

*in 2/10
Be Pass 2/16 (p 410)*

Transportation
Drake, Chair
Comito
Hutchins

1982

BY COMMITTEE ON TRANSPORTATION

Place On Calendar

(Formerly House File 2132)

Passed House, Date 2-7-82 (p 298) Passed Senate, Date 3-22-82 (p 852)

Vote: Ayes 94 Nays 2 Vote: Ayes 37 Nays 9

Approved May 21, 1982

Proposed House as amended by Senate 4-15-82 (p 1526)

Motion to reconsider (p 854) 4/15 4/13

Proposed Senate as amended 4-23-82 (p 1384)
44-5

A BILL FOR

1 An Act relating to railroad property by providing that

2 before a railroad corporation or trustee of a railroad

3 corporation may abandon or sell a railroad right-of-way

4 or property adjacent to it, the corporation or trustee

5 must offer to sell that property at fair market value to

6 the lessees of that property, by providing that real

7 property received by the railroad for the purpose of

8 aiding in the construction, maintenance, and continued

9 operation of its railway shall only be held as long as

10 it is used for those purposes, by providing for the

11 handling of disagreements between owners of certain

12 buildings on present or former railroad property and

13 a railroad's grantee or successor in interest, and

14 making it effective upon publication.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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2334

1 Section 1. Section 327E.1, Code 1981, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. Any such railway corporation
4 may take and hold voluntary grants of real estate and other
5 property as are made to it to aid in the construction,
6 maintenance, and continued operation of its railway. However,
7 all real estate so received shall be held only as long as
8 the real estate is used for the construction, maintenance,
9 and continued operation of its railway.

10 Sec. 2. Section 327G.62, Code 1981, as amended by Acts
11 of the Sixty-ninth General Assembly, 1981 Session, chapter
12 22, section 22, is amended to read as follows:

13 327G.62 BUILDINGS ON RAILROAD LANDS. When a disagreement
14 arises between a railroad corporation, its grantee, or
15 successor in interest and the owner of any building used for
16 receiving, storing, or manufacturing any article of commerce
17 transported or to be transported, situated on the a present
18 or former railroad ~~right-of-way~~ right-of-way or any land owned
19 or controlled by the railroad corporation ~~for railroad~~
20 ~~purposes,~~ its grantee, or successor in interest, as to the
21 terms and conditions on which the same is to be continued
22 thereon or removed therefrom, ~~such the~~ the railway corporation,
23 its grantee, or successor in interest or person may make
24 written application to the authority and the authority shall
25 hear and determine ~~such the~~ the controversy and make ~~such an~~ an order
26 ~~in-relation-therete~~ as shall be just and equitable between
27 the parties, which order shall be enforced in the same manner
28 as other orders of the authority.

29 Sec. 3. Chapter 327G, Code 1981, is amended by adding
30 the following new sections as sections 327G.78 and 327G.79:

31 NEW SECTION. 327G.78 SALE OF RAILROAD PROPERTY. Subject
32 to sections 327G.77, 471.16, and 471.17, when a railroad
33 corporation or its trustee have interests in a railroad right-
34 of-way or other real property adjacent to it that are abandoned
35 by order of the interstate commerce commission, reorganization

1 court, bankruptcy court, or the authority or are otherwise
2 abandoned as defined by section 471.15, or when a railroad
3 corporation or trustee seeks to sell its interests in that
4 property under any other circumstance, the railroad corpora-
5 tion or trustee shall extend a written offer to sell at a
6 fair market value price to the persons leasing those
7 properties, allowing sixty days from the time of receipt for
8 a written response. If a disagreement arises between the
9 parties concerning the price or other terms of the sale
10 transaction, either or both parties may make written
11 application to the authority to resolve the disagreement.
12 The application shall be made within sixty days from the time
13 an initial written response is served upon the railroad
14 corporation or trustee by the person wishing to purchase the
15 property. The authority shall hear the controversy and make
16 a final determination of the fair market value of the property
17 and the other terms of the transaction which were in dispute
18 within ninety days after the application is filed. All
19 correspondence shall be by certified mail.

20 NEW SECTION. 327G.79 VALUING RAIL PROPERTY. The
21 authority's determination and order shall be just and equitable
22 and in the case of the determination of the fair market value
23 of the property, shall be based in part upon at least two
24 independent appraisals prepared by certified appraisers.
25 Each appraisal shall be paid for by the party for whom the
26 appraisal is prepared. A railroad corporation or trustee
27 shall not sell property subject to section 327G.78 for an
28 amount in excess of fair market value as determined by the
29 authority.

30 The authority's determination and order shall be final
31 for the purpose of administrative review to the district court
32 as provided in chapter 17A. The district court's scope of
33 review shall be confined to whether there is substantial
34 evidence to support the authority's determination and order.

