

February 23, 1951.  
Passed on File.

**Senate File 442**  
By BERG (and McFarlane).

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

## A BILL FOR

An Act to create an alternate plan for elimination of the need for viaducts and underpasses through relocating, depressing, elevating or consolidating main line and belt line railroad trackage in certain cities.

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

1 Section 1. In lieu of the powers prescribed in Chapter 387  
2 of the Code, cities having a population of five thousand or over  
3 shall have power to enter into and participate in any agreement,  
4 project or plan with any railroad or railroads owning or operating  
5 any railroad tracks upon or across any public streets of such  
6 city for the elimination or separation of railroad crossings at  
7 grade, through the relocating, depressing, elevating or consoli-  
8 dating of existing main line or belt line trackage, and to contrib-  
9 ute to or pay a portion of the costs thereof in such manner and  
10 amount as hereinafter set out.

1 Sec. 2. When any such city shall propose or develop such a  
2 plan, and whenever such city shall be unable to agree with the  
3 railroad or railroads involved, as to the engineering feasibility  
4 of such a plan or plans of relocating, depressing, elevating or  
5 consolidating main line or belt line trackage, or are unable to

6 agree with said railroad or railroads as to the portion of the  
7 cost of said plan to be borne by the city and by the railroad or  
8 railroads respectively, then and in such event, said city may  
9 make written application to the Iowa state commerce commission,  
10 which commission shall, after hearing, upon not less than thirty  
11 (30) days' notice to all parties, determine whether or not such  
12 plan is feasible from an engineering standpoint, whether such  
13 plan should be adopted and if said plan shall be adopted, what  
14 percentage of the total cost shall be borne by the city and each  
15 of the railroads involved. Prior to and in making such determina-  
16 tion and allocation, the Iowa state commerce commission shall  
17 have full power to obtain such engineering advice, data and  
18 estimates as may be available from the city or any one or all  
19 of the railroads involved, and the said Iowa state commerce  
20 commission shall have full authority to, upon its own motion,  
21 procure such further engineering services and data from outside  
22 sources, as it shall deem necessary, and to allocate the costs  
23 of such additional engineering services and data to the city and  
24 to the railroads involved.

1 Sec. 3. In making such determination as to the engineering  
2 feasibility of such project and the allocation of the percentage  
3 of cost to be borne by the city and the railroad or railroads  
4 respectively, the Iowa state commerce commission shall consider  
5 the probable total cost of the entire project, the probable  
6 benefits to be derived by the city and the railroad respectively,  
7 or if more than one, by each of the railroads, the probable

8 total cost to the city and to the railroad or to each of the  
9 railroads respectively, and the apparent ability of the city  
10 and of the railroad or each of the railroads to pay, the density  
11 of both vehicular and rail traffic on and over the crossings to  
12 be eliminated or separated, the operational advantages to be  
13 gained by the railroad or railroads, the safety of the general  
14 public, and all such other factors properly bearing on such  
15 determination, and such determination shall be final, providing,  
16 however, that the total amount allocated or assessed to any one  
17 railroad shall not exceed by more than ten percent the probable  
18 total cost to said railroad, should the maximum provisions of  
19 chapter 387 of the Code be invoked over a period of ten years  
20 thereafter, nor shall the probable cost allocated or assessed  
21 to such city be greater than one and one-half percent of the  
22 assessed value of all said real property in said city.

1 Sec. 4. The portion of the costs to be paid by the city may  
2 be paid out of the general bridge fund or in cities having a  
3 population of twelve thousand or over, from any other fund or  
4 funds legally available therefor.

1 Sec. 5. In cities having a population of twelve thousand  
2 or over, where a railroad relocation or grade separation plan  
3 has been authorized by the Iowa state commerce commission, and  
4 the plans therefor have been approved, and there are no avail-  
5 able moneys in the general bridge fund or any funds of said city,  
6 which may be legally used for the payment of the amount for the  
7 city's contribution or share, such city may levy an annual tax

8 not exceeding one mill on the dollar for the purpose of creating  
9 a fund to be known as the railroad relocation or grade separation  
10 fund for the payment of all or a portion of the city's share  
11 of the costs of the construction or accomplishment of said rail-  
12 road relocation or grade separation plan.

1 Sec. 6. If any railroad company neglects or refuses to  
2 comply with the findings, determination and order of this commis-  
3 sion for more than thirty days after notice of such finding or  
4 determination shall have been served upon them, the Iowa state  
5 commerce commission may enforce such finding, determination or  
6 order by proceedings in mandamus and the court shall require  
7 the issues to be made up at the first term to which such action  
8 is brought and shall give the same precedence over other civil  
9 business.