

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1369

2005 HOUSE TRANSPORTATION

HB 1369

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1369

House Transportation Committee

Conference Committee

Hearing Date February 4, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.4-28.5
Committee Clerk Signature <i>Dr. Louis DeFina</i>			

Minutes:

Chairman Weisz opened the hearing in HB 1369 A Bill for an Act to amend and reenact section 57-05-01 and 57-05-08 of the North Dakota Century Code, relating to valuation and assessment of railroad property for property tax purposes; and to provide an effective date.

Rep. Brandenburg:(.8) Deals with a new way to look at the taxation, transportation and also the cost of the rates that are charges by shippers or the railroad. (See handout) Freight rates in North Dakota are 30% higher than they are nation wide. The property taxes that the railroad pay is on a blended rate nation wide. Fair and equitable across the national of property taxes that are paid are based on miles of track and dealing with how their formula comes about in ND. There was another HBO 1333 in which ties to it and you see they are all zeros. Because it is confidential and that confidentiality is dealing with that bill. The information that we need there to determine that property taxes being charged by the railroads for ND, SD and other states is based on a blended formula, miles of track and other things is fair and equitable across the whole

US. Yet the freight rates that we pay in North Dakota are not. We are paying more than other states for freight rates so because of that and talking about the property taxes that are paid. If we are being charged 30% more in freight rates in ND the property tax should be 30% higher. This just gets passed on to the grain producers etc? We are trying to understand the fair and equitable formula used for freight rates. Also see the amendment that was handed out. (See Amendment)
Explained amendment.

Rep. Dosch (4.0) How would that work for other properties in which the contract are a triple meet lease etc. Are you supposing that this would be for not only agricultural, but for any land, including the cities.

Rep. Brandenburg: How the property tax formula works right now it is based on miles of track within the state and that is how the property tax is based. Could you please state your question again.

Rep. Dosch I lease property from the railroad and my lease is a triple net lease, which means I am paying for property taxes in my lease, that definitely would get passed on.

Rep. Brandenburg: That is why I brought forth the amendment. The railroads are paying property taxes on miles of track. The people that are leasing the railroads property are paying property taxes to the county. So this amendment says that this increase of 30% of property tax can not be passed on to the leases and it is only on the 30% increase for the miles of track.

Rep. Price(5.6) You mentioned that we are much higher than the national average.

Steve Strege: (6.2) ND Grain Growers Assoc.(See Attached Testimony) I urge a do pass.

Rep. Schmidt I raised the issue because I was a grain buyer. I questioned then why was I paying a rate as high as to Minneapolis when I was only 60 miles from Grand Forks. Has this been corrected.

Steve Strege: I am not prepared to answer that question.

Chairman Weisz Rep. Schmidt I can probably answer that on how that works from Grand Forks to Minneapolis.

Rep. Iverson I don't know much about grain and grain handling, but I am looking at this chart on the back and wondering about it. From Bismarck to Sidney, NE, what would be the price difference?

Steve Strege: That would make sense, they are both in the middle of the US, but it is not that way. The rate on one car of wheat to the west coast is \$4,174 from Minot

Rep. Iverson I do not understand that Minot is way higher than from Sidney, NE.

Rep. Dosch When an elevator has a lease with the railroad, what is typically the term of that lease? When you establish what the lease rate is for an elevator per year, is that a ten year fixed rate?

Steve Strege:(11.0) Some of them are canceled too. The lease would probably be on an annual basis. I know some elevators on BN got notices of an increase.

Rep. Dosch Aren't you concerned. If you are redo your contract on a year by year basis. If the property taxes are going up 30% or whatever that dollar increase is, don't you feel that within a years time that would be tacked on to the rate at the elevator.

Steve Strege: I guess there is no guarantee that that wouldn't come back in that form or any form. Taxes should be equal all over. Lease holders should have at least a 30 day notice.

Chairman Weisz Anyone else here in support of HB 1369. Any opposition to HB 1369.

Brian Sweeney, Legislative Council for BNSF Railway: (13.2) We are opposed to HB 1369.

My understanding, as in all other states where we do business, ND sets a unit value on our entire system and then allocated a portion of that total value based on a formula that is the same throughout the US. We challenge the legality of this. It looks like it is against three federal laws plus the commerce clause of the constitution. (See attached testimony) Committee should check with the tax department.