35 For purposes of this section and section 327G.78,

1 "authority" means the transportation regulation authority.
2 Sec. 4. This Act, being deemed of immediate importance,
3 takes effect from and after its publication in The Red Oak
4 Express, a newspaper published in Red Oak, Iowa, and in the
5 Carroll Daily Times-Herald, a newspaper published in Carroll,
6 Iowa.

7 EXPLANATION

8 The bill provides that before a railroad corporation or
9 the trustee of a railroad corporation may abandon or sell
10 a railroad right-of-way or other real property adjacent to
11 it, the corporation or trustee must offer that property to
12 the persons leasing that property. The price offered to sell
13 must not exceed the fair market value as may be determined
14 by the transportation regulation authority.

15 The bill also provides that a railway corporation organized
16 under the laws of another state that received real property
17 to aid the railway corporation in the construction,
18 maintenance, and continued operation of its railway may hold
19 that real property only as long as the property is used for
20 the construction, maintenance, and continued operation of
21 its railway.

22 The bill provides that a disagreement between an owner
23 of a building on present or former railroad rights-of-way
24 and the railroad corporation's grantee or successor in interest
25 may be heard by the transportation regulation authority upon
26 request of any party to the disagreement. Present law allows
27 this for disagreements between owners and railroad
28 corporations.

29 The bill takes effect upon publication.
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S-5180

1 Amend House File 2334 as passed by the House as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section 327E.1, Code 1981, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. Any such railway
8 corporation may take and hold voluntary grants of
9 real estate and other property as are made to it to
10 aid in the construction, maintenance, and continued
11 operation of its railway. However, all real estate
12 so received shall be held only as long as the real
13 estate is used for the construction, maintenance,
14 and continued operation of a railway.

15 Sec. 2. Section 327G.62, Code 1981, as amended
16 by Acts of the Sixty-ninth General Assembly, 1981
17 Session, chapter 22, section 22, is amended to read
18 as follows:

19 327G.62 BUILDINGS ON RAILROAD LANDS. When a
20 disagreement arises between a railroad corporation,
21 its grantee, or successor in interest and the owner
22 or lessee of any building used for receiving, storing,
23 or manufacturing any article of commerce transported
24 or to be transported, situated on the a present or
25 former railroad right-of-way right-of-way or any land
26 owned or controlled by the railroad corporation for
27 railroad purposes, its grantee, or successor in
28 interest, as to the terms and conditions on which
29 the same is to be continued thereon or removed
30 therefrom, such the railway corporation, its grantee,
31 or successor in interest or person owner or lessee
32 may make written application to the authority and
33 the authority shall hear and determine such the
34 controversy and make such an order in-relation-thereto
35 as shall be just and equitable between the parties,
36 which order shall be enforced in the same manner as
37 other orders of the authority.

38 Sec. 3. Chapter 327G, Code 1981, is amended by
39 adding the following new sections as sections 327G.78
40 and 327G.79:

41 NEW SECTION. 327G.78 SALE OF RAILROAD PROPERTY.
42 Subject to sections 327G.77, 471.16, and 471.17, when
43 a railroad corporation, its trustee, or successor
44 in interest have interests in a railroad right-of-
45 way or other real property adjacent to it that are
46 abandoned by order of the interstate commerce
47 commission, reorganization court, bankruptcy court,
48 or the authority or are otherwise abandoned as defined
49 by section 471.15, or when a railroad corporation,
50 trustee, or successor in interest seeks to sell its

1 interests in that property under any other
2 circumstance, the railroad corporation or trustee
3 shall extend a written offer to sell at a fair market
4 value price to the persons leasing those properties,
5 allowing sixty days from the time of receipt for a
6 written response. If a disagreement arises between
7 the parties concerning the price or other terms of
8 the sale transaction, either or both parties may make
9 written application to the authority to resolve the
10 disagreement. The application shall be made within
11 sixty days from the time an initial written response
12 is served upon the railroad corporation, trustee,
13 or successor in interest by the person wishing to
14 purchase the property. The authority shall hear the
15 controversy and make a final determination of the
16 fair market value of the property and the other terms
17 of the transaction which were in dispute within ninety
18 days after the application is filed. All
19 correspondence shall be by certified mail.

20 The decision of the authority shall be binding
21 on the parties, except that a person who seeks to
22 purchase such real property may withdraw the offer
23 to purchase within thirty days of the authority's
24 decision. If such a withdrawal is made, the railroad
25 corporation, trustee, or successor in interest may
26 sell or dispose of the real property without further
27 order of the authority.

28 NEW SECTION. 327G.79 VALUING RAIL PROPERTY.
29 The authority's determination and order shall be just
30 and equitable and in the case of the determination
31 of the fair market value of the property, shall be
32 based in part upon at least three independent
33 appraisals prepared by certified appraisers. Each
34 party shall select one appraiser and each appraisal
35 shall be paid for by the party for whom the appraisal
36 is prepared. The two appraisers shall select a third
37 appraiser and the costs of this appraisal shall be
38 divided equally between the parties. If the appraisers
39 selected by the parties cannot agree on selection
40 of a third appraiser, the authority shall appoint
41 a third appraiser and the costs of this appraisal
42 shall be divided equally between the parties.

