

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1372

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10/3/03
Date

2003 HOUSE TRANSPORTATION

HB 1372

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372

House Transportation Committee

☐ Conference Committee

Hearing Date January 31, 2003

Tape Number	Side A	Side B	Meter #
1	x		41.6 to end of side A
		x	1.3 to 36.1
2	x		11.4 to 18.1
Committee Clerk Signature <i>Laurenz F. J.</i>			

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1372 , a bill for an Act to create and enact a new section to chapter 60-02 of the North Dakota Century Code, relating to local emergency personnel notification regarding roadways blocked by unit trains; and to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to blocking of roadways by unit trains.

Rep. Johnson: Representing District 15 introduced this bill on behalf of some of the townships in his area. More and more of these units trains in the rural areas are loading at local elevators blocking road crossings and it really becomes a safety issue. Section provides how to deal with blocked crossing for up 8 - 10 hours.

Rep. Weisz, Chairman When a train is load at approximately the middle of the train and they are blocking a crossing --- approximately how long is it going to take for the elevator to get that train off the tracks so that en emergency vehicle can get through.

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House Transportation Committee

Bill/Resolution Number HB 1372

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Rep. Johnson: (45.1) The purpose of this legislation is to notify emergency personnel in case that they are probably at the front car and have the whole length to go or maybe they have gotten to the middle but maybe the crossings are or are not blocked but the purpose of the call is to notify emergency personnel that the train is there. At least they would know ahead of time to plan an alternate route.

Rep. Weisz, Chairman : I guess my question is if you have only one route where the elevator is for you to get where you are going -- and the train happens to be in the middle of the crossing --- how long is that going to take -- especially when there is no alternate route?

Rep. Johnson: They are folks who are better able to answer that. There are cases where they have built alternate routes where one had not existed.

Rep. Ruby: Normally don't they now separate the trains to allow crossing when they are loading --I am familiar with some towns in my area which don't have another access into town if the one crossing is blocked?

Rep. Johnson: If you have those arrangements OK but the one I am familiar with the 110 cars trains don't break, they load from one end to the other on the move. It takes them up to 10 hours.

Rep. Galvin : You say they don't break those trains down but they can break those trains anywhere they want can't they?

Rep. Johnson: They can break it anywhere one end to the other but when they are loading the train keeps moving and doesn't break. Its up to the railroad.

Rep. Severson: (50.6) I appear only to support this bill. It is needed. I do have some friendly amendments. He passed them out. a copy is attached. He related how the community of Finley had built an alternate access road.

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Rep. Ruby: (1.6) This bill not only requires the notification but if enacted would allow the trains to remain there for up to ten minutes. Up until if they have been blocking the road for ten minutes they were in violation to the present law.

Rep. Weisz, Chairman: It is the law now that they may not block a crossing for ten minutes. If they are going to break the law why are they going to notify someone that they are doing that?

Rep. Severson: That's a very good question and I was unaware this would have that effect.

Rep. Delmore: How often do these trains come in and block the tracks?

Rep. Severson: About every two weeks -- a least once a month -- at about 5:30 in the morning. And the railroad company will come in and pick them up the next morning.

Brian Bjella: Representing the North Dakota Grain Dealers Association. He was speaking in a qualified support of the bill. They support section 1. They do have some concerns about section 2 in regards to notification to be given by the elevator -- there concern is the issue of liability, especially if the elevator manager has no control over the train or when it is under control of the railroad company. Also the bill lacks a definition of what is a unit train.

Rep. Weisz, Chairman: Since when does the railroad load the cars - - I thought that the elevator loaded the cars ?

Brian Bjella: I was just told before this meeting the it depends at what stage they are in the loading -- if near the end of the loading when the trains is moving or moving out they may be blocking the crossing and the train is totally under the control of the railroad company.

Rep. Delmore: How many sites are effected by this -- certainly these unit trains don't go to every single elevator in North Dakota?

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Brian Biella: Certainly not -- there are perhaps 15 -20 of the shuttle loaders but there are many 50 car loaders which do cause the same problems.

Rep. Schmidt: (6.7) On that liability issue the engineer bring the cars right up to the elevator and they sit and move the cars right?

Brian Biella: So the elevator isn't liable and it seems to me they are making the money and they should be able to make the calls and we could make them liable and not the elevator.

Rep. Price : If the elevator has to move these trains or the trains can't block the crossings now -- it seems to me they have a huge liability right now if they are blocking the roads for more than 10 minutes.

Brian Biella: I would agree they may have a liability now but adding the requirement for them to make the calls places a greater liability on them.

Rep. Ruby: Correct me if I am wrong -- but when the railroad places the cars -- they will leave so as not to block the roadways. Some of the elevators have their own switch engine and some use old tractors to jockey the cars around. How can the railroad be responsible when it is the elevator that is moving them?

Brian Biella: I am not familiar with all the aspects of these operations but it appears that some times it is the elevators responsibility and sometimes it is the railroads.

Rep. Weisz, Chairman: To clarify -- sometimes the railroad will arrive to take the train out and the elevator is still loading --- the train is moving but the rate depends on how fast the elevator is able to load -- so the control overlaps.

Rep. Delmore: (10.1) Do know how often those trains block the crossings if the elevators would become liable?

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House Transportation Committee
Bill/Resolution Number HB 1372
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Brian Bjella: I don't know.

Norm Andreson: Representing the North Dakota Association of Counties and I am also a Dickey County Commissioner. We appear in support of this bill. If you concur in some suggested changes -- we would like to see in line 5 on the backside to change that to radio dispatcher as many areas don't use the state radio.

Rep. Weisz, Chairman: Why would support this as it is going backwards from what the law now is?

Norm Anderson: Our recent experience is with these 110 car unit trains and they do block the crossings more than 10 minutes -- a train that long can -- even if it is moving can block a county road a half mile west and the state highway a half mile east of the loading facility. I have served on an ambulance for 10 years and we did have an experience where a derailment blocked the crossing for some time -- we negotiated a radio call arrangement that worked real well for that situation.

