

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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DESCRIPTION

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Lo Costa Rickford
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10/16/03
Date

2003 HOUSE TRANSPORTATION

HB 1456

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1456

House Transportation Committee

Conference Committee

Hearing Date February 6, 2003

Tape Number	Side A	Side B	Meter #
1		x	6.2 to 39.8

Committee Clerk Signature

Lauren B. Fink

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1456, a bill for an Act to provide for fees on shuttle trains for reimbursement to grain warehouses and to provide a continuing appropriation.

Rep. Weisz Representing District 14 relinquished the chair to Rep. Hawken so that he could speak as prime sponsor for this proposed legislation. This is a relatively simple bill but I will be the first to admit that it is a radical shift. What this bill does is level the playing field -- what we are doing is -- assessing fees to help those rail loading facilities and we are pouring back to non-fill facilities. The reason that we are doing that is because far too long the state has not taken a role -- I don't believe -- in our total transportation infrastructure -- we are letting certain events drive the direction the states going to end up in -- I am giving you a hand out -- which everyone should have -- it shows what is happening in the last twenty years -- for rail mileage's -- we dropped thirty per cent in our mileage's in the last twenty years. This is mileage that citizens of the United States paid for in this state when they were built. This the infrastructure that we paid

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for -- that is gone. If you notice in the other part of the handout -- our average amount of volume has increased -- it has doubled in the last twenty years -- we have lost -- again -- thirty per cent of our facility. The volume and that traffic is obviously going onto our roads and on our highways -- it causes a tremendous impact to the state -- we are picking up the cost of that impact. Unless we become -- well somebody pays for every benefit some one else has to pay -- the citizens of this state are paying for this dramatic shift of -- rural communities are paying for this dramatic shift in how we move commodities in this state -- for every mile the rail line has abandoned -- it effects a rural community at some point -- and it has -- what this bill will do is level the playing field -- we have a movement that is happening and I don't begrudge the railroad industry for doing this because obviously doing what is in their corporate interest for a profit -- but from the state's policy perspective I think we are going in the wrong direction. They are incurring some " --?---" in what they are doing -- I commend them for that -- but it is the state that is picking up the tab. We are paying for the ability for them to have the peak of efficiency -- this bill will level the playing field -- allow other shippers to become -- to stay more competitive with the shuttle facilities -- hopefully to keep that traffic off the highways -- help maintain our rural communities -- help keep the balance in this state of a truly diverse infrastructure -- railroads that is needed if this state is to go forward in the future. I realize that this is a radical thought in our conservative ideas -- robbing Peter to pay Paul -- and I realize there will be a lot of opposition but I think we have to forward the debate on this issue -- we can't stand back and let one industry to determine the future as to where the state is going to end up. You know I want to make it clear that industry is critical to the state of North Dakota. We need rail -- critically -- it is part of the solution I think to the state's future and economic growth. That's why I am concerned

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when I see numbers like I see where we have lost thirty per cent of our lines -- again these are line that we in this state paid for. And they are gone and they are not coming back . I mean -- that's -- you know but how much more are we going to lose before we finally decide that maybe -- it wasn't the correct path we took -- so I mean that's my bill is simple and isn't a whole lot of explaining -- but I will be glad to answer any questions ---

Rep. Dosch (10.2) Can you explain to a city slicker exactly what a shuttle train and what's different in that facility is ?

Rep. Weisz Industry shuttle facilitates are facilitates that can load 110 car trains in one -- sitting -- so to speak. They have the capabilities, the track and -- in a certain time period. To be able to load 110 cars in approximately -- these a jumbo cars -- you are looking at 400,000 plus bushels of wheat for example --you are looking at vast amounts of grain -- and for these facilities and there are only a hand full of them -- have already purchase about 25% of the total volume in the state. It is projected they will have 50% of the volume in a few years. That is a tremendous shift in where our volume of traffic is moving -- because obviously you have to get to that facility -- you know it used to be grain -- or whatever the commodity moved through five --ten miles -- you know to have those facilities closed -- grain started moving further -- now they are looking at a 100 mile radius -- in some cases --are feeding these facilities. And most of that -- and granted some of that still does come from branch lines -- there is some of that -- but the majority comes by truck -- that has a tremendous impact on our state roads. We are well aware -- if you set on this committee -- if we didn't have any truck traffic on these roads we could cut our DOT budget in half I would say -- you know they are not proposing to do that but that has an impact -- that

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has to be paid for -- the state pays that cost -- everybody has to pay -- if they are going to maintain an infrastructure.