43 The authority's determination and order shall be
44 final for the purpose of administrative review to
45 the district court as provided in chapter 17A. The
46 district court's scope of review shall be confined
47 to whether there is substantial evidence to support
48 the authority's determination and order.

49 For purposes of this section and section 327G.78,
50 "authority" means the transportation regulation

1 authority.

2 Sec. 4. Section 442.2, Code 1981, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. For purposes of section 442.1,
5 the "amount per pupil of foundation property tax"
6 and the "money raised by the foundation property tax"
7 do not include the tax levied under subsection 1 on
8 the property of a railway corporation or its trustee
9 which corporation has been declared bankrupt or is
10 in bankruptcy proceedings.

11 Sec. 5. Section 444.3, unnumbered paragraph 1,
12 Code 1981, is amended to read as follows:

13 When the valuations for the several taxing districts
14 shall have been adjusted by the several boards for
15 the current year, the county auditor shall thereupon
16 apply such a rate, not exceeding the rate authorized
17 by law, as will raise the amount required for such
18 taxing district, and no larger amount. For purposes
19 of computing the rate under this section, the adjusted
20 taxable valuation of the property of a taxing district
21 does not include the valuation of property of a railway
22 corporation or its trustee which corporation has been
23 declared bankrupt or is in bankruptcy proceedings.

24 Nothing in the preceding sentence exempts the property
25 of such railway corporation or its trustee from
26 taxation and the rate computed under this section
27 shall be levied on the taxable property of such railway
28 corporation or its trustee.

29 Sec. 6. Sections 4 and 5 of this Act are effective
30 for fiscal years beginning on or after July 1, 1983.

31 Sec. 7. This Act, being deemed of immediate
32 importance, takes effect from and after its publication
33 in The Red Oak Express, a newspaper published in Red
34 Oak, Iowa, and in the Carroll Daily Times-Herald,
35 a newspaper published in Carroll, Iowa."

36 2. Title page, line 3, by striking the words
37 "abandon or".

38 3. Title page, line 13, by inserting after the
39 word "interest," the words "by providing that the
40 value of property of a railway corporation which has
41 been declared bankrupt or is in bankruptcy proceedings
42 is not part of the tax base of the taxing district
43 only for purposes of computing the levy rate and the
44 amount to be received from the foundation property
45 tax levy,".

S-5180 FILED
MARCH 3, 1982

BY RICHARD F. DRAKE
BILL HUTCHINS

*Adopted as amended by 5200
3/22 (p 858)*

HOUSE FILE 2334

S-5388

1 Amend amendment S-5180 to House File 2334 as passed
2 by the House as follows:

3 1. Page 2, line 4, by inserting after the word
4 "properties," the words "except as otherwise provided
5 in this section,".

6 2. Page 2, line 6, by inserting after the word
7 "response." the words "However, this section does
8 not apply to an interest in real property adjacent
9 to a railroad right-of-way if such property is owned
10 or has been abandoned by a railroad corporation or
11 its trustee which railroad corporation is in
12 reorganization or bankruptcy court on the effective
13 date of this Act, and is of a size which is larger
14 than needed for railroad trackage, is suitable for
15 use for agricultural purposes, and has no buildings
16 or other structures located on it."

S-5388 FILED

BY BILL HUTCHINS

MARCH 26, 1982

S-5189

- 1 Amend House File 2334 as passed by the House as follows:
- 2 1. Page 1, line 13, by inserting after the word
- 3 "BUILDINGS" the words "OR OTHER IMPROVEMENTS".
- 4 2. Page 1, line 15, by inserting after the word
- 5 "building" the words "or other improvement, including
- 6 trackage,".
- 7 3. Page 1, line 16, by inserting after the word
- 8 "storing," the word "transporting,".
- 9 4. Title, line 12, by inserting after the word
- 10 "buildings" the words "or other improvements".
- 11

S-5189 FILED BY ELVIE DREESZEN

MARCH 4, 1982

Placed out of order 3/22 (p. 858)

HOUSE FILE 2334

S-5200

- 1 Amend the Amendment S-5180 to House File 2334 as
- 2 passed by the House as follows:
- 3 1. Page 1, line 19, by inserting after the word
- 4 "BUILDINGS" the words "OR OTHER IMPROVEMENTS".
- 5 2. Page 1, line 22, by inserting after the word
- 6 "building" the words "or other improvement, including
- 7 trackage,".
- 8 3. Page 1, line 22, by inserting after the word
- 9 "storing," the word "transporting,".
- 10 4. Page 3, by inserting after line 37, the following:
- 11 "3. Title page, line 12, by inserting after the
- 12 word "buildings" the words "or other improvements"."