Ken Yantes: Representing the Township Officers Association. He appeared in support of HB 1372. A copy of his written testimony is attached.

Rep. Weisz, Chairman: Why is this an improvement --- while ignoring current law?

Ken Yantes: There are areas in North Dakota where it takes more than 12 miles but the emergency vehicles aren't going to drive up there and find the crossing blocked. I think it would work.

Robert Fode: (sp?) Representing the Township officers Association. Appeared in support of the bill. These trains don't get up to speed enough so that they don't block the crossings.

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Our best day was about 400 semi trucks unloaded in one day and when the trains block the state highway it they were allowed would be quite a back up of trucks.

Rep. Zaiser : (21.4) If you are breaking the law -- why would anybody call some body to admit that he was breaking the law?

Robert Fode: (sp?) We are not asking them to break the law -- we are trying to help the emergency vehicles avoid those who may be breaking the law.

Rep. Ruby: If they are breaking the law -- with this law they will be allowed to block the road ways --- why pass it to allow it? --as long as they notify you.

Some give and take discussion between Mr. Fode and Rep. Ruby followed.

Noel Wescom: From the Finely, North Dakota area. He didn't want to get into the foray but wanted to explain the elevator constructed by-pass and how it worked out well in Finley.

Opposition testimony:

Tim Horner: Director of Transportation Programs for the ND DOT. In its original form we were opposed to the bill. We are in the business of moving traffic across the state. We can accept the bill with Rep. Seversons amendments.

Rep. Price: What would the DOT's position be is "f" I line 17 were eliminated?

Tim Horner: It would be acceptable so long as it doesn't open the door to blocking a state highway.

Connie Spryzynatyak: Representing the League of Cities. We would oppose this bill as we don't believe it is in the public interest to allow blockage of crossings in town any more than on state highways.

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Rep. Price: (32.0) I realize that this may be a survival issue for these smaller communities because of the unit trains taking business from the smaller communities -- have the cities discussed that aspect of it?

Connie Spryzynatyak: The cities are for commerce in this state and that is where you get the sales tax for the state. We haven't talked about the pedestrian issue -- we don't have an amendment and don't know the solution to it but if you add another tens to closing crossings, that is the cities concern.

There appeared no persons wishing to appear either for or against HB 1372, the chairman closed the hearing. (36.2)

Tape 2 side A (11.4)

Rep. Weisz, Chairman opened the discussion on HB 1372. Apparently after the hearing closed, some of the Township Officers expressed concerns about legislating to allow unit trains to block road crossings. Following discussion of the testimony, Rep. Price moved to amend HB 1372 by removing line 17 on page 1; on page 2, remove 911 in line 5 and add Emergency Service Communications System in place of 'local'.

Rep. Ruby seconded the motion for the amendments.

The motion carried on a voice vote.

Rep. Headland: Moved a 'Do Pass as Amended' motion for HB 1372.

Rep. Thorpe seconded the motion.

On a roll call vote the motion carried 12 ayes 0 nays 1 Absent and not voting.

Rep. Bernstein was designated to carry HB 1372 on the floor. **End (18.9)**

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30524.0101
Title.

Severson - plus
Prepared by the Legislative Council staff for *see*
Representative Severson
January 31, 2003 *notes*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1372

Page 1, line 19, after "2." insert "Notwithstanding subsection 1, a person operating a train may not block a state highway for more than ten consecutive minutes when loading or unloading product at a grain warehouse.

3."

Renumber accordingly

Page No. 1

30524.0101

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Date

30524.0102
Title.0200

Adopted by the Transportation Committee
January 31, 2003

VK
1/31/03

HOUSE AMENDMENTS to HB 1372 htrn 2-03-03

Page 1, line 3, replace "; and to amend and reenact section 49-11-19 of the North Dakota Century Code," with a period

Page 1, remove line 4

Page 1, remove lines 6 through 21

Page 2, remove the underscore under lines 1 through 4

Page 2, line 5, remove the underscore under "local", replace "911" with "emergency services communication system", and remove the underscore under "or state radio dispatcher. The manager shall provide local emergency personnel with"

Page 2, remove the underscore under line 6

Renumber accordingly

Page No. 1

30524.0102

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Date: 1/31/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1372

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30524. 0100

Action Taken Do Pass or Amend

Motion Made By Rep. Headland Seconded By Rep. Thayer

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	A	
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 12 No 0

Absent 1

Floor Assignment Rep. Bernstein

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

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REPORT OF STANDING COMMITTEE (410)
February 3, 2003 9:01 a.m.

Module No: HR-20-1489
Carrier: Bernstein
Insert LC: 30524.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1372: Transportation Committee (Rep. Welsz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1372 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "; and to amend and reenact section 49-11-19 of the North Dakota Century Code," with a period

Page 1, remove line 4

Page 1, remove lines 6 through 21

Page 2, remove the underscore under lines 1 through 4

Page 2, line 5, remove the underscore under "local", replace "911" with "emergency services communication system", and remove the underscore under "or state radio dispatcher.
The manager shall provide local emergency personnel with"

Page 2, remove the underscore under line 6

Renumber accordingly

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2003 SENATE TRANSPORTATION

HB 1372

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-20-03

Tape Number	Side A	Side B	Meter #
1		X	5470-end
2	X		0-end
2		X	0-20
2		X	1055-2040

Committee Clerk Signature

Mary K. Monson

Minutes:

Chairman Senator Thomas Trenbeath opened the hearing on HB 1372 relating to local emergency personnel notification regarding roadways blocked by unit trains.

Representative Dennis Johnson (District 15) Introduced HB 1372. There is a problem with loading unit trains at local elevators. When the trains are too long they block the additional crossings that were set up years ago when the trains weren't so long. This could create a situation for emergency vehicles that don't know the crossings are blocked. With notification of when these crossings would be blocked, the emergency services would know they need to take an alternate route.