Chairman Weisz Could you get us the appropriate federal law and get it to us.

Brian Sweeney: It would be the ICC Termination Act, Stakes Act of 1980; and the Commerce clause of the constitution, which affects interstate commerce.

Rep. Iverson(15.5) Why is Nebraska's costs so much less than from here?

Brian Sweeney: If it is going to move west, the rates are hard to base. They are not based on distance and miles. Set up as a competition with the river states versus the land locked areas.

Rep. Iverson Your saying that Nebraska has more railroads to take the grain out so that is why they are a little bit lower.

Brian Sweeney:(16.4) It is connected that there is another railroad, but other railroads that would be pulling wheat from Nebraska to other markets. We are competing with other markets as well as within the transportation.

John Huber, Director of Government Affairs: We think the bill would be challenged in the legal area and would invite the Chairman and committee to discuss this. (I will get my written testimony to you)

Chairman Weisz(18.0) How does that information given us come back as an increased value to the state of North Dakota? Please clarify that for us.

John Huber: Each state has their own process of how they determine their processed net weight. We send a great deal of information to the state of ND. The valuation office needs to determine how it is going to make an appropriate valuation for the property. There are a number of factors that they can look at to determine. For example, we have some partners in ND. You can look at their books and they look like they are not making much money or they are struggling and yet clearly that property has value. The valuation office has the opportunity to look at other factors to determine a way to figure out how do you properly and fairly value that property. They excess NPRB& BW at a rate that is not unlike what they charge CPR even though our earning and revenues are different. The tax office is looking at a whole number of factors to determine what is an appropriate value for that process.

David Drach,CP Railway: The amendment regarding passing on the taxes to much be my department that reassess taxes. I don't think the amendment would cause any harm. It is really an operating business tax in leu going and assessing the railroad based upon every single parcel of land they own, which is very difficult. It is based on a whole bunch of factors and I don't think anyone depends on the width of the property and how much property. If we wanted to reassess the property I don't know how we would do it.

Sara Hewson: State Tax Commissioner: I am in opposition to HB 1369. It is in violation of two federal laws, which is the 4-R Act and the US Code Title 49 Sec.11501. (See attached testimony)

Chairman Weisz(24.5) Explain the formula used to determine the tax basis for a railroad in ND.

Sara Hewson: Use cost, income, stock in debt . The information is given to them by the railroad companies and is not broken down. If there is a difference there you would have to look at their books.

Chairman Weisz Their income is twice in ND for example than another state. Will that affect the tax they are paying in ND or just does it affect the over all national rate and everyone requests a little more. That is what I am trying to get at. If ND specifically assessed to ND tax base or is it just part of the over all rate and every body may request more.

Marcy Dickerson: Tax Department: North Dakota income definitely does affect the ND tax income from the railroad. After the unit value of the whole railroad is calculated then a step that wasn't mentioned; we have to remove the personal property. So we get a system value of the real property, then to allocate it to ND to take our portion of that we use 3 allocation factors: 1. Gross earnings in ND; compare that to gross earnings in the US. 2. Use revenue ton miles, which again is the revenue as well as ton beings shipped. 3. Power locomotive miles is the other factor. So the more money they make in ND; that is reflected in the valuation assigned to ND.

Chairman Weisz (28.1) So if you have 150% higher gross revenue compared to the national average some of that factor goes back into determine that.

Marcy Dickerson:(28.2) We will get a larger allocation of the whole system because of that.

Hearing closed (28.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1369

House Transportation Committee

Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
2	X		13.7-15.7
Committee Clerk Signature <i>Debra D. Schmidt</i>			

Minutes:

Chairman Weisz reopened on HB 1369.

Motion Made By Rep. Hawken Seconded By Rep. Price

Rep. Meyer asked to explain why it is not legal. Rep. Hawken said that was when our tax department came in and said it is violation of three federal laws.

Chairman Weisz ND can not set rates. This bill specifically sets rates. This is a tough one to sell to anyone.

