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ROLL NUMBER

DESCRIPTION

1291

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Y. Costa Rickford
Operator's Signature

10/3/03
Date

2003 HOUSE TRANSPORTATION

HB 1291

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1291

House Transportation Committee

☐ Conference Committee

Hearing Date January 30, 2003

Tape Number	Side A	Side B	Meter #
2		x	1.6 to 22.4
Committee Clerk Signature <i>Louise L. Fink</i>			

Minutes:

Rep. Hawken, Vice Chairman opened the hearing on HB 1291, a bill for an Act to amend and reenact section 49-09-04.2 of the North Dakota Century Code, relating of the sale of railroad right of way.

Rep. Nelson: Representing District 7 introduced HB 1291 on behalf of the North Dakota Association of Counties. This bill defines the right of way property after rail services are discontinued. That is who is first in line as far as to who can purchase, lease or exchange that right of way. Basically what it does, if there is either a grain handling or a warehouse facility-- they would have the first right and the landowner would be next in line. So it would be the private property who would be the first in line to that property after discontinuance of services.

Rep. Weisz: What does it mean to 'offer for sale for public purposes'?

Rep. Nelson: I will defer that to Wade Williams.

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House Transportation Committee

Bill/Resolution Number HB 1291

Hearing Date January 30, 2003

Wade William: Representing the North Dakota Association of Counties. This came from the middle part of the state where there has been some abandoned railroad property. As the statute reads now -- the first offering must go to a public entity and those public entities have been generally the Game and Fish, and US Department of Interior. It is the feeling of many county officials that the order should be switched. At first it seemed like the adjacent property owner should have the first option. then we came to the realization there could warehouse there that had leased this property for a good number of years. We gave those grain and potato warehouses as the first option, allowing the individual landowners the second and the third to the public entities.

Rep. Weisz: Could you expand a little on what you mean by a public purpose?

Wade Williams: If I had to guess I would say for wildlife purposes.

Rep. Dosh: in Bismarck here how would that work? Wouldn't it be easier to say the 'current leasee'? If I had a building doesn't necessarily have to be agriculture storage warehouse here in town-- why does it have to be specifically grain or warehouses?

Wade Williams: That language was used because that is the language in the law and we just switched the order of the priorities. As far as the county commissioners are concerned they see where -- if you have a railroad running through your property -- you could have another property owner owning land across your farm and they don't believe the Federal Fish and Wildlife have been very good stewards of the land with respect to weed control, etc.

Rep. Ruby: When this says offered for public purposes -- I guess this is only to a city or county?

Wade Williams: I don't know the history on this -- that is the present statute. It is my understanding that at first it went only to the Fish and Wildlife. Your question is -- if the

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House Transportation Committee
Bill/Resolution Number HB 1291
Hearing Date January 30, 2003

warehouse don't want it and the adjoining landowner doesn't want it -- when does it go up for sale to the general public?

Steve Stregge: I represent the North Dakota Grain Dealers Association. We very much support this legislation -- if you wonder why, put yourself in the shoes of the leasees who have been there a long time -- have given the railroad a lot of business -- now you don't have a chance to protect your business. It only makes sense to support this bill.

Lowell West: I am here to represent the Township Officers Association of North Dakota. We fully support this bill for the same reasons.

Dan Kuntz: I am here on behalf of the Burlington Northern Santa Fe Railway company. we would support this bill if you could delete subsection 2. What is a public purpose, it is not defined. The only purpose that he was familiar with where public purpose was used in the law was for eminent domain. There is a whole laundry list of purposes like transmission lines, etc. --I don't know if that list would be used here in this if it became law. That is a problem with the current law -- maybe this bill helps to some extent but it doesn't answer the question. Then how do you offer it -- there isn't a process defined-- it doesn't say when or how long. If they are truly a public purpose entity they already have the power of eminent domain. We would support the bill and urge you to delete section 2.

Rep. Dosch: I ask the same question as I asked previously --in Bismarck, my district -- there was a lot of that land that went up for sale and if you had a business on that land under a lease -- you should have first option to protect yourself but this bill specifically names grain. Then the option goes to the adjoining agricultural land owner. So if I have a business -- say McDonald's -- I don't get first option some farmer could come in before me if I was at the edge of town.

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Bill/Resolution Number HB 1291

Hearing Date January 30, 2003

Dan Kuntz I don't think that is a likely scenario it would have to go to every other lessee -- I don't think it would happen.

Tom Kelsch: I Represent the Canadian Pacific Railroad: We basically agree with what Mr. Kuntz had to say. We are in the same position as we don't know what the public purpose is or who to notice.

Sandy Clark: I represent the North Dakota Farm Bureau. I stand to say we basically support HB 1291.

The being no others wishing to tesityf either for or against 1291, Chairman Weisz closed the hearing.

End of record. (22.4)

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1291

House Transportation Committee

☐ Conference Committee

Hearing Date 2-7-03

Tape Number	Side A	Side B	Meter #
2	xx		29.7-46.8
Committee Clerk Signature <i>Laurie H. Zink</i>			

Minutes:

Chairman Welsz: What are the committee's wishes in regard to HB 1291.