Senator Espegard asked if the original intent of the bill was just to notify that the road would be blocked.

Rep. Johnson answered yes.

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Hearing Date 3-20-03

Senator Espegard asked about the amendment put on in the House.

(Meter 5900) Discussion on the House amendment. There was some language that was cleaned up. Some wanted to take 911 out so those lines wouldn't be tied up.

Senator Trenbeath asked if the bill would be better if the word "unit" was taken out.

Rep. Johnson replied that the problem is caused by unit trains where they can't break them down due to a time factor. This wasn't a problem when the trains were shorter.

Senator Espegard said this puts the burden on the manager of the elevator or grain warehouse to notify.

Rep. Johnson said that it does.

Senator Espegard asked if there is any rule now as to the time a roadway can be blocked.

Rep. Johnson said that ten minutes is the time used now.

Senator Mutch said that when talking about unit cars you think of at least 25 cars and wondered if there could be the same problem with ten cars.

Rep. Johnson wasn't aware of a ten car situation blocking a crossing where the elevators are staffed for loading. This situation didn't arise until the trains started getting 26 and over especially when it gets to 54 and, more so, when they get to 110.

Senator Espegard assumed that new grain elevators had side tracks that don't block anybody and that what was being addressed was unit trains coming into existing structures that don't have the trackage to handle the trains that are there today.

Rep. Johnson said that it is an outgrowing situation. With the rail rates and deficiencies they are outgrowing the situation that the structures were built for.

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Dale Severson (District 23) Testified in support of HB 1372. It provides an interesting problem for EMS as well as the fire departments and the law if there should be an emergency on the other side of the tracks. Sometimes there are no extra tracks or alternate routes. Unit trains do present a problem because once they are connected it is difficult, when they are loading, to just break and move on and open a roadway. They also do not have access by radio when a 911 emergency occurs. Once unit trains are dropped off, they become the responsibility of that elevator.

This bill just allows the EMS and emergency personnel in the dispatch centers to be notified.

Senator Espgaard said that in practicality when loading they don't break every ten minutes.

Dale Severson replied that they don't and the roads are blocked. There isn't a law that requires the elevator managers to get involved in this. But, in public safety, he feels it is important that the elevator managers do contact so the EMS can make plans in cases of an emergency.

Senator Espgaard asked, when extra facilities are put in to allow for unit trains, if part of the plan is to provide for extra trackage.

Dale Severson said, that to his knowledge, no it is pretty cost prohibitive for some of the small communities..

Ken Yantes (ND Township Officers Association) See attached testimony in support of HB 1372.

Senator Trenbeath asked why this is needed when the law already says that the tracks can't be blocked more than ten minutes.

Ken Yantes answered that there are times when this won't happen and the alternate is that the emergency services do have that notification.

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Senator Trenbeath said that there are times when the elevator manager isn't going to make the phone call.

Ken Yantes said that is possible but, when the knowledge of this bill gets around, they will for safety sake of their community.

Senator Espgaard was concerned that there would be a phone call to the emergency personnel and then the roadway would be blocked as long as it takes to load.

Ken Yantes said he thought the Grain Dealers Association would talk to that.

Senator Espgaard (Tape 2 Side A Meter 1215) He was also concerned with the roadways blocked for non emergency use.

Ken Yantes replied that they wanted to deal with the emergency part of it. He thought those concerns should also be addressed with an amendment.

Keith Sorenson (Legislative Coordinator for the ND EMS Association) Reported that the EMS fully supports HB 1372. When it comes to human life, the EMS hopes that there is never a blocked highway at anytime but, unfortunately, that's not going to happen in certain instances. They urge a do pass recommendation.

Senator Trenbeath asked about the penalty for not notifying.

Keith Sorenson didn't have the answer.

Senator Trenbeath pointed out that the statute already says it can't be blocked for more than ten minutes and it is an infraction. Obviously, that isn't a deterrent. This bill, apparently doesn't state a penalty.

Bob Forward (Township Officer, Clement Township) See attached testimony in support of

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HB 1372. (Meter) 1410) He pointed out that they can split trains when they are loading in Oakes but when the train is leaving town it takes longer that ten minutes.

(Meter 2000) Discussion on the loading situation at Oakes. They load at night and have done it in about nine hours. When loading the unit train, it is moving.

Representative Lonny Winrich (District 18) Testified in opposition to HB 1372 in its present form. (Meter 2125) Supports the intent of the bill which is to provide adequate safety for people when unit trains do block railroad crossings. Addressed a situation north of Grand Forks. (See attached map showing the area.) There is an area that contains about ten houses and a small business. There is only one vehicle access to that area. In order for construction to take place there, they needed to get a conditional use permit from the Grand Forks planning and zoning board. This permits requires an alternate route to be provided. It would provide emergency access when the main crossing is blocked. Normally it would be gated and not used. Their concern is that, with this bill, an alternate route is not necessary. All that is needed would be a phone call notifying them of the road being blocked. He presented an amendment saying that when the only access to a facility would be blocked an alternate route must be provided. (See attached amendment .0201.)

(Meter 2550) Discussion on building an access road in this area. In this case it would be the grain elevator because it goes across elevator property. That's what the city conditional use permit would require. This might be a unique area situation in the state.

Senator Nething said, if Rep. Winrich was opposed to the bill, that meant he wanted the committee to vote no. Then there would be no place to put the amendment.

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Rep. Winrich answered that he was opposed to the bill in its present form because he felt it was inadequate. He would support it if amended to provide for an alternate route.

Senator Taylor asked about the distance between the current access and the proposed one.

Rep. Winrich said approximately a mile or a little less.

Senator Trenbeath asked if anyone concerned with this had spoken with the elevator manager about the situation.