DO NOT PASS 10 Yes 3 No 2 Absent Carrier: Rep. Iverson

FISCAL NOTE
 Requested by Legislative Council
 01/14/2005

Bill/Resolution No.: HB 1369

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1369 alters the property valuation and assessment of certain railroad property depending upon their freight rates for agricultural commodities.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fiscal impact of HB 1369 will depend on the valuation of affected railroad property, the applicable freight rates resulting in the proposed calculation and the subsequent results, and the mill rates in affected districts, all of which are unknown.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/02/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1369

Page 2, line 7, after "year" insert "unless the property is leased to a person that is not the railroad or a subsidiary or an independent contractor of the railroad"

Renumber accordingly

Date: 2-11-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1369

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep Hawken Seconded By Rep. Price

Representatives	Yes	No	Representatives	Yes	No
Rep. Weisz - Chairman		✓	Rep. Delmore	✓	
Rep. Hawken - Vice Chair.	✓		Rep. Meyer	✓	
Rep. Bernstein	<u>abst</u>		Rep. Schmidt		✓
Rep. Dosch	✓		Rep. Thorpe		✓
Rep. Iverson	✓				
Rep. Kelsch	<u>abst</u>				
Rep. Owens	✓				
Rep. Price	✓				
Rep. Ruby	✓				
Rep. Vigesaa	✓				
Rep. Weiler	✓				

Total (Yes) 10 No 3

Absent 2

Floor Assignment Rep. Iverson

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

REPORT OF STANDING COMMITTEE (410)
February 11, 2005 12:13 p.m.

Module No: HR-28-2543
Carrier: Iverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1369: Transportation Committee (Rep. Weisz, Chairman) recommends DO NOT PASS
(10 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1369 was placed on the
Eleventh order on the calendar.

2005 TESTIMONY

HB 1369

HB 1369
2-4-05

HOUSE POLITICAL SUBDIVISIONS COMMITTEE

February 3, 2005

Testimony of Sara Hewson, Property Tax Specialist

HOUSE BILL 1369

Mr. Chairman, Members of the Committee, for the record my name is Sara Hewson. I am a Property Tax Specialist for the Office of State Tax Commissioner. My testimony concerns House Bill 1369.

HB 1369 would adjust the taxable value of railroad property assessable in this state by a factor derived from rates charged to shippers.

On the heels of several railroad industry bankruptcies, Congress enacted the Railroad Revitalization and Regulatory Reform Act of 1976, otherwise known as the 4R Act. In section 306 of this act, Congress clearly prohibits discriminatory tax treatment of railroads' properties and outlines actions which represent discrimination, one of which is differential assessment practices between railroad and other commercial and industrial property.

United State Code Title 49 Section 11501 states: "The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part."

The adjustment to the taxable value that is prescribed by this bill is in violation of the 4R Act, and Federal Law.

This concludes my prepared testimony. I will be glad to try to answer any questions.



November/December 2003

Volume 5; Number 5

U. S. Mining Tax News Bulletin

We are pleased to present another edition of PricewaterhouseCoopers' U.S. Mining Tax News Bulletin. These bulletins are designed to keep mining tax personnel abreast of the latest mining tax news by providing summaries of current court cases, TAM's and other technical material.

If you have any questions or would like additional information on a particular article, feel free to contact me or any other PwC contact listed on other pages of this document. For copies of past U.S. Mining Tax News Bulletins and other mining publications visit our website at www.pwc.com/mining.

Steve Ralbovsky, US Mining Leader

Recent court case helps to define §468 – reclamation & closing costs (*South Side Landfill, Inc. et al, v. United States of America, No. 1:95-CV-220, 8/1/03*)

The case of South Side Landfill (SSL) involved a taxpayer who had elected §468 to account for reclamation and closing costs for a particular landfill. Several years after making this election, the landfill in question was placed on the National Priorities List (NPL). §468(d)(2)(B)(ii) precludes taxpayers from using §468 for properties on the NPL (the NPL was established under the CERCLA rules).

The IRS contended that placement on the list was an implied revocation of the §468 election and, accordingly, should result in SSL including the balance of its §468 reserve account in taxable income in the year the property was placed on the NPL list. SSL disagreed, arguing that this provision only applies to "hazardous waste sites", citing the heading of this subsection of the code (§468(d)(2)(B)(ii))

In looking at the language of §468, the District Court determined that §468(d)(2)(B)(ii) did not specifically say that being listed on the NPL precludes a taxpayer from utilizing §468, however, the Court did indicate that it was reasonable to interpret the statute as including properties placed on the NPL as "hazardous waste sites" within the definition of the section. Therefore, the court found against SSL on this point, and SSL was precluded from using §468 for this property in the future.

