in this state, the  
29 director may require the filing of verified financial state-  
30 ments by the corporations.

31 All applicable provisions of sections four hundred twenty-  
32 two point twenty-four (422.24), four hundred twenty-two point  
33 twenty-five (422.25), four hundred twenty-two point twenty-  
34 six (422.26), four hundred twenty-two point twenty-eight  
35 (422.28), four hundred twenty-two point twenty-nine (422.29),

1 and four hundred twenty-two point thirty (422.30) of the Code  
2 apply to taxpayers subject to this division, and to the tax  
3 imposed by this division, except that penalties applicable  
4 to corporate taxpayers shall be determined as provided in  
5 section four hundred twenty-two point forty (422.40) of the  
6 Code.

7 However, taxpayers complying with this division after the  
8 effective date of this Act shall not be held liable for failure  
9 to list any intangible property with local taxing bodies in  
10 years prior to the effective date of this Act.

11 Sec. 9. ENFORCEMENT PROVISIONS. In every action in any  
12 court of this state for the collection on any bonds, notes,  
13 demands, claims, or other evidences of debt, the plaintiff  
14 shall be required to allege in his pleadings or to prove at  
15 any time before final judgment is entered, one of the  
16 following:

17 1. That the bonds, notes, or other evidences of debt have  
18 been assessed for taxation for every tax year, under the  
19 provisions of this division, during which the plaintiff was  
20 owner of them, not exceeding five years prior to that in  
21 which the suit or action is brought.

22 2. That the bonds, notes, or other evidences of debt sued  
23 upon are not taxable in the hands of the plaintiff.

24 3. That the plaintiff has not paid, or is unable to pay  
25 the taxes, penalties, and interest due, but is willing for  
26 them to be paid out of the first recovery on the evidence  
27 of debt sued upon.

28 When in any action it is ascertained that there are unpaid  
29 taxes, penalties, and interest due on the evidence of debt  
30 sought to be enforced, and the plaintiff shows to the court  
31 that he has not paid or is unable to pay the taxes, penalties,  
32 and interest, but is willing for them to be paid out of the  
33 first recovery on the evidence of debt, the court shall enter  
34 as a part of the judgment that the amount of taxes, penalties,  
35 and interest due and owing shall be paid to the proper officer

1 out of the first collection on the judgment.

2     Sec. 10. ALLOCATION OF REVENUE. Ten percent of the total  
3 moneys received from the intangible property tax imposed by  
4 section three (3) of this Act shall be deposited in the state  
5 general fund to defray expense of administration. The  
6 remaining moneys received from the tax shall be deposited  
7 in an intangible property tax fund hereby established in the  
8 office of the treasurer of state, and shall be paid quarterly  
9 on warrants by the state comptroller, after certification  
10 by the director of revenue, as follows:

11     1. Fifty percent to the basic school tax equalization  
12 fund of the basic school tax unit from which the tax is  
13 collected, to be distributed in the same manner as other funds  
14 in the basic school tax equalization fund.

15     2. Thirty percent to the general fund of the city or town  
16 from which the tax is collected.

17     3. Twenty percent to the general fund of the county from  
18 which the tax is collected.

19     If the taxpayer maintains one or more offices for the  
20 transaction of business, other than its principal office,  
21 a portion of its tax shall be allocated to each office, based  
22 upon a reasonable measure of the business activity of each  
23 office. The director of revenue shall prescribe for each  
24 type of taxpayer a method of measuring the business activity  
25 of each office. Taxpayers shall furnish all necessary  
26 information for this purpose at the request of the director.

27     Quarterly, the director of revenue shall certify to the  
28 treasurer of state the amounts to be paid to each basic school  
29 tax unit, city, town, and county from the intangible property  
30 tax fund. All moneys received from the intangible property  
31 tax are appropriated according to the provisions of this  
32 section.