Rep. Winrich replied that the elevator manager is supportive and is willing to build a road. Part of the problem is that he answers to management in Minneapolis.

Senator Trenbeath wanted to know if there had been an ongoing dialogue with the elevator managers about being sensitive to the needs of people in emergency situations and whether or not they would voluntarily make some allowance for the fact that these sorts of occasions occur.

Rep. Winrich said his understanding of that situation is, yes, that conversation has gone on with the elevator manager. The concern is not so much with manager's sensitivity to the needs of the people but with the fact that the decision might be taken out of his hands if it is allowed.

Senator Trenbeath pointed out that all this would do is put another statute on the books that is an infraction to somehow replace or enhance the existing statute that is an infraction.

Steve Strege (ND Grain Dealers Association) See attached testimony in opposition to HB 1372.

Opposed to the bill as is but for the bill if amended. (See attached proposed amendment.)

The proposed amendment does not address a time limit and that might need to be addressed.

(Meter 4358) There was some discussion on the liability aspect. It puts the liability on the guy that is supposed to call. The proposed amendment looks as if it gives permission to violate 49-11-19 which allows crossings to be blocked for 10 minutes.

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Senator Taylor asked how much trouble it is to break the trains apart. Wanted to know, if there was a penalty section that made it a misdemeanor and a \$1000, would the railroad be more willing to break the trains and not block the crossing in the first place.

Steve Strege said that is a problem breaking the train. (Meter 4600) The longer the train the harder it is.

(Meter 4780) Discussion indicated concerns that with notification there would be more of problem with crossings being blocked for longer periods of time. There is no penalty. Maybe the penalty needs to be stiffer. It looks like it is a local problem.

John Mielke (Executive Secretary, Public Service Commission) The Commission is officially neutral on HB 1372. See attached testimony.

Senator Trenbeath asked what they do when they get a call about blocked crossings.

John Mielke said the best place to handle that is at the local level. They advise them to contact the city policy, the county sheriff, or the highway patrol if they are violating the law that is enforceable.

Senator Espgaard said the elevators and cities probably handle this pretty well. He speculated that the problem sometimes is when the railroad delivers the cars in or is taking them out.

John Mielke pointed out that the majority of calls they get are for trains that are parked and not in the process of being loaded at the elevator.

(Meter 5490) Discussion on an amendment to prevent blockage for a period of ten minutes and list some exceptions, like when the train is in motion except when engaged in switching operations, or loading or unloading operations, and then put a penalty on it. The question is, if the activity falls into one of the exceptions, is it okay to block it indefinitely. There are certain

Page 8
Senate Transportation Committee
Bill/Resolution Number HB 1372
Hearing Date 3-20-03

times when the train has to be broke such as when an emergency vehicle has to get through and there is no alternate route.

Tim Horner (ND DOT) (Meter 5850) They had originally given testimony in opposition to HB 1372 in its original form. In addition to the concern for emergency response, there's also the need for moving commerce across the state. In many cases, the state highway through a small town is the only route that is adequate for carrying a fully loaded semi. Therefore, blocking more than 10 minutes on a state highway would be a significant hindrance to the movement of freight across the state.

Steve Strege said that the 110 car trains are supposed to be loaded in 15 hours. Breaking the train involves opening up the airlines used to air up the brakes. It's a more difficult process than just pulling a pin on a wagon.

The hearing on HB 1372 was closed.

Tape 2 Side B

(Meter 1055) **Senator Nething** felt this bill needed a lot of work and was a candidate for a study. Felt the \$20 penalty needed to be increased so it has some meaning to it.

Senator Trenbeath said his feeling, if they did anything with this bill, would be to hoghouse it and revise 49-11-19.

Senator Espegard asked if that was the fine and the 10 minute waiting.

Senator Trenbeath answered yes and read section 49-11-19 as it is now. His feeling with respect to #4 where it says "engaged in switching operations" would be to continue it to say "switching operations or loading or unloading such train" or words to that effect.

Page 9
Senate Transportation Committee
Bill/Resolution Number HB 1372
Hearing Date 3-20-03

(Meter 1300) There was discussion about blocking the crossings for only 10 minutes at a time and making the infraction a tougher penalty, a Class B misdemeanor. There would be no reference to a "unit" train. It would apply to any train. The EMS is concerned with being notified when the roads are blocked.

Senator Trenbeath believes that there needs to be communication with the local EMS and the local elevator.

Senator Nething told Keith Sorenson that his organization could be very helpful in reminding those people.

Senator Espgaard asked Keith Sorenson how the elevator manager would notify.

Keith Sorenson said the majority of rural ND is served by ND State Radio and is dispatched by ND State Radio so that would simply be a call to ND State Radio advising them that there would be a train located at a certain intersection. If it was an area that state radio did not handle, he felt they would forward that call to the appropriate dispatcher.

The hearing on HB 1372 was closed.

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372

Senate Transportation Committee

☐ Conference Committee

Hearing Date 03/21/03

Tape Number	Side A	Side B	Meter #
1	x		54 - 535
Committee Clerk Signature <i>Mary K. Monson</i>			

Minutes:

Chairman Trenbeath opened the discussion on HB 1372.

The amendment hoghouses the bill. **Senator Trenbeath** said his inclination is to do something like the amendment or kill the bill.

The committee discussed the details of the proposed amendments. (meter # 55 - 386)

It was moved by **Senator Nething**, seconded by **Senator Mutch** and passed on a roll call vote (5 yea, 0 no, 1 absent and not voting) that the Senate Transportation adopt amendment .0202.

It was moved by **Senator Nething**, seconded by **Senator Espegard**, and passed on a roll call vote (5 yea, 0 no and 1 absent and not voting) that the Senate Transportation Committee take a **DO PASS AS AMENDED** action on HB 1372. **Senator Nething** will carry the bill to the floor.

Chairman Trenbeath moved on to other business of the committee.