Rep. Price: I move the amendments 30462.0101 .0200.

Rep. Thorpe: Seconded.

Voice Vote: Carried.

Rep. Hawken: I move a Do Pass as Amended.

Rep. Thorpe: Seconded.

13 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Ruby

30462.0101
Title.0200

Adopted by the Transportation Committee
February 7, 2003

VR
2/8/03

HOUSE AMENDMENTS to HB 1291 htrn 2-10-03

- Page 1, line 9, replace "lessee" with "present owner of the fixed assets"
- Page 1, line 10, remove "operator of a grain or potato warehouse"
- Page 1, line 12, remove "agricultural"
- Page 1, line 14, overstrike "If right-of-way property along abandoned rail lines is first offered"
- Page 1, line 15, remove "to" and overstrike "the lessee operators of grain and potato warehouses"
- Page 1, line 16, overstrike "located on the property"
- Page 1, line 18, remove "and to adjoining" and overstrike "agricultural landowners"
- Page 1, line 19, remove "and refused, the property must then be"
- Page 1, line 20, remove "offered for sale for public purposes" and overstrike the period
- Page 1, line 21, overstrike "3."
- Renumber accordingly

Page No. 1

30462.0101

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Operator's Signature

10/3/03
Date

Date: 2-7-03
Roll Call Vote #: _____

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1291

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30462.0100

Action Taken Do Pass as Amended

Motion Made By Rep. Hunter Seconded By Rep. Thorpe

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	✓	
LeRoy G. Bernstein	✓		Elwood Thorpe	✓	
Mark A. Dosch	✓		Steven L. Zaiser	✓	
Pat Galvin	✓				
Craig Headland	✓				
Clara Sue Price	✓				
Dan J. Ruby	✓				
Dave Weiler	✓				

Total Yes 13 No 0

Absent 0

Floor Assignment Rep. Ruby

If the vote is on an amendment, briefly indicate intent:

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In Costa Rickford
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
February 10, 2003 8: 8 a.m.

Module No: HR-25-2077
Carrier: Ruby
Insert LC: 30462.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1291: Transportation Committee (Rep. Welaz, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1291 was placed on the
Sixth order on the calendar.

Page 1, line 9, replace "~~lessee~~" with "present owner of the fixed assets"

Page 1, line 10, remove "operator of a grain or potato warehouse"

Page 1, line 12, remove "agricultural"

Page 1, line 14, overstrike "If right-of-way property along abandoned rail lines is first offered"

Page 1, line 15, remove "to" and overstrike "the lessee operators of grain and potato
warehouses"

Page 1, line 16, overstrike "located on the property"

Page 1, line 18, remove "and to adjoining" and overstrike "agricultural landowners"

Page 1, line 19, remove "and refused, the property must then be"

Page 1, line 20, remove "offered for sale for public purposes" and overstrike the period

Page 1, line 21, overstrike "3."

Renumber accordingly

30462.0102
Title.0300

Adopted by the Transportation Committee
February 10, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1291

Page 1, line 9, replace "lessee" with "present owner or operator of the fixed assets"

Page 1, line 10, remove "operator of a grain or potato warehouse"

Page 1, line 12, remove "agricultural"

Page 1, line 14, overstrike "If right-of-way property along abandoned rail lines is first offered"

Page 1, line 15, remove "to" and overstrike "the lessee operators of grain and potato warehouses"

Page 1, line 16, overstrike "located on the property"

Page 1, line 18, remove "and to adjoining" and overstrike "agricultural landowners"

Page 1, line 19, remove "and refused, the property must then be"

Page 1, line 20, remove "offered for sale for public purposes" and overstrike the period

Page 1, line 21, overstrike "3."

Renumber accordingly

REPORT OF STANDING COMMITTEE (410)
February 11, 2003 8:36 a.m.

Module No: HR-26-2210
Carrier: Ruby
Insert LC: 30462.0102 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1291: Transportation Committee (Rep. Welsz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1291 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "lessee" with "present owner or operator of the fixed assets"

Page 1, line 10, remove "operator of a grain or potato warehouse"

Page 1, line 12, remove "agricultural"

Page 1, line 14, overstrike "If right-of-way property along abandoned rail lines is first offered"

Page 1, line 15, remove "to" and overstrike "the lessee operators of grain and potato warehouses"

Page 1, line 16, overstrike "located on the property"

Page 1, line 18, remove "and to adjoining" and overstrike "agricultural landowners"

Page 1, line 19, remove "and refused, the property must then be"

Page 1, line 20, remove "offered for sale for public purposes" and overstrike the period

Page 1, line 21, overstrike "3."