Rep. Delomore: This 110 car train goes through one of the 50 - 60 facilities as I understand -- every time they go through that facility how ever many cars there are -- they would have to pay \$200 for?

Rep. Weisz: That is correct because they don't necessarily have to load a 110 cars to get that rate that they get from the railroad --it is based on the fact that they are a shuttle facility . Yet a neighboring facility that can load only fifty two cars will not get that same rate. So this fee would apply to every car they ship --10,000 cars for example in a year -- they would pay the fee on all ten thousand. That money is prorated back to the warehouse-- through the PSC and goes to every other rail shipper -- whether they are 52 car facility or a 26 car facility or even a single car facility. It would be prorated back -- less the administrative costs -- what that does is to basically balance the differential in the freight rates which makes the smaller facilities somewhat more competitive.

Rep. Delmore Approximately how much will it cost the railroads per month?

Rep. Weisz: It doesn't cost the railroad anything -- it costs the shuttle facility.

Rep. Zaiser: Can you share your perspective on the efficiencies of shipping by rail versus shipping over the road ?

Rep. Weisz: I am not sure if your are directing it at the shuttle facilities or a non- or if just trucks versus rail --

Rep. Zaiser First just trucks versus rail -- just to give some basis of where you are going with this.

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Rep. Weisz: Part of the issue I have is that when you have an infrastructure -- why should we pay for it twice -- which we did -- over 5000 miles of rail lines in 1979 -- you know the traffic that goes on that rail -- is now obviously impacting our road system. You know it is degrading our road system because of that. We have an Upper Great Plains Transportation Institute did a study on the small branch lines -- and only shipped 500 cars per year -- it has an annual impact on the roads. He quoted some of the statistics from that study.

Rep. Headland: Isn't it all going to make the problem worse -- because aren't you going to force -- actually the facilities that don't have a unit train -- if he is going to receive some money from the fund -- he is going to bid more for the grain -- the facility that has the unit train capabilities are going to have to bid less because they are going to more costs -- so I as a farmer I am going to where I can get the best price. If they don't have the rail facility the are going to have to truck it out on the highways.

Rep. Weisz: The bill can obviously only apply to those who have rail facilities because it is already prorated back on that basis. If you not shipping rail you are getting any money back.

Rep. Bernstein: (19.0) What's the difference between a shuttle train and a unit train ?

Rep. Weisz: It is commonly defined that the facility has the capability to load at least 110 cars -- a unit train --its been around for years -- is 26 cars and it varies -- 27 cars -- 52--54 cars capabilities -- are unit trains --

Rep. Delmore: Two parts -- why -- I am loosing some thing as to where the money goes and why doesn't some of that money go back to roads if that is your concern?

Rep. Weisz: There is a fiscal note -- and the fiscal note has a net zero cost -- that's from the state's perspective because the bill I clear that if -- the state would take in a million dollars -- it

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would cost the PSC \$50,000 in administrative costs and \$950,000 would be paid out to the non-shuttle facilities. There has been some suggesting for some amendments.

Rep. Thorpe: Is this kind of stand alone legislation -- or are there other states who are doing anything?

Rep. Weisz: This is stand alone -- I don't know of any states doing any thing like this.

Brian Krammer: Representing the State Farm Bureau. They support this legislation.

Rep. Delmore: (2 5.0) I can see some leveling things -- but those small towns you are talking about have already lost their railroad line -- they are still going to transport by truck are they not?

Brian Krammer: That is correct -- in our instance there is still going to be that impact on the highways.

Jon Mielke: Representing the PSC -- addressing the fiscal note it neutral basically a wash.

Rep. Bernstein: How difficult would this be to implement?

Jon Mielke: We get reports from the elevators -- it would be relatively easy.

Oppositon Testimony --

Dan Kuntz: Representing the BNSF Railway. Several things we want to point out about this bill -- first of all -- this bill probably violates at least 2 federal statutes -- there is the Farr Act which is 49 USC Section 11 50 and I gave copies of this to the clerk if you want to check it. Basically that statutes prohibits discriminatory tax against railroads and this particular charge either has to be considered a tax or I think -- as the Chairman candidly acknowledged that after becoming effective it would change the rate. If you consider it to change the rate then it violated 49 USC 10501 -- which it a statute which provides exclusive jurisdiction over rail rates -- everything

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