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Donna Hall Smith
Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-27-03

Tape Number	Side A	Side B	Meter #
1		X	350-600
1		X	1025-1545
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Trenbeath opened HB 1372 for reconsideration by the committee.

Senator Trenbeath said the intention for reconsideration would be to add a sub 7 to 49-11-19 which says "by written agreement between the railroad company and all interested government and commercial entities."

(Meter 1070) **Senator Espegard** moved to reconsider HB 1372. Seconded by **Senator Taylor**.

Passed on a voice vote.

The committee now had before them HB 1372 as previously amended and with a prospective amendment.

Senator Espegard moved the unnumbered amendment. Seconded by **Senator Mutch**.

Senator Trenbeath asked if there were any comments from those in the room with respect to what the committee had done.

Dan Kuntz said he didn't know if the railroad needed to be party to all the agreements.

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Dennis Halliwell
Operator's Signature

10/3/03
Date

Page 2
Senate Transportation Committee
Bill/Resolution Number HB 1372
Hearing Date 3-27-03

Senator Trenbeath said he wasn't sure they don't want to be a part of it.

Steve Strege asked if the Class B misdemeanor penalty remained in the bill. He felt it was kind of harsh.

Senator Trenbeath confirmed that it remained in the bill.

Roll call vote 5-0-1. **Amendment adopted.**

Now before the committee was HB 1372 as amended.

Senator Espegard moved a **Do Pass on HB 1372 as amended.** Seconded by **Senator Taylor.**

Senator Nething asked the Chairman to refresh him on the language on 7. About the exception, when there is a written agreement between the railroad company and all interested government and commercial entities, he asked if that would be three party or two party.

Senator Trenbeath said that the one he could conceive of in most instances would be three parties: the railroad, the elevator owner, and the township or county.

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

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Donna Hallworth
Operator's Signature

10/3/03
Date

30524.0201
Title.

Prepared by the Legislative Council staff for
Representative Winrich
February 26, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1372

Page 1, line 13, after the period insert "If the local emergency personnel determine that the unit train will block the only roadway by which an individual or structure could practically be reached in the case of an emergency, the emergency personnel shall inform the grain warehouse manager of that determination. The manager may not allow the unit train to block the roadway until an alternate route is constructed or established and approved by local emergency personnel."

Renumber accordingly

Page No. 1

30524.0201

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Deanna Hall
Operator's Signature

10/3/03
Date

30524.0202
Title.0300

Prepared by the Legislative Council staff for
Senator Trenbeath
March 21, 2003

JB
3-24-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1372

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. ~~No A~~ person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.

~~Any A person who that violates this section is guilty of an infraction a class B misdemeanor. The provisions of this~~ This section does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter.

Renumber accordingly

Date: 3-21-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1372

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment 0202

Motion Made By Sen. Nothing Seconded By Sen. Mutch

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 Nothing	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

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Dennis Bercier 10/3/03
Operator's Signature Date

Date: 3-21-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1372

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30524.0202 Title 0300

Action Taken No pass as Amended

Motion Made By Senator Nething Seconded By Senator Espgaard

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Nething

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

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Dennis Bercier
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 4:00 p.m.

Module No: SR-52-5601
Carrier: Nothing
Insert LC: 30524.0202 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1372, 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 1372 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. ~~No A~~ person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.

~~Any A person who that~~ violates this section is guilty of ~~an infraction a class B misdemeanor. The provisions of this~~ This section does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter."

Renumber accordingly

30524.0203
Title.0400

Adopted by the Transportation Committee
March 27, 2003

3-28-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1372

In lieu of the amendments adopted by the Senate as printed on page 893 of the Senate Journal, Engrossed House Bill No. 1372 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. No A person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.
7. When allowed by written agreement between the railroad company and all interested government and commercial entities.

Any A person who that violates this section is guilty of an infraction a class B misdemeanor. The provisions of this This section de does not apply to entities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter."

Renumber accordingly

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

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1372

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Unnumbered Amendment

Motion Made By Senator Espesgard Seconded By Senator Mutch

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier		
Senator Duaine Espesgard, 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:

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Dennis Bercier
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 1372

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Senator Espgaard Seconded By Senator Taylor

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

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Trenbeath

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

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Dennis Hall
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 11:45 a.m.

Module No: SR-56-6046
Carrier: Trenbeath
Insert LC: 30524.0203 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1372, as engrossed and amended: 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 1372, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 893 of the Senate Journal, Engrossed House Bill No. 1372 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. ~~No A~~ person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.
7. When allowed by written agreement between the railroad company and all interested government and commercial entities.

~~Any A person who that~~ violates this section is guilty of ~~an infraction a class B misdemeanor. The provisions of this~~ This section does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter.

Renumber accordingly

Dennis Hall
Operator's Signature

10/3/03
Date

2003 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1372

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372 conf

House Transportation Committee

☒ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
2	x		0.2 to 17.0
Committee Clerk Signature <i>Louise L. Zick</i>			

Minutes:

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

Rep. Weisz	Sen. Trenbeath
Rep. Headland	Sen. Nething
Rep. Schmidt	Sen. Taylor

each responded to the call of the roll.

Rep. Weisz asked that the Senate give the rationale for their amendments. Senator Trenbeath presented the Senate background and thinking, stating that when the bill came to them it carried the notification requirements placed on the elevator managers. Their logic told them that elevator operators not only didn't want the responsibility, they didn't want the liability. Further they felt that we already had a statue they could work with and accomplish the same thing. That is 49-11 sub 19 already makes it an infraction to block a crossing for more than ten minutes. So they worked with 49- 11 - 19. Number 5 was clean-up. And, then number 7 there it made

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10/3/03
Date

Page 2

House Transportation Committee

Bill/Resolution Number HB 1372 conf

Hearing Date April 8, 2003

possible for commercial entities such as elevators that have unit trains and those that don't but have short lengths of track -- to that if they have a written agreement -- especially with the local entity that controls the crossing because the elevator doesn't control the crossing -- that is so the emergency management people are taken into consideration. Following discussion the committee arrived at an understanding and everyone present seemed to agree they understood their common understanding. Sen. Trenbeath moved that the Senate recede from their amendments and amend the bill with the language agreed upon. Senator Nething seconded the motion. On a roll call vote the motion carried un Subject to the intern preparing the wording and that each member have the opportunity to disapprove, Sen. Trenbeath moved to approve the amendments. Rep. Weisz seconded the motion. Motion carried unanimously. Rep. Weisz moved a 'Do pass as amended' motion for HB 1372. Sen. Trenbeath seconded the motion. The motion carried unanimously.

