

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2036
(Legislative Council)
(Government Organization Committee)

AN ACT to amend and reenact sections 49-10.1-01, 49-10.1-02, and 49-10.1-03 of the North Dakota Century Code, relating to the regulation of railroads by the public service commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-10.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-10.1-01. Authority of public service commission. ~~The commission, to the extent hereinafter provided shall have authority and power to not inconsistent with federal law, may regulate railroads within this state to the extent railroad activities constitute intrastate commerce. The commission shall exercise its jurisdiction over intrastate rail rates consistent with federal law so as to obtain certification of such jurisdiction from the federal government. All provisions of the North Dakota Century Code inconsistent with federal requirements for certification of intrastate rail jurisdiction shall be deemed inapplicable to the regulation of intrastate rail rates. All references to railroads in the North Dakota Century Code are subject to this provision without any requirement that such references specifically mention this limited jurisdiction of the state of North Dakota may represent the state interests in direct negotiations with rail carriers and in proceedings before Congress, federal agencies, and courts.~~

SECTION 2. AMENDMENT. Section 49-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-02. Public policy concerning the regulation of railroads. ~~All railroads are hereby declared to be common carriers affected with a public interest and subject to regulation as prescribed by this chapter and other applicable provisions of law. The commission, to the extent not inconsistent with federal law, shall regulate railroads to ensure that all rates, fares facilities, and charges made by any railroad shall be services are just and reasonable, and shall are not be unduly discriminatory, unduly or unreasonably prejudicial, nor unduly or unreasonably preferential. No railroad shall charge, demand, collect, or receive for the transportation of property or persons, or for any service in connection therewith, a remuneration which is more or less than, or different from, the rates, fares, and charges which legally have been established and filed with the commission as provided for in this chapter, nor shall any railroad refund or remit in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with the commission or ordered by the commission. The commission shall further promote the safety and protection of persons and property being transported by, coming in contact with, or otherwise being directly affected by railroads.~~

SECTION 3. AMENDMENT. Section 49-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-03. Regulatory powers. The commission shall regulate all railroads carrying property or passengers within this state. The commission, to the extent not inconsistent with federal law, shall:

- ~~1. Fix, alter, regulate, and determine just, fair, reasonable and sufficient rates, fares, charges, and classifications, including joint rates, fares, charges, and classifications for the transportation of freight or passengers over continuous lines or routes in this state operated by one or more railroads.~~
- ~~2. Require the filing with the commission of a tariff setting forth the rates, fares, charges, and classifications in a form and in a manner that the commission may prescribe from time to~~

~~time which the commission shall require the railroad to open upon request of the shipper or consignee for public inspection within this state.~~

- ~~3.~~ ~~Regulate the facilities, accounts, services, and safety of each such railroad.~~
- ~~4.~~ Prevent unfair competition, unjust discrimination, or undue or unreasonable preferences between shippers or consignees by lines of competing railroads.
- ~~5.~~ 2. Require the filing of reports and data by railroads as the commission may ~~from time to time~~ determine to be necessary to allow it to carry out its regulatory functions ~~as set forth in~~ under this chapter and other provisions of law.
- ~~6.~~ 3. Regulate railroads in all matters affecting the relations between railroads and the public to the end that ~~the provisions of this chapter may be fully and completely carried out.~~
- ~~7.~~ ~~Have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter applicable to railroads, and to do all things necessary to carry out and enforce the provisions of this chapter.~~

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2036.

Senate Vote: Yeas 46 Nays 0 Absent 3

House Vote: Yeas 91 Nays 2 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State