S-5200 FILED BY ELVIE DREESZEN

MARCH 4, 1982

Adopted 3/22 (p. 858)

HOUSE FILE 2334

S-5373

- 1 Amend amendment S-5180 to House File 2334 as passed
- 2 by the House as follows:
- 3 1. Page 2, line 4, by inserting after the word
- 4 "properties," the words "except as otherwise provided
- 5 in this section."
- 6 2. Page 2, line 6, by inserting after the word
- 7 "response." the words "However, this section does
- 8 not apply to an interest in a railroad right-of-way
- 9 or other real property adjacent to it if such property
- 10 is owned or has been abandoned by a railroad
- 11 corporation or its trustee which railroad corporation
- 12 is in reorganization or bankruptcy court on the
- 13 effective date of this Act, is of a size which is
- 14 larger than needed for railroad trackage, is suitable
- 15 for use for agricultural purposes, and has no buildings
- 16 or other structures located on it."

S-5373 FILED BY BILL HUTCHINS

MARCH 25, 1982

1 Amend amendment S-5180 to House File 2334 as passed
2 by the House as follows:

3 1. Page 3, by inserting after line 28 the
4 following:

5 "Sec. 10. NEW SECTION. DEFINITIONS. As used
6 in section 11 of this Act, unless the context otherwise
7 requires:

8 1. "Fees and other expenses" include the reasonable
9 attorney fees and reasonable expenses of expert
10 witnesses plus court costs, but they do not include
11 any portion of an attorney's fees or salary paid by
12 a unit of local, state, or federal government for
13 the attorney's services in the case.

14 2. "State" includes the state of Iowa, an agency
15 of the state, or any official of the state acting
16 in an official capacity.

17 Sec. 11. NEW SECTION. FINES--EXPENSES.

18 1. Unless otherwise provided by law, and if the
19 prevailing party meets the eligibility requirements
20 of subsection 2, the court in a civil action brought
21 by the state or an action for judicial review brought
22 against the state pursuant to chapter 17A other than
23 for a rule-making decision, shall award fees and other
24 expenses to the prevailing party unless the prevailing
25 party is the state. However, the court shall not
26 make an award under this section if it finds one of
27 the following:

28 a. The position of the state was supported by
29 substantial evidence.

30 b. The state's role in the case was primarily
31 adjudicative.

32 c. Special circumstances exist which would make
33 the award unjust.

34 d. The action arose from a proceeding in which
35 the role of the state was to determine the eligibility
36 or entitlement of an individual to a monetary benefit
37 or its equivalent or to adjudicate a dispute or issue
38 between private parties or to establish or fix a rate.

39 e. The proceeding was brought by the state pursuant
40 to titles 35 through 37.

41 f. The proceeding involved eminent domain,
42 foreclosure, collection of judgment debts, or was
43 a proceeding in which the state was a nominal party.

44 g. The proceeding involved the Iowa merit
45 employment commission under chapter 19A.

46 h. The proceeding is a tort claim.

47 2. To be eligible for an award of fees and other
48 expenses under this section, the prevailing party
49 shall be one of the following:

50 a. A natural person.

1 b. A sole proprietorship, partnership, corporation,
2 association, or public or private organization.
3 3. A party seeking an award for fees and other
4 expenses under this section shall submit to the court
5 not later than thirty days after final judgment is
6 made in the action, an application which provides
7 evidence of eligibility for an award under this section
8 and which specifies the amount sought. If the amount
9 sought includes an attorney's fees or fees for an
10 expert, the application shall include an itemized
11 statement for these fees indicating the actual time
12 expended in representing the party and the rate at
13 which the fees were computed.
14 4. The court, in its discretion, may reduce the
15 amount to be awarded pursuant to this section, or
16 deny an award, to the extent that the prevailing
17 party, during the course of the proceedings engaged
18 in conduct which unduly and unreasonably protracted
19 the final resolution of the matter in controversy.
20 5. An award pursuant to this section shall not
21 personally obligate any officer or employee of this
22 state for payment of an award entered under this
23 section.
24 6. Fees and other expenses awarded under this
25 section may be ordered in addition to any compensation
26 awarded in a judgment. When awarding fees and other
27 expenses against the state under this section, the
28 court shall order the auditor of state to issue a
29 warrant drawn on the state general fund for the amount
30 of the award. The treasurer of state shall pay the
31 warrant. However, if the court finds that an agency
32 of state government, against which fees and other
33 expenses are awarded for an action for judicial review
34 of an agency proceeding under chapter 17A, has acted
35 in bad faith in initiating an action deemed frivolous
36 or without merit, then the agency shall make the
37 payment ordered from the moneys appropriated to that
38 agency.
39 7. Each agency that pays fees or other expenses
40 for an action for judicial review of an agency
41 proceeding under chapter 17A shall report annually
42 to the chairs and ranking members of the appropriate
43 appropriations subcommittees of the general assembly
44 the amount of fees or other expenses paid during the
45 preceding fiscal year by that agency. In its report
46 the agency shall describe the number, nature, and
47 amount of the awards, the claims involved in the
48 action, and other relevant information which might
49 aid the general assembly in evaluating the scope and
50 impact of these awards.