Renumber accordingly

2003 SENATE TRANSPORTATION

HB 1291

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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1291**

Transportation
Senate ~~Agriculture~~ Committee

☐ Conference Committee

Hearing Date 03/21/03

Tape Number	Side A	Side B	Meter #
1	x		5150 - end
1		x	45 - 560
1		x	2450 - 5895
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Trenbeath opened the hearing on HB 1291, relating to the sale of railroad right of way.

Representative Jon Nelson testified in favor of the bill. The difference between this bill and HB 1403 is that HB 1291 does not stipulate sale price. It does establish priority of prospective buyers.

Wade Williams, North Dakota Association of Counties, testified in support of the bill.

(meter # 5439) This bill is similar to HB 1403 but 1403 goes further than 1291. The counties are concerned because there are weed control problems on many of these abandoned lines.

Public entities have not shown a large interest in the property. It has been cumbersome for the railroads to know who the priority buyers are. Changing the order of priority of buyers would help solve the weed control problems and help solve the problems of landowners owning land on both sides of the railroad berm yet having to travel several miles to get from one side to the other.

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Senate Transportation Committee

Bill/Resolution Number HB 1291

Hearing Date 03/21/03

There is no reference to reclaiming land in this bill and sale price is not a concern to the counties that wanted this bill introduced.

Senator Taylor said they heard testimony from Mr. Kuntz on HB 1403 that the railroads are already required to control weeds and if they don't do it, the county can do it and bill the railroad for it. Do the county weed boards have some experience with this?

Mr. Williams said the county weed boards could go in there and do it but because of the roughness of the terrain, it is hard on the equipment. In the case of severe problems, they are going in with helicopters. They are hearing from the adjoining landowners that they would like to reclaim the land themselves so they can use it.

Senator Espegard asked when the railroads remove ties, do they leave a smooth service?

Mr. Williams said his experience is no.

Dan Kuntz, representing BNSF, testified in opposition to the bill. (tape 1, side B, meter 45)

Current statute does not define public purposes, just says we have to give first right of refusal to some vague, undefined body.

Senator Trenbeath said what if we do something about that, defined public entity as a public spirited organization tax exempt under the tax code?

Mr. Kuntz said there could be 20 or 30 of those types of organizations. How do the railroads know who they are and contact them?

Senator Trenbeath suggested advertising could be used.

Mr. Kuntz said they don't have a problem selling the land for public purposes, its an easy way to get rid of it, but how do you define public purposes and how do the railroads exhaust everyone who has a priority under the statute. He submitted a proposed an amendment to change "owner

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Senate Transportation Committee

Bill/Resolution Number HB 1291

Hearing Date 03/21/03

or operator of the fixed assets located on" to "lessee of". Right now the second priority is public warehouses and in the house they changed that to "owner or operator of fixed assets located on" but they would rather use the term lessee in the event that is different than owner or operator because they would have trouble knowing who the owner or operator was.

Senator Taylor said Mr. Kuntz didn't like the idea of adjoining landowners on HB 1403 because he didn't have a green atlas to identify the landowners but is he okay with it on this bill? (meter # 150)

Mr. Kuntz said no. HB 1291 was introduced first. The counties wanted to change the priorities and BNSF supported them on that issue by moving the lessee and the adjoining landowners up after the public uses because they couldn't identify the public uses. Then HB 1403 came in and originally dealt with first right of priority on surplus, not abandoned, property and they testified on that and it got changed. On the floor the arguments were that they were not selling the abandoned property fast enough. What they are trying to do on HB 1403 is figure out a process to accelerate the sale of the land. Even in HB1403, they would give adjoining landowners priority but the landowner would have to let the railroad know they were interested after the railroad published a notice they were interested in selling.

Senator Taylor asked in regard to the rails to trails program, the system seems to be working because the public entities have been contacting the railroads directly?

Mr. Kuntz said has far as he knows if a public entity comes forward early in the process it is working, they negotiate a price and make the sale. The problem is when no one comes forward and the deal is complete and then someone steps forward at the end of the process.

Tom Kelsch, representing Canadian Pacific Railroad, stated they support the bill. (meter # 355)

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Senate Transportation Committee

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Mr. Piehl, who testified on HB 1403 and is working with a group on the development of the Ladies Line Trail in the Marion area, said when they were trying to contact the railroad to see how they disposed of the property it was not an easy task. He finally reached a man in Chicago who said they would have to pay the same price for the land that was paid in the Red River Valley. (meter # 389)

Senator Trenbeath asked if they were willing to transfer a fee title or was it an indeterminate title? There are two price structures, depending on how they acquired the ground, if they can determine how they acquired the ground.

Mr. Piehl said they never reached that point.

John Risch, representing the United Transportation Union, testified in a neutral position. He is a railroad engineer. The branch lines go through some spectacular scenery and would be great for a rails to trails program.

Chairman Trenbeath closed the hearing on HB 1291.

Note: Because of the similarity of HB 1291 and HB 1403, the committee held general discussion of both bills. Notes regarding this discussion appear in the minutes of both bills.

Chairman Trenbeath opened discussion of HB 1291 and HB 1403. (meter # 2450)

Senator Trenbeath said both bills do not need to survive, one can go. The house would just as soon see HB 1403 survive.