33     Sec. 11. Section four hundred twenty point two hundred  
34 four (420.204), Code 1971, is amended as follows:

35     420.204 VALUATION. The assessed or taxable value of all

1 property except ~~moneys-and-credits-including-moneyed-capital~~  
2 ~~other-than-moneyed-capital-within-the-meaning-of-section-548~~  
3 ~~of>Title-12-of-the-United-States-Code-as-amended~~ intangible  
4 personal property, and the value at which it shall be listed  
5 and upon which the levy shall be made, in special charter  
6 cities, shall be ~~valued-and-assessed~~ as provided by section  
7 441.21. The levy so ascertained shall be certified to the  
8 county treasurer of the county in which such city is located  
9 ~~and-the-county-treasurer-shall-pay-to-the-treasurer-of-such~~  
10 ~~city,-such-portion-of-the-five-mill-tax-on-moneys-and-credits~~  
11 ~~collected-within-such-city,-and-such-city's-share-of-the~~  
12 ~~moneys-and-credits-tax-replacement-fund,-as-the-aggregate~~  
13 ~~levy-so-certified-is-of-the-total-levy-obtained-by-adding~~  
14 ~~such-certified-levy-to-the-levy-for-all-purposes-except-city~~  
15 ~~purposes.~~

16 Sec. 12. Section four hundred twenty-two point five  
17 (422.5), subsection seven (7), is amended as follows:

18 7. In addition to the tax imposed in the above subsections  
19 of this section, on all taxable income in excess of nine thou-  
20 sand dollars, three-fourths percent. This additional tax  
21 shall be effective for all taxable years ending after January  
22 1, 1965, except that for taxable years beginning before Jan-  
23 uary 1, 1965, and ending thereafter, shall be collected on  
24 the basis of the proportion which the number of months in  
25 any such fiscal year, commencing with the month of January  
26 1965, bears to the total year. ~~This-additional-tax-shall~~  
27 ~~be-in-lieu-of-all-taxes-imposed-by-section-429.2-on-the~~  
28 ~~property-therein-described-of-individuals,-administrators,-~~  
29 ~~executors,-guardians,-conservators,-trustees-or-an-agent-or~~  
30 ~~nominee-thereof.~~

31 Sec. 13. Section four hundred twenty-two point sixty-nine  
32 (422.69), Code 1971, is amended by striking subsection two  
33 (2).

34 Sec. 14. Section four hundred twenty-eight point three  
35 (428.3), Code 1971, is amended as follows:

1 428.3 AGENT PERSONALLY LIABLE. Any person acting as the  
 2 agent of another, and having in his possession or under his  
 3 control or management any ~~money, notes, and credits, or~~  
 4 tangible personal property belonging to such other person,  
 5 with a view to investing or loaning or in any other manner  
 6 using or holding the same for pecuniary profit, for himself  
 7 or the owner, shall be required to list the same at the real  
 8 value, and such agent shall be personally liable for the tax  
 9 on the same; and if he refuse to render the list or to swear  
 10 to the same, the amount of such ~~money, property, notes, or~~  
 11 ~~credits~~ may be listed and valued according to the best  
 12 knowledge and judgment of the assessor.

13 Sec. 15. Section four hundred twenty-eight point eight  
 14 (428.8), Code 1971, is amended as follows:

15 428.8 PLACE OF LISTING. ~~Moneys and credits, notes, bills,~~  
 16 ~~bonds, and corporate shares or stocks not otherwise assessed,~~  
 17 Tangible personal property shall be listed and assessed where  
 18 the owner lives, except as otherwise provided, and except  
 19 that, if tangible personal property ~~not consisting of moneys,~~  
 20 ~~credits, corporation or other shares of stock, or bonds,~~ has  
 21 been kept in another assessment district during the greater  
 22 part of the year preceding the first of January, or of the  
 23 portion of that period during which it was owned by the person  
 24 subject to taxation therefor, it shall be taxed where it has  
 25 been so kept.

26 Sec. 16. Section four hundred twenty-eight point eleven  
 27 (428.11), Code 1971, is amended as follows:

28 428.11 BUSINESS IN DIFFERENT DISTRICTS. When a person,  
 29 firm, or corporation is doing business in more than one  
 30 assessment district, the tangible property ~~and credits~~ existing  
 31 in any one of such districts, or arising from business done  
 32 in such district, shall be listed and taxed in that district,  
 33 ~~and the credits not existing in or pertaining especially to~~  
 34 ~~the business in any district shall be listed and taxed in~~  
 35 ~~that district where the principal place of business may be.~~

1 Sec. 17. Section four hundred twenty-eight point twenty-  
2 three (428.23), Code 1971, is amended as follows:

3 428.23 MANUFACTURER TO LIST. Corporations organized under  
4 the laws of this state for pecuniary profit and engaged in  
5 manufacturing as defined in section 428.20 shall list their  
6 real estate, and tangible personal property not hereinbefore  
7 mentioned, ~~and moneys and credits~~ in the same manner as is  
8 required of individuals.