PAGE 3

1 Sec. ____ Sections 10 and 11 of this Act apply
2 only to legal and administrative agency proceedings
3 initiated after the effective date of this Act."
4 2. Page 3, line 45, by inserting after the word
5 "levy," the words "by providing for the payment of
6 costs in certain civil and administrative actions
7 to which the state is a party"

SENATE AMENDMENT TO HOUSE FILE 2334

H-5820

1 Amend House File 2334 as passed by the House as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:
5 "Section 1. Section 327E.1, Code 1981, is amended
6 by adding the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. Any such railway
8 corporation may take and hold voluntary grants of
9 real estate and other property as are made to it to
10 aid in the construction, maintenance, and continued
11 operation of its railway. However, all real estate
12 so received shall be held only as long as the real
13 estate is used for the construction, maintenance,
14 and continued operation of a railway.

15 Sec. 2. Section 327G.62, Code 1981, as amended
16 by Acts of the Sixty-ninth General Assembly, 1981
17 Session, chapter 22, section 22, is amended to read
18 as follows:

19 327G.62 BUILDINGS OR OTHER IMPROVEMENTS ON RAILROAD
20 LANDS. When a disagreement arises between a railroad
21 corporation, its grantee, or successor in interest
22 and the owner or lessee of any building or other
23 improvement, including trackage, used for receiving,
24 storing, transporting, or manufacturing any article
25 of commerce transported or to be transported, situated
26 on the a present or former railroad right-of-way
27 right-of-way or any land owned or controlled by the
28 railroad corporation ~~for railroad purposes,~~ its
29 grantee, or successor in interest, as to the terms
30 and conditions on which the same is to be continued
31 thereon or removed therefrom, ~~such~~ the railway
32 corporation, its grantee, or successor in interest
33 or ~~person~~ owner or lessee may make written application
34 to the authority and the authority shall hear and
35 determine ~~such~~ the controversy and make ~~such~~ an order
36 ~~in-relation-thereto~~ as shall be just and equitable
37 between the parties, which order shall be enforced
38 in the same manner as other orders of the authority.

39 Sec. 3. Chapter 327G, Code 1981, is amended by
40 adding the following new sections as sections 327G.78
41 and 327G.79:

42 NEW SECTION. 327G.78 SALE OF RAILROAD PROPERTY.
43 Subject to sections 327G.77, 471.16, and 471.17, when
44 a railroad corporation, its trustee, or successor
45 in interest have interests in a railroad right-of-
46 way or other real property adjacent to it that are
47 abandoned by order of the interstate commerce
48 commission, reorganization court, bankruptcy court,
49 or the authority or are otherwise abandoned as defined
50 by section 471.15, or when a railroad corporation,

1 trustee, or successor in interest seeks to sell its
2 interests in that property under any other
3 circumstance, the railroad corporation or trustee
4 shall extend a written offer to sell at a fair market
5 value price to the persons leasing those properties,
6 allowing sixty days from the time of receipt for a
7 written response. If a disagreement arises between
8 the parties concerning the price or other terms of
9 the sale transaction, either or both parties may make
10 written application to the authority to resolve the
11 disagreement. The application shall be made within
12 sixty days from the time an initial written response
13 is served upon the railroad corporation, trustee,
14 or successor in interest by the person wishing to
15 purchase the property. The authority shall hear the
16 controversy and make a final determination of the
17 fair market value of the property and the other terms
18 of the transaction which were in dispute within ninety
19 days after the application is filed. All
20 correspondence shall be by certified mail.

21 The decision of the authority shall be binding
22 on the parties, except that a person who seeks to
23 purchase such real property may withdraw the offer
24 to purchase within thirty days of the authority's
25 decision. If such a withdrawal is made, the railroad
26 corporation, trustee, or successor in interest may
27 sell or dispose of the real property without further
28 order of the authority.

29 NEW SECTION. 327G.79 VALUING RAIL PROPERTY.
30 The authority's determination and order shall be just
31 and equitable and in the case of the determination
32 of the fair market value of the property, shall be
33 based in part upon at least three independent
34 appraisals prepared by certified appraisers. Each
35 party shall select one appraiser and each appraisal
36 shall be paid for by the party for whom the appraisal
37 is prepared. The two appraisers shall select a third
38 appraiser and the costs of this appraisal shall be
39 divided equally between the parties. If the appraisers
40 selected by the parties cannot agree on selection
41 of a third appraiser, the authority shall appoint
42 a third appraiser and the costs of this appraisal
43 shall be divided equally between the parties.