Senator Nething said he would like to see abandoned railroad property used for bicycle trails and open hunting. Some of the finest pheasant hunting used to be along the abandoned railroad track between Jamestown and Edgely. Senator Nething thinks this land has been turned over to adjoining landowners. The group from Marion is on the right track and Senator Nething is

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Senate Transportation Committee
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concerned about the price they have been quoted. He likes the sale price idea, that it not exceed values of adjacent and comparable property.

Senator Trenbeath said when the adjoining ground is \$1200 per acre but the adjoining ground does not have a railroad right of way on it, where do you go from there? When the railroad is done with it, most of the gravel is gone but there are broken ties and railroad spikes.

Senator Nething said there is another way they could go on this, assessed value.

Senator Trenbeath said assessed value of railroad property would be central here and it would be assessed as useful as a railroad, it might be overvalued now.

Senator Nething said when it is abandoned the assessed value should be reduced.

Senator Trenbeath said there is a point that some counties miss, when the property is no longer used as a railroad, the counties should put it on the county rolls. That usually encourages them to sell.

Senator Espegard said as far as reclamation goes, the rules should require them to pick up the junk and level the surface, at least make a navigable road for spraying weeds. (meter # 2978)

Senator Taylor said he wonders what they have done in Minnesota, he used a cross country trail on abandoned railroad property and it was smooth. Perhaps a local group developed the trail and smoothed it. He said we would be doing ourselves a disservice by not allowing the trails.

Senator Trenbeath said he agreed but the first option should go to the adjoining landowner or lessee. After priority is established, the railroad should publish a notice and ask such persons to come forward. (meter # 3111)

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Senate Transportation Committee

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Senator Espegard said it would be nice for the farmer to make an acceptable crossing. He doesn't think it reclaims very well for farming but it would be nice to have a crossing so the farmer could get his equipment from one side to the other.

Senator Nething said there are two categories to give priority, the lessee and the adjacent landowner for agricultural use, then come along with public use.

Senator Espegard said the thing about public use is it doesn't solve any problems if they don't have the funds to maintain it. (meter # 3480)

Senator Nething said you would establish your values. The highest value is with the leased property, in all likelihood, the second highest value is with an adjacent farmer. The least value would be for public use. If its not used for public use, get it on the tax rolls and there would be some incentive for them to donate it.

Senator Trenbeath said he agrees with the priorities but if you allow the adjacent landowner priority over public use, you are never going to have public use.

Senator Espegard said if you have a public entity interested in a 30 mile right of way and you have to offer first priority to adjacent landowners, you might end up with interrupted pieces. Give them access to cross with equipment. Give them better access than they've had for the last 50 years.

Senator Taylor asked if that needs to be spelled out. How do you access value if its loaded with spurge?

Senator Trenbeath said there are two categories of title and the fees are different. You can't always find it in the public record.

There was some discussion of easements.

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Senate Transportation Committee

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There was concurrence that the leaseholder be protected.

Senator Mutch asked if the leaseholder know what is in their lease?

The House Transportation Committee has copies of the CP lease.

Senator Espgaard said he would like to see a preference list drafted and a requirement that if it is for public use, they have to allow for a public crossing every quarter mile, they don't have to make it, just allow for it. (meter # 4431)

Senator Taylor said that would only apply to land that is farmed on both sides.

Regarding the price proposal, what properties are similar to railroad properties?

Senator Taylor asked if its necessary to specify that land for public use must have noxious weeds controlled. (meter 4840)

Regarding reclaiming, you don't want to drive up the cost. It is important for it to be cleaned up and make a level roadway.

The intern will check at the Public Service Commission regarding definitions of reclamation and we are interested in the lowest level.

Senator Trenbeath said the bills relate to 49-09.2 in the Century Code and he read this portion of the code. We might want to add something about leveling and smoothing.

Senator Mutch said as far as appraisals, the Public Service Commission could be delegated that authority. They should be able to come up with a fair appraisal.

The intern will also check with the tax department regarding accessing value of the property.

Senator Trenbeath reviewed what the committee wants to do with the bill:

1. Set priorities as discussed
2. Examine Public Service Commission involvement in setting values

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Senate Transportation Committee
Bill/Resolution Number HB 1291
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3. Look at condition right of way should be left in by railroad
4. Maintaining existing crossings

Chairman Trenbeath closed the discussion of HB 1291 and HB 1403.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1291

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-27-03

Tape Number	Side A	Side B	Meter #
1	X		2225-end
1		X	0-250
1		X	605-1015
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Trenbeath opened HB 1291 for discussion.

Senator Trenbeath asked if they should talk about meddling in the price term of these transactions. If not they would move on to the priorities.

Senator Espegard replied that for conversational purposes his general thought was, no, they should not meddle in the price.

Senator Taylor thought that if they don't meddle in the price there would be a fair bit of a stalemate from what history tells them.