9 Sec. 18. Section four hundred thirty-two point five  
10 (432.5), Code 1971, is amended as follows:

11 432.5 DOMESTIC COMPANIES--SHARES OF STOCK. The shares  
12 of stock of every insurance corporation or association having  
13 capital stock, organized under the laws of this state, shall  
14 be assessed for taxation in the manner provided for the assess-  
15 ment of the shares of corporate stock in ~~sections 434.4 to~~  
16 ~~434.57 inclusive~~ section 5 of this Act, and said shares of  
17 stock shall not be otherwise assessed. ~~In addition to the~~  
18 ~~statement required in section 434.27 the corporation shall~~  
19 ~~furnish to the assessor a copy of its annual report made to~~  
20 ~~the commissioner of insurance.~~

21 Sec. 19. Section four hundred thirty-two point seven  
22 (432.7), Code 1971, is amended as follows:

23 432.7 ASSESSMENT. It shall be the duty of the assessor,  
24 upon the receipt of said statements, and from other information  
25 acquired by him, to assess against every corporation or associ-  
26 ation referred to in section 432.6, the value of all tangible  
27 personal property owned by such corporation or association,  
28 together with the actual value of each parcel of real estate  
29 situated in the assessment district of such assessor, and  
30 all the said property shall be assessed at the same rate,  
31 and for the same purposes as the property of private  
32 individuals, as provided in section 441.21.

33 Sec. 20. Section four hundred forty-four point three  
34 (444.3), Code 1971, is amended by striking unnumbered  
35 paragraphs two (2) through five (5), inclusive.

1 Sec. 22. Chapter four hundred thirty A (430A), and sec-  
2 tions four hundred twenty-eight point twelve (428.12), four  
3 hundred thirty-two point eight (432.8), four hundred thirty-  
4 two point nine (432.9), four hundred forty-four point five  
5 (444.5), and five hundred thirteen A point thirty-eight  
6 (513A.38), Code 1971, are repealed.

7 EXPLANATION

8 This Bill establishes a tax on intangible personal property.  
9 This includes property formerly taxed under chapters 429,  
10 430, and 431 of the Code, now repealed, and 430A and a part  
11 of chapter 432, which are repealed by this Bill. The taxation  
12 of the shares of stock of domestic corporations, including  
13 banks, savings and loans, and insurance companies, is based  
14 upon former chapters 430 and 431. See section 5 of the Bill,  
15 and the definition of "domestic corporation" in section 2,  
16 subsection 3. In combining provisions, some changes from  
17 the former law naturally occurred. Section 6 of the Bill  
18 contains provisions for taxing capital employed in the business  
19 of making loans or investments, similar to former chapter  
20 430A. With these exceptions, all intangible personal property  
21 not exempt, formerly called moneys and credits, is subject  
22 to the tax imposed in section 3, at the rate of five mills  
23 on actual value. Deductions are provided similar to those  
24 in the former law, including a deduction for good faith debts,  
25 a flat five thousand dollar deduction, and deduction of  
26 interest-bearing deposits in Iowa banks. A new provision  
27 allows a deduction for intangible property representing an  
28 interest in real estate, if the real estate is otherwise taxed  
29 within this state.

30 A considerable change from former law is provided in the  
31 methods of collection and enforcement. Rather than have local  
32 assessors attempt to discover and tax intangible property,  
33 the Bill provides that all persons who own or control such  
34 property shall file a return with the director of revenue.  
35 Provisions are made for information returns by corporations,

1 banks, and security dealers. The state department of revenue  
2 will administer collection of the tax, with the powers  
3 otherwise provided in chapter 422 of the Code. Provisions  
4 for interest, penalties, liens, appeals, and jeopardy  
5 assessments are incorporated from chapter 422.

6 A new enforcement provision is contained in section 9 of  
7 the Bill, which requires that court actions for collection  
8 of debts will not be finally settled until the tax on the  
9 evidence of debt has been paid.

10 Section 10 of the Bill provides for allocation of the  
11 revenues back to local taxing units, and follows the allocation  
12 provisions of the franchise tax on financial institutions.

13 The most recent figures for moneys and credits tax collected  
14 indicate that the assessed value was just over three billion  
15 and the tax collected just under six million dollars. However,  
16 it is nearly impossible to make accurate comparisons because  
17 the former law taxed different types of intangible property  
18 at different rates from one to six mills, and taxed some types  
19 of intangible property on actual value and some on assessed  
20 value. Also, some intangible property was not listed for  
21 taxation under the former laws.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35