44 The authority's determination and order shall be
45 final for the purpose of administrative review to
46 the district court as provided in chapter 17A. The
47 district court's scope of review shall be confined
48 to whether there is substantial evidence to support
49 the authority's determination and order.

50 For purposes of this section and section 327G.78,

H-5820
Page Three

"authority" means the transportation regulation
2 authority.

3 Sec. 4. Section 442.2, Code 1981, is amended by
4 adding the following new subsection:

5 NEW SUBSECTION. For purposes of section 442.1,
6 the "amount per pupil of foundation property tax"
7 and the "money raised by the foundation property tax"
8 do not include the tax levied under subsection 1 on
9 the property of a railway corporation or its trustee
10 which corporation has been declared bankrupt or is
11 in bankruptcy proceedings.

5813 12 Sec. 5. Section 444.3, unnumbered paragraph 1,
13 Code 1981, is amended to read as follows:

14 When the valuations for the several taxing districts
15 shall have been adjusted by the several boards for
16 the current year, the county auditor shall thereupon
17 apply such a rate, not exceeding the rate authorized
18 by law, as will raise the amount required for such
19 taxing district, and no larger amount. For purposes
20 of computing the rate under this section, the adjusted
21 taxable valuation of the property of a taxing district
22 does not include the valuation of property of a railway
23 corporation or its trustee which corporation has been
24 declared bankrupt or is in bankruptcy proceedings.

25 Nothing in the preceding sentence exempts the property
26 of such railway corporation or its trustee from
27 taxation and the rate computed under this section
28 shall be levied on the taxable property of such railway
29 corporation or its trustee.

5867 30 Sec. 6. Sections 4 and 5 of this Act are effective
31 for fiscal years beginning on or after July 1, 1983.

32 Sec. 7. This Act, being deemed of immediate
33 importance, takes effect from and after its publication
34 in The Red Oak Express, a newspaper published in Red
35 Oak, Iowa, and in the Carroll Daily Times-Herald,
36 a newspaper published in Carroll, Iowa."

37 2. Title page, line 3, by striking the words
38 "abandon or".

39 3. Title page, line 12, by inserting after the
40 word "buildings" the words "or other improvements".

5877 41 4. Title page, line 13, by inserting after the
42 word "interest," the words "by providing that the
43 value of property of a railway corporation which has
44 been declared bankrupt or is in bankruptcy proceedings
45 is not part of the tax base of the taxing district
46 only for purposes of computing the levy rate and the
47 amount to be received from the foundation property
48 tax levy,".

H-5820 FILED APRIL 13, 1982

RECEIVED FROM THE SENATE

House amended (5820) & concurred 4/15 (p. 1521)
Motion to reconsider 4/19 (p. 1546)

- 1 Amend the Senate amendment H-5820 to House File
2 2334 as passed by the House as follows:
- 3 1. Page 1, line 22, by striking the words "or
4 lessee" and inserting in lieu thereof the words "or
5 lessee, or licensee".
- 6 2. Page 1, line 33, by striking the words "or
7 lessee" and inserting in lieu thereof the words "or
8 lessee, or licensee".
- 9 3. Page 1, lines 45 and 46, by striking the words
10 "a railroad right-of-way or other".
- 11 4. Page 1, line 46, by striking the word "it"
12 and inserting in lieu thereof the words "a railroad
13 right-of-way".
- 14 5. Page 2, line 5, by striking the word "leasing"
15 and inserting in lieu thereof the words "holding
16 leases, licenses, or permits upon".
- 17 6. Page 3, by inserting after line 38 the
18 following:
- 19 "_____. Title page, lines 3 and 4, by striking the
20 words "a railroad right-of-way or property adjacent
21 to it" and inserting in lieu thereof the words "real
22 property adjacent to a railroad right-of-way".
- 23 _____. Title page, line 6, by striking the words
24 "the lessees of" and inserting in lieu thereof the
25 words "persons holding leases, licenses, or permits
26 upon".
- 27 _____. Title Page, line 11, by inserting after the
28 word "owners" the words ", lessees, or licensees"."

H-5855 FILED

APRIL 14, 1982

Adopted 4/15 (p. 1513)

BY HARBOR of Mills

SCHROEDER of Pottawattamie

H-5873

1 Amend the Senate amendment H-5820 to House File
2 2334 as passed by the House, as follows:

3 1. Page 3, by striking lines 12 through 29.

4 2. Page 3, by inserting after line 29 the
5 following:

6 "Sec. ____ . Section 307.29, Code 1981, as amended
7 by Acts of the Sixty-ninth General Assembly, 1981
8 Session, chapter 22, section 22 and as amended by
9 Acts of the Sixty-ninth General Assembly, 1981 Second
10 Extraordinary Session, chapter 3, section 1, is
11 repealed."