Senator Trenbeath said the only reason they are talking about price is the perception that they are charging too much for the ground because they have a captive purchaser.

Senator Espegard said they have a captive purchaser but they also have the only purchaser when talking about an adjacent landowner.

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10/2/03
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Senate Transportation Committee

Bill/Resolution Number HB 1291

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(Meter 2400) Discussion on leasing and jacking the lease price up. It's hard to tie the price of the land to the lease price when there is no control in setting the lease price. It's pretty hard to get down to serious negotiations with the railroad. They talked about local arbitration or allowing the dissatisfied party to allow the court to set an equitable price.

(Meter 2830) Discussion on the method of taxation of the abandoned railroad land.

Senator Nething was inclined to do something that gives guidelines. Wondered what the highway department does when they return their abandoned roadways.

Senator Trenbeath said if it happens to be a section line road, which most are, then there is no negotiation involved. It just automatically attaches.

Senator Trenbeath said that if they wanted to give a very loose guideline and give the opportunity to the leaseholder to be able to take some action, then go back to the language in 1403 that says it has to be comparable to adjacent similar property, which he didn't agree with. But by saying the sale price of abandoned railroad property must be equitable to the conditions, it is making it a negotiation because the offended party has a way out. They refuse to be equitable and the court gets to decide.

Senator Trenbeath asked to have Grant Levi from the DOT come and talk about rights of way.

Senator Nething didn't want to do anything that would impede the transactions. Didn't want an unintended consequence.

Senator Trenbeath said that the existing lease holders feel they are being overcharged when they are interested in purchasing the land from the railroad after the line has been abandoned.

(Meter 3480) Discussion with respect to the priorities. The priority list as it now exists:

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Senate Transportation Committee
Bill/Resolution Number HB 1291
Hearing Date 3-27-03

(1) public purpose (2) lessee operators of grain and potato warehouses, and (3) adjoining property owners. Senator Trenbeath suggested the following priority list: (1) lessee (2) public recreational interest, and (3) adjoining landowners. The committee agreed on the suggested list. (Meter 4040) The committee discussed whether the railroad gives notice when they are abandoning property. The railroad already has to give notice to the PSC of their intent to abandon. They agreed that there should be notice of the intent to sell. The only way to officially notify is through the newspapers.

Senator Trenbeath asked Grant Levi (ND DOT) how the highway department takes care of abandoned highway right of way when the right of way had been acquired, not section line property.

Grant Levi said the first step is to work with adjacent landowner to see if he has an interest in the property. The highway department does the appraisal and insures that they get fair market value for that piece of property. There is notification of intent to sell. Most of the time the adjacent landowner does have an interest in it. It doesn't happen very often because, if they have purchased right of way, the highway department is careful to purchase only what they need.

Senator Trenbeath asked if they have a statutory priority of who to deal with.

Grant Levi didn't have the information with him but said he could get it for the committee

Senator Nething said the key thing is the appraisal and asked if they have the flexibility to negotiate if they don't get the appraisal.

Grant Levi said they do have the administrative authority to enter into negotiations for the sale and purchasing of property.

Senator Nething asked how they do the appraisal.

La Costa Rickford
Operator's Signature

10/3/03
Date

Page 4
Senate Transportation Committee
Bill/Resolution Number HB 1291
Hearing Date 3-27-03

Grant Levi said they have a staff that does the appraisal. (Meter 5105)

Senator Taylor asked what initiates the court if each party does an appraisal and can't come to terms.

Senator Trenbeath said somebody makes application to the court.

Senator Trenbeath sensed a consensus with the committee members that they agreed on priorities and some sort of publication. He said he would have an amendment drafted to HB 1291 reflecting the priorities and publication notice so the committee could take a look at it. He would include something about price if somebody thought there should be and wanted to provide some language.

Senator Taylor thought maybe it should be looked at in some way.

(Tape 1, Side B, Meter 150)

The committee decided that maybe a reference to the "sale price being equitable" should be included in the amendment.

(Meter 605)

Senator Trenbeath offered the proposed amendment to the committee. (See attached amendment 30462.0301, dated 3-27-03.)

Senator Espegard moved to adopt the amendment dated 3-27-03.

Seconded by **Senator Taylor**. Roll call vote 5-0-1. **Adopted.**

Senator Espegard moved a **Do Pass** on **HB 1291 as amended**. Seconded by **Senator Mutch**.

Roll call vote 5-0-1. **Passed.** Floor carrier is **Senator Espegard**.

PROPOSED AMENDMENTS TO ENGROSSED
HOUSE BILL NO. 1291

Page 1, line 10, replace "owner or operator of the fixed assets located on" with
"lessee of"

Renumber accordingly

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La Costa Rickford
Operator's Signature

10/3/03
Date

30462.03--
Title.