The second area of contention addressed whether SSL was required under §468(a)(5)(A) to include in income the balance of its §468 reserve (i.e. it's previous § 468 deductions). The Court agreed with SSL on this issue, finding that nowhere in the plain language of the statute was it indicated that once a taxpayer's property was placed on the NPL was it required to recognize the previously deducted reserve as income. The Court explained that §468(a)(5) outlined circumstances in which recapture is appropriate, and that if Congress had intended §468(d)(2)(B)(ii) to trigger recapture they would have written it into the statute. Furthermore, the Court highlighted the implication from the statute that only reclamation or closing cost expenses incurred after the property is determined to be a hazardous waste site are prohibited from being deducted under §468. The Court concluded that the taxpayer was not required to recapture its §468 reserves. For further information, please contact Brandon Nett at (602) 364-8234 or via email at brandon.nett@us.pwc.com.

Wyoming Coal Transportation Tax invalidated by a federal court after being found in violation of the Railroad Revitalization and Regulatory Reform Act (*Burlington Northern and Santa Fe Railway Co. v. Atwood, D. Wyo.*, 271 F.Supp.2d 1359, 4/23/2003)

The US District Court for the district of Wyoming ruled the Wyoming Coal Transportation Tax (WCTT) is invalid due to provisions contained in Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The state of Wyoming enacted the WCTT, effective on January 1, 2001, imposing a tax on the greater of \$0.0001 for each ton, or portion thereof, of coal commercially transported per mile or \$0.50 per truck, trailer, or rail car used to transport coal. For the first year that the tax was due, two large rail companies, Burlington Northern/Santa Fe and Union Pacific railroad, shouldered 99.7% of the total tax burden brought about by the WCTT, and therefore filed suit in US District court on the basis that the tax was invalid under the 4R Act.

Under the provisions of the 4R Act, states are prohibited from imposing any tax which results in the discriminatory treatment of a common carrier by rail. The Court agreed that the intention of the WCTT was to tax the extraction of coal within the state, but nevertheless concluded that the WCTT "singled out railroads for the imposition of a tax that is not generally applicable to other commercial and industrial taxpayers and that the tax resulted in a discriminatory treatment of common carriers by rail," and, therefore, the Wyoming Department of Revenue was permanently prohibited from assessing, levying, or collecting the WCTT from the railroad companies. For further information, please contact Brandon Nett at (602) 364-8234 or via email at brandon.nett@us.pwc.com.

Upcoming Event

**8th Annual North American School of Mines
May 18-19, 2004
Scottsdale, Arizona**

For more information visit our website at: www.pwc.com/schoolofmines or contact:

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2-4-05 HB 1349

**Testimony of BNSF Railway Company Opposing HB 1369
(Railroad Property Tax)
February 2, 2005**

Good morning Mr. Chairman and members of the Committee. My name is Brian Sweeney, I am legislative counsel for BNSF Railway Company. BNSF opposes HB 1369, which deals with calculating property taxes for railroads

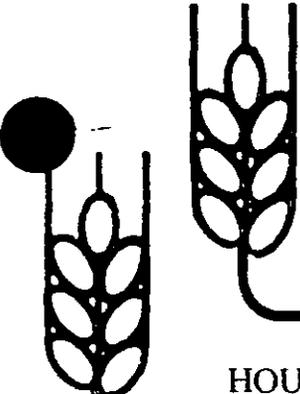
The stated goal of this bill is to make sure that the rates we charge grain shippers are reflected in our property taxes. They already are, because the revenues we generate in North Dakota are part of the tax formula.

As in all other states in which BNSF operates, the value of our property is determined for tax purposes using the unit method of value, which values our entire system as a going concern based upon economic performance. After our systemwide unit value is determined, a portion of the unit value is allocated to North Dakota under a formula that uses a number of allocation factors. In the manner prescribed by the State Board of Equalization, those factors are our revenue ton miles, track mileage and revenue.

So the revenue we collect in North Dakota is part of the formula used to determine the amount of our total value that is allocated to North Dakota for tax purposes. The system already says that the higher our rates in North Dakota, the higher our North Dakota revenue, the more our total value is allocated to North Dakota and the more taxes we pay here.