12 3. Page 3, line 46, by striking the words
13 "computing the levy rate and".

14 4. Page 3, line 48, by inserting after the word
15 "levy," the words "by repealing the provision relating
16 to certain delinquent property taxes of a railway
17 company being collected by the department of
18 transportation,".

19 5. By numbering and renumbering as necessary.

H-5873 FILED APRIL 15, 1982
3-LOST, A. H/D 4/15 (p 1520)

BY COCHRAN of Webster

HOUSE FILE 2334

H-5867

1 Amend the Senate amendment H-5820 to House File
2 2334 as passed by the House, as follows:
3 1. Page 3, by inserting after line 29 the
4 following:
5 "Sec. 10. Section 614.24, unnumbered paragraph
6 2, Code 1981, is amended to read as follows:
7 The provisions of this section requiring the filing
8 of a verified claim shall not apply to the reversion
9 of railroad property if the reversion is caused by
10 the property being abandoned for railway purposes
11 and the abandonment occurs after July 1, 1980. The
12 holder of such a reversionary interest may bring an
13 action based upon the interest regardless of whether
14 a verified claim has been filed under this section
15 at any time after July 4, 1965. For purposes of this
16 paragraph, property shall not be considered abandoned
17 solely because one or more of the following occur:
18 1. Railroad rolling stock no longer runs on the
19 property.
20 2. Authorization to abandon the property has been
21 granted by the reorganization court or bankruptcy
22 court.
23 3. A statement by the railroad corporation, its
24 trustee, or successor in interest that the property
25 is or will be abandoned."
26 2. Page 3, line 48, by inserting after the word
27 "levy," the words "specifying that for certain purposes
28 certain occurrences do not constitute abandonment,".

H-5867 FILED APRIL 15, 1982 BY SPEAR of Lee

W/S 4/15 (p. 1520)

HOUSE FILE 2334

H-5868

1 Amend the Senate amendment H-5820 to House File
2 2334 as passed by the House, as follows:
3 1. Page 1, line 43, by inserting after the figure
4 "471.17" the words "and subject to any reversionary
5 interests".

H-5868 FILED APRIL 15, 1982 BY SPEAR of Lee

Lost 4/15 (p. 1519)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2334

S-5733

- 1 Amend the Senate amendment H-5820 to House File
2 2334 as passed by the House as follows:
3 1. Page 1, line 22, by striking the words "or
4 lessee" and inserting in lieu thereof the words "or
5 lessee, or licensee".
6 2. Page 1, line 33, by striking the words "or
7 lessee" and inserting in lieu thereof the words "or
8 lessee, or licensee".
9 3. Page 1, lines 45 and 46, by striking the words
10 "a railroad right-of-way or other".
11 4. Page 1, line 46, by striking the word "it"
12 and inserting in lieu thereof the words "a railroad
13 right-of-way".
14 5. Page 2, line 5, by striking the word "leasing"
15 and inserting in lieu thereof the words "holding
16 leases, licenses, or permits upon".
17 6. Page 3, by inserting after line 38 the
18 following:
19 "____. Title page, lines 3 and 4, by striking the
20 words "a railroad right-of-way or property adjacent
21 to it" and inserting in lieu thereof the words "real
22 property adjacent to a railroad right-of-way".
23 _____. Title page, line 6, by striking the words
24 "the lessees of" and inserting in lieu thereof the
25 words "persons holding leases, licenses, or permits
26 upon".
27 _____. Title Page, line 11, by inserting after the
28 word "owners" the words ", lessees, or licensees"."

S-5733 FILED
APRIL 22, 1982

RECEIVED FROM THE HOUSE

Senate concurred 4/23 (p. 1384)

HOUSE FILE 2334

AN ACT

RELATING TO RAILROAD PROPERTY BY PROVIDING THAT BEFORE A RAILROAD CORPORATION OR TRUSTEE OF A RAILROAD CORPORATION MAY SELL REAL PROPERTY ADJACENT TO A RAILROAD RIGHT-OF-WAY, THE CORPORATION OR TRUSTEE MUST OFFER TO SELL THAT PROPERTY AT FAIR MARKET VALUE TO PERSONS HOLDING LEASES, LICENSES, OR PERMITS UPON THAT PROPERTY, BY PROVIDING THAT REAL PROPERTY RECEIVED BY THE RAILROAD FOR THE PURPOSE OF AIDING IN THE CONSTRUCTION, MAINTENANCE, AND CONTINUED OPERATION OF ITS RAILWAY SHALL ONLY BE HELD AS LONG AS IT IS USED FOR THOSE PURPOSES, BY PROVIDING FOR THE HANDLING OF DISAGREEMENTS BETWEEN OWNERS, LESSEES, OR LICENSEES OF CERTAIN BUILDINGS OR OTHER IMPROVEMENTS ON PRESENT OR FORMER RAILROAD PROPERTY AND A RAILROAD'S GRANTEE OR SUCCESSOR IN INTEREST, BY PROVIDING THAT THE VALUE OF PROPERTY OF A RAILWAY CORPORATION WHICH HAS BEEN DECLARED BANKRUPT OR IS IN BANKRUPTCY PROCEEDINGS IS NOT PART OF THE TAX BASE OF THE TAXING DISTRICT ONLY FOR PURPOSES OF COMPUTING THE LEVY RATE AND THE AMOUNT TO BE RECEIVED FROM THE FOUNDATION PROPERTY TAX LEVY, AND MAKING IT EFFECTIVE UPON PUBLICATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 327E.1, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any such railway corporation may take and hold voluntary grants of real estate and other property as are made to it to aid in the construction, maintenance, and continued operation of its railway. However, all real estate so received shall be held only as long as the real estate is used for the construction, maintenance, and continued operation of a railway.