Prepared for the Transportation Committee
March 26, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1291

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert " and 49-09-04.3"

Page 1, line 2, replace "the sale of" with "abandoned"

Page 1, line 9, after "the" insert "present lessee of the property must be given the first option to purchase, lease, exchange, or otherwise acquire the property described in the lease. ~~The~~", remove the overstrike over "~~property must~~", after "first" insert "next", remove the overstrike over "~~be offered for public purposes~~", and remove "present"

Page 1, remove lines 10 and 11

Page 1, line 12, remove "described in the lease", after "must" insert "then", and remove "next"

Page 1, after line 24, insert:

"**SECTION 2. AMENDMENT.** Section 49-09-04.3 of the North Dakota Century Code is amended and enacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

Page 1 of 1

Sal Costa Rickford
Operator's Signature

10/2/03
Date

30462.03--
Title.

Prepared for the Transportation Committee
March 27, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1291

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert " and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment of and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "property must first be offered" and insert immediately thereafter "to the following persons or entities in the order of priority as hereafter set forth:

- a. the present lessee as to that portion of the abandoned property subject to the lease;
- b. an entity or entities presenting a reasonable plan for public recreational use of the abandoned property; and
- c. the adjoining landowner when the adjoining land is, at the time of abandonment, assessed for tax purposes as agricultural land."

Page 1, remove lines 10 through 13

Page 1, line 19, after "land" insert "The railroad company must publish notice of its intent to dispose of the property in two consecutive issues of the official county newspaper in each county where the property is located. A railroad company is not required to give any priority party an option to purchase railroad property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable" and remove the overstrike over the period

Page 1, line 20, remove the overstrike over "3."

Page 1, after line 24, insert:

"SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and enacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned

Page 1 of 2

Lu Costa Rickford
Operator's Signature

10/3/03
Date

30462.03--
Title.

Prepared for the Transportation Committee
March 27, 2003

railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

Page 2 of 2

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Operator's Signature

10/3/03
Date

30462.0301
Title.0400

Adopted by the Transportation Committee
March 27, 2003

JP
3-28-03
1012

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1291

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert "and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "~~property must first be offered~~" and replace "present" with "to the following persons in the order of priority as follows:"

- a. The present lessee of the abandoned property described in the lease;
- b. A person presenting a reasonable plan for public recreational use of the abandoned property; and
- c. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "acquire adjoining railroad property"

Page 1, line 19, after "land" insert "The railroad company shall publish notice of its intent to dispose of abandoned railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable" and remove the overstrike over the overstruck period

Page 1, line 20, remove the overstrike over "3:"

Page 1, after line 24, insert:

"SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of

2.62

whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

Date: 3-27-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1291

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment 30462.03-- dated 3/27/03

Motion Made By Senator Espejo Seconded By Senator Taylor

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier		
Senator Duaine Espegard, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nething	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

La Costa Rickard
Operator's Signature

10/3/03
Date

Date: 3-27-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1291

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30462.0301 Title .0400

Action Taken Do pass as amended

Motion Made By Senator Espeland Seconded By Senator Mutch

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier		
Senator Duaine Espeland, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nothing	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Espeland

If the vote is on an amendment, briefly indicate intent:

La Costa Rickford
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 2:42 p.m.

Module No: SR-56-6088
Carrier: Espegard
Insert LC: 30462.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1291, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1291 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert "and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "~~property must first be offered~~" and replace "present" with "to the following persons in the order of priority as follows:"

- a. The present lessee of the abandoned property described in the lease;
- b. A person presenting a reasonable plan for public recreational use of the abandoned property; and
- c. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "acquire adjoining railroad property"

Page 1, line 19, after "~~land~~" insert "The railroad company shall publish notice of its intent to dispose of abandoned railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable" and remove the overstrike over the overstruck period

Page 1, line 20, remove the overstrike over "3."

Page 1, after line 24, insert:

"SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 2:42 p.m.

Module No: SR-56-6088
Carrier: Espegard
Insert LC: 30462.0301 Title: .0400

abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

2003 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1291

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Y. Costa Rickford
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1291 conf

House Transportation Committee

☒ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
1	x		35.3 to end
		x	0.1 to 14.7
Committee Clerk Signature <i>Theresa B. Fink</i>			

Minutes:

Chairman, Rep. Price opened the conference committee on HB 1291 with a call of the roll:

Rep. Price	Sen. Espgaard
Rep. Weisz	Sen. Nething
Rep. Schmidt	Sen. Taylor

responded to the roll.

Rep. Price asked the Senators to give an explanation and background for their amendments.

Sen. Taylor -- basically there are several areas on the priority side -- the first, look at the first one is basically the same (as the House) the present lessee -- the second, public property was taken out of the first one and put public recreational use on if they have a reasonable plan and the adjoining landowner was placed third. The other thing was establishing notice, if they want to sell they have to publish it in the county paper twice -- and it had to be sold at an equitable price --- the other thing was when they abandoned the railroad and take out the tracks and other

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10/3/03
Date

Page 2

House Transportation Committee

Bill/Resolution Number HB 1291 conf

Hearing Date April 8, 2003

materials -- that they leave it in a traverse able manner. Also on the notice, if they are interested in buying they must notify the railroad within thirty days from the last notice of publication.