We also challenge the legality of this proposal. It would appear to fly in the face of at least three federal laws (the 4R Act, the Staggers Act and the ICC Termination Act) as well as the Commerce Clause of the U.S. Constitution.

The bill attempts to address a situation that is already addressed, and tries to do so in a manner that appears to be a violation of federal law. We urge you to not pass this bill.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

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HOUSE TRANSPORTATION COMMITTEE - REP. ROBIN WEISZ CHMN.
TESTIMONY OF NORTH DAKOTA GRAIN DEALERS ASSOCIATION
RE: HOUSE BILL 1369 - FEBRUARY 4, 2005

I'm Steve Strege, Executive Vice President of the North Dakota Grain Dealers Association. We are a 94-year-old voluntary membership trade association and over 90% of our state's grain elevators are members. We are here in support of HB 1369, with an amendment regarding leased property.

North Dakota has endured high rail freight rates on grain for years. We contribute much more than average to the railroads' bottom lines. Railroad net income on a carload of grain shipped from our state exceeds that of other states. This bill says that if they make more here they'll pay more tax here.

This is not a hearing on the proposed rail rate complaint being discussed in Appropriations, but some of the same evidence is germane to this bill.

On the back of my testimony is a bar graph comparing the revenue to variable cost percentage on wheat rates from North Dakota to Portland, OR on the right, with those from Nebraska on the left. The second bar from the right is Minot. The railroad rate there is slightly over 300% of its variable cost of providing the service. Nebraska rates hover around the 180% range, which is the Surface Transportation Board's threshold for challenge as unreasonable. This is what I mean about more railroad net income from us.

In a submission to the House Appropriations Committee regarding the rail rate complaint, one North Dakota elevator manager pointed out that according to the BNSF Railway's 2003 annual report its average revenue per ton per 1000 miles was \$18.27. This fellow's wheat rate going west was 47% higher, almost \$27, and going east 150% higher, almost \$45.

The railroad makes much more off its property here in North Dakota and so it should pay more tax here.

We support an amendment to exclude railroad property leased to third parties. That property is used by the payers of these high rates, not the receivers. With that we urge a Do Pass. Thank you. I'll try to respond to any questions.

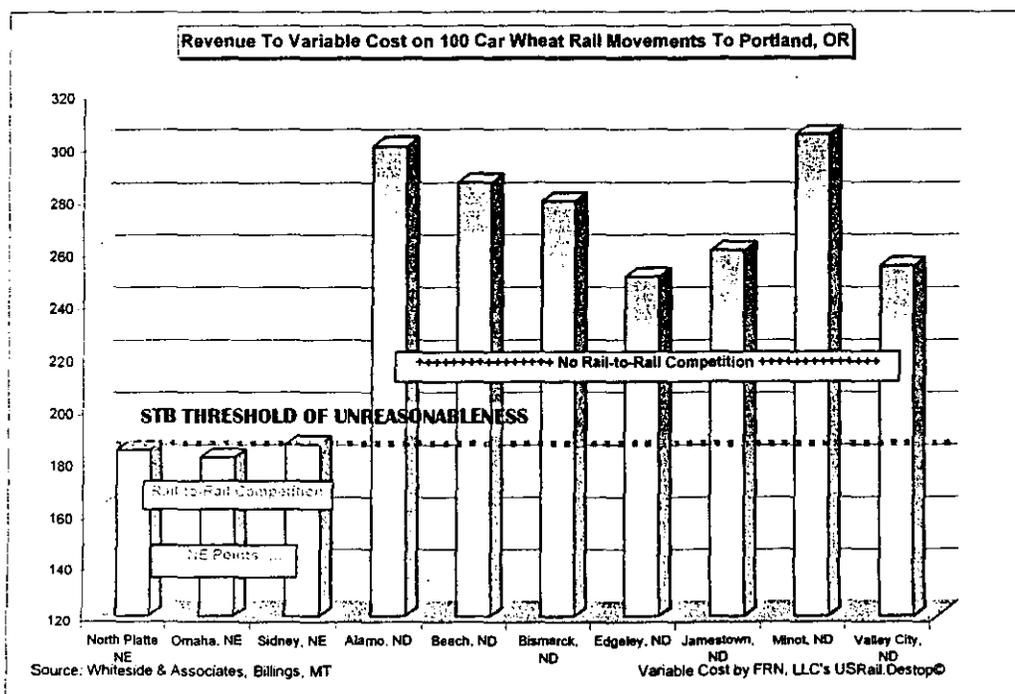
North Dakota Farm Producers Need Your Support On Filing A ND Formal Rate Complaint