Sec. 2. Section 327G.62, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 22, section 22, is amended to read as follows:

327G.62 BUILDINGS OR OTHER IMPROVEMENTS ON RAILROAD LANDS. When a disagreement arises between a railroad corporation, its grantee, or successor in interest and the owner, lessee, or licensee of any building or other improvement, including trackage, used for receiving, storing, transporting, or manufacturing any article of commerce transported or to be transported, situated on the a present or former railroad right-of-way right-of-way or any land owned or controlled by the railroad corporation ~~for-railroad-purposes~~, its grantee, or successor in interest, as to the terms and conditions on which the same is to be continued thereon or removed therefrom, such the railway corporation, its grantee, or successor in interest or person owner, lessee, or licensee may make written application to the authority and the authority shall hear and determine such the controversy and make such an order ~~in-relation-thereto~~ as shall be just and equitable between the parties, which order shall be enforced in the same manner as other orders of the authority.

Sec. 3. Chapter 327G, Code 1981, is amended by adding the following new sections as sections 327G.78 and 327G.79:

NEW SECTION. 327G.78 SALE OF RAILROAD PROPERTY. Subject to sections 327G.77, 471.16, and 471.17, when a railroad corporation, its trustee, or successor in interest have interests in real property adjacent to a railroad right-of-way that are abandoned by order of the interstate commerce commission, reorganization court, bankruptcy court, or the authority or are otherwise abandoned as defined by section 471.15, or when a railroad corporation, trustee, or successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation or trustee shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits

upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the authority to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in interest by the person wishing to purchase the property. The authority shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

The decision of the authority shall be binding on the parties, except that a person who seeks to purchase such real property may withdraw the offer to purchase within thirty days of the authority's decision. If such a withdrawal is made, the railroad corporation, trustee, or successor in interest may sell or dispose of the real property without further order of the authority.

NEW SECTION. 327G.79 VALUING RAIL PROPERTY. The authority's determination and order shall be just and equitable and in the case of the determination of the fair market value of the property, shall be based in part upon at least three independent appraisals prepared by certified appraisers. Each party shall select one appraiser and each appraisal shall be paid for by the party for whom the appraisal is prepared. The two appraisers shall select a third appraiser and the costs of this appraisal shall be divided equally between the parties. If the appraisers selected by the parties cannot agree on selection of a third appraiser, the authority shall appoint a third appraiser and the costs of this appraisal shall be divided equally between the parties.

The authority's determination and order shall be final for the purpose of administrative review to the district court as provided in chapter 17A. The district court's scope of review shall be confined to whether there is substantial evidence to support the authority's determination and order.

For purposes of this section and section 327G.78, "authority" means the transportation regulation authority.

Sec. 4. Section 442.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. For purposes of section 442.1, the "amount per pupil of foundation property tax" and the "money raised by the foundation property tax" do not include the tax levied under subsection 1 on the property of a railway corporation or its trustee which corporation has been declared bankrupt or is in bankruptcy proceedings.

Sec. 5. Section 444.3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

When the valuations for the several taxing districts shall have been adjusted by the several boards for the current year, the county auditor shall thereupon apply such a rate, not exceeding the rate authorized by law, as will raise the amount required for such taxing district, and no larger amount. For purposes of computing the rate under this section, the adjusted taxable valuation of the property of a taxing district does not include the valuation of property of a railway corporation or its trustee which corporation has been declared bankrupt or is in bankruptcy proceedings. Nothing in the preceding sentence exempts the property of such railway corporation or its trustee from taxation and the rate computed under this section shall be levied on the taxable property of such railway corporation or its trustee.

Sec. 6. Sections 4 and 5 of this Act are effective for fiscal years beginning on or after July 1, 1983.

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in The Red Oak

Express, a newspaper published in Red Oak, Iowa, and in the Carroll Daily Times-Herald, a newspaper published in Carroll, Iowa.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2334, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved 5/21, 1982

ROBERT D. RAY
Governor