Considering the priorities first, Rep. Price wondered what the reasoning was to put recreation before ahead of the adjoining land owner. Sen. referred to testimony of some very nice parcels which could be used for bike and snowmobile trails like in Minnesota and Wisconsin. There is such a stretch of railroad bed southeast of Valley City which follows the river and would make a good trail. It would be very nice for public use. That was the reason. We also had testimony about the adjacent land owners and they have only so many places to cross that railroad right now and if it were a recreational trail the landowner would be no worse off than he is now. the landowner might make more money off the tourist than off that piece of land. You can't have a trail every three miles--- you need twenty mile for horse back riding, mountain biking, etc. -- so that is why we put that up there is so they can put together contiguous trails. Rep. Weisz -- I guess the way I look at it, if these trails traverse splitting my quarter they will continue to divide it and if it is recreational they don't have to give me any right of access to get to the other side. If I owned it, if I want I could -- maybe for a fee I could give them an easement. At least I would control and would have access. Any group could deny me access to my proper. Rep. Schmidt said that in his area there are a lot of abandoned tracks for years and they have a big problem with noxious weeds. He thinks that could also continue with the recreational trails on these alignments. Sen. Espgaard stated he thought that irrespective of who it was the county could go in and spray the weed and asses them the cost. The weeds are problem but the spraying is not. Rep. Price used an example of a rail bed around the edge of Minot and felt sure that if that were developed as a bike trail that they would not want heavy farm equipment crossing that trail.

Page 3
House Transportation Committee
Bill/Resolution Number HB 1291 conf
Hearing Date April 8, 2003

Rep. Weisz observed that this the property owners on either side of the railroad to get their property back together again after a 100 years of use by the railroad especially like the farmers on larger tracts of agricultural lands. In many if not most cases if recreational interests requested the owners for an easement they would get it. On the split parcels it is an opportunity to get the parcel whole again. Sen. Nething suggested an amendment to "B" to require the plan to include access to cross to the adjacent land owners. Discussions of properties on one side versus the same owners on both side with severed parcels and in those cases where the rail line follow a road or a stream which disallows random crossings. Discussions also covered fixed assets on the land of possibly being denied access thus the discussion brought in lease - operator.

At (54.3) the tape ended. Record continues on side B.

The discussions continued regarding lease - operators and where owners owned land on both sides of the railroad. Rep. Price again expressed her concern that where there are trails the trail groups are not going to want equipment, especially heavy equipment crossing their trails anywhere in the state. Therefore, it seem important that their plans recognize that crossings are necessary as well as reasonable access and that provisions be made in their plans (and agreements). The Senate said they would not have a problem with writing language where there was an owner on both sides (it would have to be adjacent and not a half mile away). The purpose was have the farmer have a chance to get his parcel back whole again. Third priority would be the current lessee would be assured crossings as well as access. Then they would keep "d." and that would be the fourth priority. It was recognized that if a landowner had land on both sides he was second in priority but if he had land on only one side he was fourth in priority.

Lu Costa Rickford
Operator's Signature

10/2/03
Date

Page 4

House Transportation Committee

Bill/Resolution Number HB 1291 conf

Hearing Date April 8, 2003

In response to Sen. Taylor's inquiry it was stated that if the county did spray for noxious weeds and assessed the cost could the recreational user lose the property, -- the answer was no there is no recourse if they don't pay. Perhaps a lien could be placed on the property. Discussion as to encouraging the railroad to dispose of the land and whether under other legislation the land would revert to agricultural use, etc. but that issue probably doesn't belong in this bill. The third section of the amendments dealt with the issue of notices. Notice to owners might be anywhere in the country but a written notice to the lessee's would nearly always be known. There was consensus that written notice to the lessee was appropriate in addition to the two times in the county paper.

The committee agreed to have the amendments drafted and to reconvene again to consider the amendments.

End of record (14.7) recessed.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1291 conf

House Transportation Committee

☒ Conference Committee

Hearing Date April 9, 2003

Tape Number	Side A	Side B	Meter #
1	x		0.1 to 35.1
Committee Clerk Signature <i>Louise B. Fink</i>			

Minutes:

Chairman Rep. Price opened the conference committee with a call for the roll:

Rep. Price	Sen. Espgaard
Rep. Weisz	Sen. Nething
Rep. Schmidt	Sen. Taylor

responded to the roll call.

Rep. Weisz presented some amendments to the engrossed Senate bill. The amendments addressed the order of priorities for those persons to be noticed for the options to purchase railroad properties. The issues were also whether the properties were abutting properties and whether access and crossings would be continued in any future development plans especially when recreational use agreements were entered into. Also who were to be noticed and how they were to be noticed. Another major issue was the length of time after discontinuance of use or

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10/3/03
Date

Page 2

House Transportation Committee

Bill/Resolution Number HB 1291

Hearing Date April 9, 2003

abandonment during which the railroad must sell the property and then how the property might be disposed of because corporations may not own agriculture land in North Dakota.