Background

- ND has large areas of the state that are captive to the BNSF & CP
- Many ND grain areas have some of the highest freight rates on revenue to cost ratio in the nation because they are captive
- USA is the lowest cost producer of grain but is only a residual supplier of most grains due in large part to having a transportation monopoly between the producers and the ultimate overseas buyer of grain.
- Issue: Virtually all ND farm producers are captive to a single railroad, pay the high rates and get some of the worst service. ND is experiencing some of the worst car shortages in the last decade on the BNSF The answer is more competition for our rail systems which will bring more innovation and better service to the rail system.

Issues

- BNSF discriminates against ND farmers who don't have rail-to-rail competition by charging much higher rates on cost basis to ND farmers without competition than to farmers in states, such as Nebraska, that have rail-to-rail competition.
- Congressional delegations in other State's have voiced concern – MT, ND, ID, WV, MN, and SD. Governors of ND, MT, WY and SD have signed letters urging fellow governors to oppose BNSF discriminatory rate actions
- The rail rates ND Growers pay for rail transportation is so high due to lack of rail competition that it hurts the ND level of economic prosperity.



MEMORANDUM

TO: Representative Michael Brandenburg
FROM: Sara Hewson, Property Tax Specialist
DATE: January 25, 2005
SUBJECT: Railroad assessment method and Tax data

Re: HB 1369

The worksheet is the standard method for valuation of railroad operating property. As you can see the income, expense and stock values have been changed to zero. All of the calculations that are applied to the data are shown on the sheets provided as formulas.

The Capitalization Rate is a calculation done by the Utility Section of the Property Tax Division, and is used only for utility, railroad, pipeline, and airline assessments.

The Stock and Debt Indicator is used in place of the Market Data Approach due to lack of sales information.

The whole system is assessed and then the value is allocated by North Dakota's relationship to the system.

The "Level of Assessment" and "Level of Valuation" are statutory at 50% and 10%, respectively.

	A	B	C	D	
1	RAILWAY COMPANY				
2	2004 Tentative Assessment				
3					
4	COST INDICATOR				
5					
6	Investment in Transportation Property -				
7	Sched. 352A I. 31d	0			
8	Less: Depreciation I. 31e	0			
9					
10	Other Elements of Investment Acct. 80		=B7+B8		
11			0		
12	Depreciated Cost of:		=SUM(C9:C10)		
13	Noncapitalized Leased Locomotives	0			
14	Noncap. Leased Freight Train Cars	0			
15	Noncap. Hwy. Revenue Equipment	0			
16	Computer Equipment	0			
17	Vehicles	0			
18	Work Equipment	0			
19	Pro Forma Purchased Power	0			
20	Roadway Machines	0			
21	Depr. Cost of Noncap. Leased Equip.				
22	Adjusted Book Investment		=ROUND(SUM(B13:B20),0)		
23	Plus Materials & Supplies		=C11+C21		
24			0		
25	Less: Obsolescence - 5 years	0		=C22+C23	
26	COST INDICATOR OF VALUE			=ROUND(B25*D24,-3)	
27					=ROUND(D24+D25,-6)
28	VALUE BY CAPITALIZATION				
29					
30	2003 NROI				
31	5-Year Average NROI			0	
32	Avg. NROI% of Avg. Rway. Op. Rev.	=IncomeI D28	=IncomeI B28	=IncomeI F16	
33	Average			=ROUND(B32*C32,-3)	
34	3-year Average NOI			=AVERAGE(D30:D32)	
35	Addition to NROI for Noncap. Leased Equip.			=Income F18	
36	adjusted for income tax - 5 year avg. (1)				
37	Income to be Capitalized - 5-Year Average plus			=B131	
38	addition to NROI for Noncap. Leased Equip.	=D34+D36			
39	INCOME INDICATOR OF VALUE				Capitalized @ 0% (Based on Capitalization Rate Study done by State Board Assessor)
40					=ROUND(B38/D38,-6)
41	STOCK AND DEBT INDICATOR				
42					
43	Market Value of Corporation Stock		0		
44					
45	Railway Company				
46	Notes and Debentures	0			
47	Equipment Trusts	0			
48	Capitalized Lease Obligations	0			
49	Financing Obligations	0			
50	Miscellaneous Debt Obligations	0			
51	Subtotal		=SUM(B50)		