Rep. Weisz and Sen. Trenbeath reviewed the proposed amendment. These were E-mailed to each member except Sen. Nething who did not have an E-mail address -- he was furnished a hard copy for his review. Subsequently, both Rep. Weisz and Sen. Trenbeath agreed in consultation confirm the each member of the had concurred and agreed with the written version of the amendment. All members were in agreement.

End of record. (17.0)

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Deanna Hall Smith
Operator's Signature

10/3/03
Date

VK
4/11/03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1372

That the Senate recede from its amendments as printed on pages 1145 and 1146 of the House Journal and page 988 of the Senate Journal and that Engrossed House Bill No. 1372 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. No

1. A person shall may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:
 - ~~1.~~ a. When necessary to comply with safety signals affecting the safety of the movement of trains;
 - ~~2.~~ b. When necessary to avoid striking any object or person on the track;
 - ~~3.~~ c. When the train is disabled, by accident or otherwise;
 - ~~4.~~ d. When the train is in motion except when engaged in switching operations or loading or unloading operations;
 - ~~5.~~ e. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; ~~or~~
 - ~~6.~~ f. When necessary to comply with a government statute or regulation; or
 - g. When allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked. Any
2. A person who that violates this section is guilty of ~~an infraction~~ a class B misdemeanor. ~~The provisions of this This section de does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter.~~

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

HB 1372, as engrossed: Your conference committee (Sens. Nething, Trenbeath, Taylor and Reps. Welsz, Headland, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1145-1146, adopt amendments as follows, and place HB 1372 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1145 and 1146 of the House Journal and page 988 of the Senate Journal and that Engrossed House Bill No. 1372 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. ~~Re~~

1. A person shall may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:
 - ~~1-~~ a. When necessary to comply with safety signals affecting the safety of the movement of trains;
 - ~~2-~~ b. When necessary to avoid striking any object or person on the track;
 - ~~3-~~ c. When the train is disabled, by accident or otherwise;
 - ~~4-~~ d. When the train is in motion except when engaged in switching operations or loading or unloading operations;
 - ~~5-~~ e. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; ~~or~~
 - ~~6-~~ f. When necessary to comply with a government statute or regulation; or
 - g. When allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked. Any
2. A person who that violates this section is guilty of ~~an infraction a class B misdemeanor. The provisions of this~~ This section does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter."

Renumber accordingly

Engrossed HB 1372 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1372

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Deanna Hall
Operator's Signature

10/3/03
Date

Testimony on HB1372 at House Transportation committee

prepared by Ken Yantes

Mr. Chairman and House Transportation Committee Members
My Name is Ken Yantes and I represent the North Dakota
Township Officers Association.

I have come here today to ask your support for HB1372.

We asked the sponsors of this bill to introduce this bill which
supports policies developed at our last two annual meetings.

This policy called for finding a way to get emergency service such
as ambulance, fire trucks and police protection to those ND
citizens that require service on the other side of a road way
blocked by a 110 car unit train.

The testimony given by the grassroots government officials asked
“ what can be done if my house is on fire and the road to my house
is blocked with a unit train”? They went on to state that if the fire
department had been notified of the blockage they probably would
have taken an alternate route.

Existing North Dakota Century Code, as found in 49-11-19, allows
trains to prevent vehicular use of any road way for a period of 10
minutes. Many township officers testified that the roadways have
been blocked for periods longer than the allowable 10 minutes.

There are township officers here to testify to you today as to the
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It was concluded that if the emergency personnel knew of a
blockage, we were sure that these service providers would
choose an alternate route to get around the unusable roadway. I
admit that it will take some effort by the manager of a grain
warehouse to make the phone calls. If he saves the life of one
of his neighborhood residents, I am sure he will consider it worth
the effort.

The intentions of this bill was to ask for notification to emergency
services providers for safety sake and really nothing more.

Mr. Chairman and Committee Members, we hope that you will
concur and vote to pass this bill.

Testimony on HB1372

From Robert Forward, Oakes, ND

Mr. Chairman and Members of the Senate Transportation Committee,

My name is Bob Forward and I have come to ask for a do pass recommendation on HB1372.

I live on my farmstead in Dickey County and serve as a township officer in Clement Township. I have served many years as a member of the local grain elevator board of directors in Oakes, ND.

We have a terminal elevator served by a unit train in Oakes and I have come to share with you some of our experiences.

Our elevator has unloaded up to 400 semi loads of grain per day so it has quite a large operating capacity.

I am aware of the North Dakota law that allows the train to block a roadway for up to 10 minutes and when the limit is exceeded I think we need to have some emergency notification in place.

It takes up to 10 hours to load a 110 car unit train.

Presently in Oakes, the railroad splits the train in half for loading so the train isn't on the tracks for such a long time. We are still experiencing roadway blockage for periods exceeding 20 minutes.

Splitting the train helps to reduce the blocked roadway time, but it isn't the answer.

What happens say 10 years from now if different policies and personnel are in place ????

We need this notification process in century code for us and our neighbors protection in emergency situations. Please vote for passage of HB1372

I would try to answer any questions you might have about our area.