Dan Kuntz and tom Kelsch representing the Burlington Northern Santa Fe and the Canadian Pacific Railroads respectively were present as resource persons to the committee. Some other topics discussed involved whether the railroads acquired the property by charter or whether they had purchased the property in fee title; noxious weed control; local tax assessments; and, the land owners rights.

Following discussion Rep. Weisz moved the approval of the amendments. Sen. Espegard seconded the motion. motion carried. Rep. Weisz moved a 'Do Pass as amended' motion. Sen. Taylor seconded the motion. the motion carried 6 Ayes 0 Nays 0 Absent.

Rep. Price was designated to carry the conference committee report and action to the floor.

End of record (35.1)

30462.0304
Title.0500

Adopted by the Conference Committee
April 9, 2003

YK
4/10/03
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1291

That the Senate recede from its amendments as printed on pages 1144 and 1145 of the House Journal and pages 986 and 987 of the Senate Journal and that Engrossed House Bill No. 1291 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert "and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "~~property must first be offered~~" and replace "present" with "to the following persons in the order of priority as follows:"

- a. The present owner or operator-lessee of fixed assets located on the property;
- b. A person owning land contiguous to the right of way on opposite sides of the right of way;
- c. A person presenting a reasonable plan for public recreational use of the abandoned property which includes the continuation of current private and public crossings; and
- d. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "acquire adjoining railroad property"

Page 1, line 19, after the overstruck period insert "The railroad company shall provide written notice to present owners and operator-lessees of fixed assets located on the property and shall publish notice of its intent to dispose of railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable."

Page 1, line 20, remove the overstrike over "3."

Page 1, after line 24, insert:

- "4. If a railroad complies with subsections 1 and 2 and five years have passed since abandonment or since service was discontinued, the railroad may deed the right of way to the county in which the right of way is located upon the acceptance of the county.

SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any

Page No. 1

30462.0304

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La Costa Rickford
Operator's Signature

10/3/03
Date

2 of 2.

railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

HB 1291, as engrossed: Your conference committee (Sens. Espegard, Nethling, Taylor and Reps. Price, Welsz, Sandvig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1144-1145, adopt amendments as follows, and place HB 1291 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1144 and 1145 of the House Journal and pages 986 and 987 of the Senate Journal and that Engrossed House Bill No. 1291 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert "and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "~~property must first be offered~~" and replace "present" with "to the following persons in the order of priority as follows:"

- a. The present owner or operator-lessee of fixed assets located on the property;
- b. A person owning land contiguous to the right of way on opposite sides of the right of way;
- c. A person presenting a reasonable plan for public recreational use of the abandoned property which includes the continuation of current private and public crossings; and
- d. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "acquire adjoining railroad property"

Page 1, line 19, after the overstruck period insert "The railroad company shall provide written notice to present owners and operator-lessees of fixed assets located on the property and shall publish notice of its intent to dispose of railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable."

Page 1, line 20, remove the overstrike over "2."

Page 1, after line 24, insert:

- "4. If a railroad complies with subsections 1 and 2 and five years have passed since abandonment or since service was discontinued, the railroad may deed the right of way to the county in which the right of way is located upon the acceptance of the county.

SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

REPORT OF CONFERENCE COMMITTEE (420)
April 11, 2003 9:16 a.m.

Module No: HR-66-7460

Insert LC: 30462.0304

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

Engrossed HB 1291 was placed on the Seventh order of business on the calendar.

30550.0100

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1292

Introduced by

Representatives Nelson, Delmore, Headland, Hunsaker

Senators Heltkamp, Trenbeath

- 1 A BILL for an Act to amend and reenact section 39-24-04 of the North Dakota Century Code,
2 relating to a snowmobile access fee.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1. AMENDMENT.** Section 39-24-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-24-04. Exemption from registration - Exemption from fees.**

- 7 1. A registration number must be issued without the payment of a fee for
8 snowmobiles owned by the state of North Dakota or any of its political subdivisions
9 upon application for the registration.
10 2. No registration or fees may be required of:
11 a. Snowmobiles owned and used by the United States or another state or its
12 political subdivisions.
13 b. Snowmobiles registered in a country other than the United States and
14 temporarily used within this state.
15 c. Snowmobiles validly licensed in another state and which have not been within
16 this state for more than thirty consecutive days.
17 d. Snowmobiles operated upon lands owned or leased by the snowmobile
18 owner.
19 e. Snowmobiles incapable of speeds in excess of ten miles per hour and with an
20 engine displacement of less than one hundred cubic centimeters.
21 3. If a snowmobile is exempt from registration under subdivision b or c of
22 subsection 2 of this section, the owner is required to display on the snowmobile a
23 decal received upon payment of a fifteen dollar per year trail access fee. Fees
24 collected under this subsection must be deposited in the state snowmobile fund.

Page No. 1

30550.0100

La Costa Rickford
Operator's Signature

10/3/03
Date