	A	B	C	D	
52					
53	Corporation				
54	Notes and Debentures	0			
55	Equipment Trusts	0		(included in leased equipme	
56	Commercial Paper	0			
57	Miscellaneous Debt Obligations	0			
58	Subtotal		=SUM(B54:B57)		
59					
60	Total Stock and Long Term Debt			=C43+C51+C58	
61					
62	Continued on next page.				
63					
64	Corporation				
65	Consolidated Balance Sheet				
66	Current Liabilities	0			
67	Less: Current Portion of LTD	0			
68	Net Current Liabilities		=B66+B67		
69	Other LT Liab. & Def. Credits @ 50%		0		
70	Subtotal Current & Other Liab.			=SUM(C68:C69)	
71	Less: Current Assets	0			
72	Less: M&S (railroad)	0			
73					
74	Net Current & Other Liabilities			=(B71+B72)	
75	Stock and Debt Valuation				=D70+D73
76	Less: Nonoperating Assets	0			=ROUND(+E60+E74,-3)
77	Subtotal - operating property				=-ROUND(B76*E75,-3)
78	Less: Value attributable to expensed railroad M&S				=E75+E76
79	Cost of expensed railroad M&S 410.				
80	Less system obsolescence			0	
81				=-ROUND(B25*D79,0)	
82	Ratio subtotal op. prop. to cost indicator	=E77	=E26	=D79+D80	
83				=ROUND(B82/C82,4)	
84	Subtotal adj. for expensed M&S				=-ROUND(D81*D82,0)
85					=E77+E83
86	Rental of Noncapitalized Leased Equipment				
87					0
88	STOCK AND DEBT INDICATOR OF VALUE				
89					=ROUND(E84+E86,-6)
90	CORRELATED SYSTEM VALUE				
91					=E39
92	Less: Tangible Personal Property (2)				
93					=-E166
94	Less:				
95	"Fair Market Value of Computer Software" @ pers. prop. %		0		
96	"Fair Market Value of Assembled Workforce" @ pers. prop.		0	=ROUND(E166/E90,4)	
97				=ROUND(E166/E90,4)	
98					
99	SYSTEM VALUE Real Property				=-(C95*D95)+(C96*D96)
100					
101	ALLOCATION				=ROUND(SUM(E90:E97),-3)

	A	B	C	D
102				
103	North Dakota Allocation Factors:			
104	Gross Earnings	0		
105	Revenue Traffic Units	0		
106	Car & Locomotive Mileage	0		
107			=ROUND(SUM(B104:B106),4)	
108	North Dakota Allocation Factor			=ROUND(C107/3,4)
109	North Dakota Allocated Value - Real Property			=ROUND(E99*E108,-6)
110	x Level of Assessment			0.5
111				
112	ASSESSED VALUE			=TRUNC((E109*E110)/1000000)*1000000
113				
114	x Level of Valuation			0.1
115				
116	TAXABLE VALUE			=E112*E114
117				
118	(1) Calculation of addition to income indicator for noncapitalized leased equipment:			
119				
120	Rental: Operating Leases		0	
121	Depr.: Operating Leases		0	
122	Interest and profit portion		=C120+C121	
123	Adjust for income tax - 0.0% effective rate per annual report		0	
124	Interest and profit portion adjusted for income tax			=ROUND(C122*C123,-3)
125				
126	1999	0		
127	2000	0		
128	2001	0		
129	2002	0		
130	2003	=D124		
131	Average	=AVERAGEA(B126:B130)		
132				
133				
134	(2) Personal property calculation:			
135				
136	Amount of cost indicator attributable to noncapitalized leased equip.	=ROUND(C21/D24,5)	=ROUND(E26*B137,0)	
137				
138				
139	Projected Income	=D34		
140	Amount from noncapitalized leased equipment		=ROUND(B137*B139,0)	
141	Plus addition to NROI		=D36	
142			=C140+C141	
143	Capitalized @	=D38		
144	Amount of income indicator attributable to noncapitalized leased equipment			=ROUND(C142/B143,0)
145				
146				
147	Value of stock attributable to noncapitalized leased equipment		=ROUND(B137*C43,0)	
148			=E86	
149	Plus addition to stock and debt			
150	Amount of S&D indicator attributable to noncapitalized leased equipment		=C148	
151				