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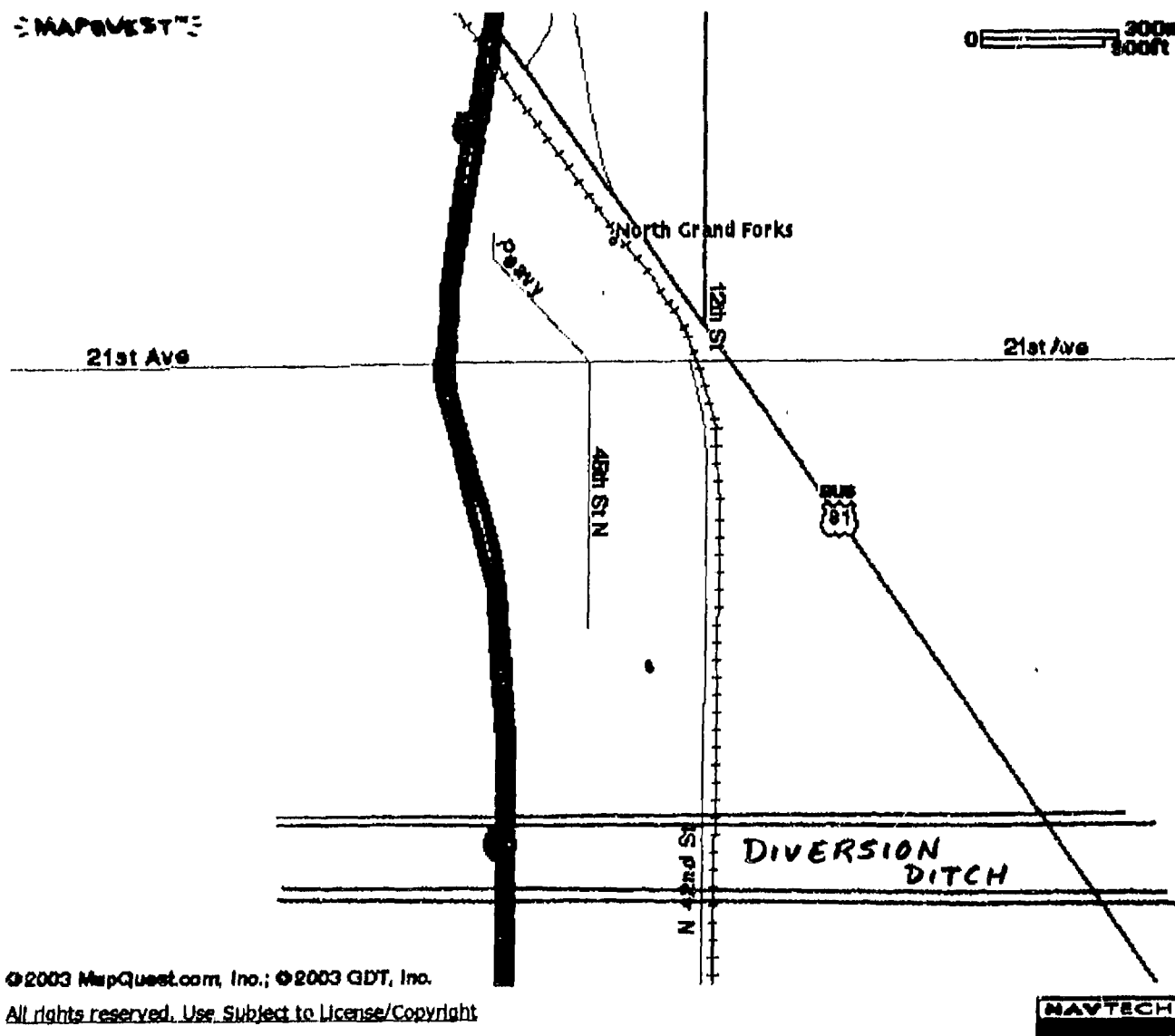
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Dennis Hallworth
Operator's Signature

10/3/03
Date

HB 1372 in Senate Transportation Committee March 20, 2003

Testimony from ND Grain Dealers Association, Steve Strege

As introduced, HB 1372 gave grain elevators an exemption from the 10-minute crossing blocking limitation in NDCC 49-11-19, and required the elevator to notify emergency services when the elevator was notified that a unit train was coming and it would block a crossing. The exemption was deleted in the House.

Elevator managers can give notification, in fact I know of cases where what streets can be blocked and what notice is required has been worked out at the local level. This makes us wonder if there is a need for the bill if local jurisdictions are handling it in a way that fits them. In rural communities grain elevator employees are also emergency personnel such as firefighters or ambulance crew.

In our opinion the language in this bill has some serious problems, and if left as is we must oppose.

It says the manager must notify emergency personnel if he is notified that a unit train will be at the warehouse. On many occasions the train simply arrives without notice from the railroad. The bill indicates the manager need not notify emergency personnel under that circumstance. That hardly seems to be the intent. Seems to us that the required notification to emergency services should be based on actual presence of railcars, not notice or lack thereof of their arrival.

What if it is the railroad in control of the train? Shouldn't they notify emergency personnel? The blocking effect on emergency services is the same. An elevator manager told me a couple days ago that the BNSF sometimes pushes a train onto his sidetrack in the middle of the night, blocking a rural road crossing, and a resident left stranded calls him, the elevator manager to complain, any time day or night. We feel that the person who blocked the crossing with the train, be that railroad, grain elevator or someone else, should be responsible to notify emergency services.

NDCC 49-11-19 allows crossings to be blocked for 10 minutes unless there is an exemption. We presume that this time allowance still applies to grain warehouses, but that should be addressed in the bill. Otherwise it could be interpreted that illegal blocking of a crossing occurs when moving only one or a few cars over a crossing and only momentarily blocking vehicular traffic.

The bill treats all crossing blockings the same, whether out in open country where the next crossing may be one or two miles away, or in town where there is an open crossing a block away. If a nearby crossing is open, we question the need for a notification requirement, especially if the blocking is a side street, not a primary street.