	A	B	D	E
152				
153	Amount of income indicator attributable			
154	to noncapitalized leased equipment	=C145		
155				
156	x Ratio System Value to Income Indicator	=ROUND(E90/E39,5)		
157				
158	Noncap.leased equipment deduction			=B154*B156
159				
160	System value less noncapitalized equip.		=E90-E158	
161				
162	x personal property percentage excl. noncap. lsd. equip.		0	
163				
164	Other personal property deduction			=ROUND(D160*D162,0)
165				
166	Total personal property deduction			=E158+E164

	A	B	C	D	E	F	G	H	I	J	K	
1	RAILWAY COMPANY						Source - Pro Forma R-1 Sch. 210					
2	2004						2003 Annual Report to the Surface Transportation Board.					
3	INCOME INDICATOR											
4												
5												
6												
7												
8		Net Road and Equipment (R1 Sched. 200)			Adj. to		NROI	NROI Adj. for				
9		<u>Req. of Yr.</u>	<u>End of Yr.</u>	<u>Avg. dur. Yr.</u>	<u>12/31/03</u>	<u>Provided by BNSF</u>	<u>Investment</u>					
10	1999	0	0	=SUM(B10:C10)/2	=ROUND(\$C\$14/D10,2)	0	=ROUND(E10*F10,0)					
11	2000	0	0	=SUM(B11:C11)/2	=ROUND(\$C\$14/D11,2)	0	=ROUND(E11*F11,0)					
12	2001	0	0	=SUM(B12:C12)/2	=ROUND(\$C\$14/D12,2)	0	=ROUND(E12*F12,0)					
13	2002	0	0	=SUM(B13:C13)/2	=ROUND(\$C\$14/D13,2)	0	=ROUND(E13*F13,0)					
14	2003	0	0	=SUM(B14:C14)/2	=ROUND(\$C\$14/D14,2)	0	=ROUND(E14*F14,0)					
15	TOTAL					=SUM(F10:F14)	=SUM(G10:G14)					
16	AVERAGE					=ROUND(F15/5,-3)	=ROUND(G15/5,-3)					
17	WGTD. AVG.					=ROUND((F10+(2*F11)+(3*F12)+(4*F13)+(5*F14))/15,-3)	=ROUND((G10+(2*G11)+(3*G12)+(4*G13)+(5*G14))/15,-3)					
18	3-year avg.					=AVERAGE(F12:F14)						
19												
20		Total Rway.		NROI% of Tot.								
21		<u>Op. Revenue</u>	<u>NROI</u>	<u>Rway. Op. Rev.</u>								
22	1999	0 =F10		=ROUND(C22/B22,4)								
23	2000	0 =F11		=ROUND(C23/B23,4)								
24	2001	0 =F12		=ROUND(C24/B24,4)								
25	2002	0 =F13		=ROUND(C25/B25,4)								
26	2003	0 =F14		=ROUND(C26/B26,4)								
27	TOTAL	=SUM(B22:B26)	=SUM(C22:C26)	=SUM(D22:D26)								
28	AGG. MEAN	=ROUND(B27/5,-3)		=ROUND(C27/B27,4)								
29												
30												
31		Total Rway.		Rway. Op. Rev.								
32		<u>Op. Revenue</u>	<u>Multiplier</u>	<u>Adj. for Inv.</u>								
33	1999	=B22	=ROUND(\$C\$14/D10,2)	=ROUND(B33*C33,0)								
34	2000	=B23	=ROUND(\$C\$14/D11,2)	=ROUND(B34*C34,0)								
35	2001	=B24	=ROUND(\$C\$14/D12,2)	=ROUND(B35*C35,0)								
36	2002	=B25	=ROUND(\$C\$14/D13,2)	=ROUND(B36*C36,0)								
37	2003	=B26	=ROUND(\$C\$14/D14,2)	=ROUND(B37*C37,0)								
38	TOTAL			=SUM(D33:D37)								
39	AVERAGE			=D38/5								