The bill now adds the new section to NDCC 60-02. This is the section dealing with state-licensed public warehousemen. About one-fourth of ND grain elevators are federally-licensed warehouses and, in addition hold a state grain buyers license under 60-02.1. These aren't covered by the bill. If the bill is to define who is covered it should include both.

"Unit train" is not defined. In the grain business we speak in terms of 26-27 and 52-54 car unit trains, and 100 or 110 car shuttle trains. The Transportation Institute defines unit train as 50 cars or more. The 26-27 car trains are called multicar movements. The longer the trains get the more crossing blockings occur. Should this law cover only trains of a certain length?

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Stine Strage

Possible amendment to HB 1372:

Hoghouse the first engrossment and substitute the following in the appropriate place in 49-11-19:

If railroad cars will block a crossing for more than ten minutes, and there will not be an open crossing within one-quarter mile, the person who has placed the railroad cars in the crossing-blocking position shall inform emergency personnel of the location and the expected duration of the blockage by means of a telephone call to the local emergency services communication system or state radio dispatcher.

Donna Hall

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Donna Hall
Operator's Signature

10/3/03
Date

Testimony on HB1372 at Senate Transportation committee

prepared by Ken Yantes / North Dakota Township Officers Association

Mr. Chairman and Senate Transportation Committee Members
My Name is Ken Yantes and I represent the North Dakota
Township Officers Association.

I have come here today to ask your support for HB1372.

We asked the sponsors of this bill to introduce HB1372 which
supports policies developed at our last two annual meetings.

This policy called for finding a way to get emergency service such
as ambulance, fire trucks and police protection to those ND
citizens that require service on the other side of a road way
blocked by a 110 car unit train.

The testimony given by the grassroots government officials asked
“ what can be done if my house is on fire and the road to my house
is blocked with a unit train”? They went on to state that if the fire
department had been notified of the blockage they probably would
have taken an alternate route and arrived there sooner.

Existing North Dakota Century Code, as found in 49-11-19, allows
trains to prevent vehicular use of any road way for a period of 10
minutes. Many township officers testified that the roadways have
been blocked for periods longer than the allowable 10 minutes.

There are township officers here to testify to you today as to the
situations in their community.

It was concluded that if the emergency personnel knew of a
blockage, we were sure that these service providers would
choose an alternate route to get around the unusable roadway. I
admit that it will take some effort by the manager of a grain
warehouse to make the phone calls. If he saves the life of one
of his neighborhood residents, I am sure he will consider it worth
the effort.

The intentions of this bill was to ask for notification to emergency
services providers for safety sake and nothing more.

Mr. Chairman and Committee Members, over 6000 members of the
North Dakota Township Officers Association hope that you will,
resist any attempts to amend this bill that would detract from it's
original intentions, and vote a do pass on HB1372.

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H.B. 1372

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Committee on Transportation
Thomas L. Trenbeath, Chairman

Date: March 20, 2003

TESTIMONY

Mr. Chairman and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's grain warehouse Licensing Division and as the primary staff person on railroad matters.

The Commission has a direct interest in this bill because of its involvement with both grain warehouses and rail crossings. While our agency is officially neutral on this bill, we would like to point out some shortcomings.

The Commission receives numerous calls on blocked rail crossings. We want to emphasize, however, that few of these calls involve grain elevators that are loading cars; they are typically parked trains that are under the control of the operating railroad.

Concerning the specific provisions of this bill, the first problem is that it relates only to grain warehouses that are regulated under North Dakota Century Code Chapter 60-02. There are about 420 grain elevators in North Dakota but only 320 of them are licensed

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under Chapter 60-02; the remaining 120 elevators are licensed under Chapter 60-02.1. These are elevators that have a federal grain warehouse license and a state grain buyers license. If this is a good bill, its provisions should apply to all grain elevators, not just those governed by Chapter 60-02.

As drafted, this bill applies only to unit train shipments but the term "unit train" is not defined. Some people consider a unit train to be a block of at least 52 cars. That may be the case with wheat shipments on the Burlington Northern Santa Fe but a unit train of corn is 54 cars. CP Rail has different consignment sizes – often 50 cars. Other people may consider shipments of 24 to 27 cars to be unit trains. A "shuttle train" involves 110 cars.

It is unclear which of these train sizes are governed by this bill. What if an elevator is loading ten cars and is blocking a crossing, should the provisions of this bill also apply to them? If the intent of this bill is to provide public notice of when crossings are going to be blocked, it should apply to more than just unit trains.

This bill requires that warehouse managers give notice to emergency services personnel only after the manager has been notified that a unit train is being delivered to the warehouse. In many cases, railroads do not give shippers advanced notice of deliveries. A manager's only notice may be his personal observation that a train has been delivered and that it is waiting to be loaded. If this happens, is the manager still obligated to notify emergency personnel? We expect that doing so is the bill's intent but it does not say so.

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This bill, as originally drafted, would have allowed grain warehousemen to block crossings for more than the ten minutes allowed by N.D.C.C. 49-11-19. The engrossed version of this bill does not give these facilities additional time. In fact, the current version of the bill places more stringent requirements on grain warehouses than on other shippers or even rail operators.

To elaborate on this point, this bill requires that the warehouseman notify emergency personnel whenever a train will prevent vehicular use of any roadway. It is possible, therefore, that a train will be pulled through a crossing to a site adjacent to the warehouse and will, in fact, not stop or even block the crossing for the ten minutes allowed under NDCC 49-11-19. Nonetheless, the warehouse manager will be required to give notice. This would put a much greater requirement on grain warehouses than on another else who might cause blockages.

Mr. Chairman, it appears that there are some flaws with this bill. While the Commission appreciates its intent, some additional work may be needed if it is to achieve its objectives in an equitable manner.

That concludes our testimony. I would be happy to respond to any questions that you might have.

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