

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By Chairman J.D. Lynch, on February 23, 1991, at 8:30 a.m.

#### **ROLL CALL**

**Members Present:**

J.D. Lynch, Chairman (D)  
John Jr. Kennedy, Vice Chairman (D)  
Betty Bruski (D)  
Eve Franklin (D)  
Delwyn Gage (R)  
Thomas Hager (R)  
Jerry Noble (R)  
Gene Thayer (R)  
Bob Williams (D)

**Members Excused:** None

**Staff Present:** Bart Campbell (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** None

#### **HEARING ON SENATE BILL 455**

#### **Presentation and Opening Statement by Sponsor:**

Senator Gene Thayer, sponsor of the bill, stated for one hundred years along the great northern railroads, Milwaukee, Burlington Northern, there was a policy of not selling the land, but instead they would lease land to a prospective shipper. They made the leases at a very nominal rate, and the leases typical of any railroad lease were one sided. The railroad technically controlled the whole thing. They would make a year to year, or they may extend them for five years as financing a financing became a problem in later years, they were even willing to put in language that would allow you to get a twenty or even a thirty year loan. People were reluctant to loan large sums of money on property that was being leased rather than loaned. A few years back, when Burlington Northern split the company up into three different companies one of the companies that was formed was called Glacier Park Company. A large vast amount of land was transferred into Glacier Park Company. Glacier Park Company

would have the function in the corporation as being the realtor. It is an entirely separate corporation, it has different officers, directors, and absolutely no linkage to the old corporate structure. There was to be an agreement that shippers on the present burlington northern railroad were to be protected. The idea was land in which the shippers were involved was not to be transferred as part of the statutes, rather this was to be land that was non needed by the operating railroad. Presumably there was no right of way land, there was no land involved with any of their shippers. Some of the land that burlington northern bought was not going to be transferred to glacier park company. It did get transferred. In some cases these shippers on burlington northern were not notified that the land was being offered for sale. Some of the land was sold to third party. If you and the banks were the proud owner of several million dollars of property, and a fellow walks into your office and says that he is your new landlord, he just bought your land that your elevators are sitting on, and he will be willing to negotiate. For starters he would sell you the land at four or five times what it was worth. There was a bill introduced last session to prevent this from happening. The bill was amended and with all the arguments from all of the adjacent land owners, it got first right of refusal. The rails people became involved in the legislation and the net result was that the bill died in the house. Knowing that similar legislation was being introduced in the house this year, he stayed out of it. He has been effected by not having this piece of legislation. In the future there is going to be a lot more land involved in similar situations if something is not done. The bill in the house was separated, and the rails thing was taken out of the bill. It was put into a separate committee bill, and yesterday morning the house committee did pass the bill. There is a clause in the bill that if one bill dies, they both die. The bill that he has drafted has a lot of similarities to the bill in the house, but there is one major difference. The difference is the house version of this only speaks to the first right of refusal in the land is offered for sale. In some cases, the third party person may say that he does not want to sell the land, but will continue to lease it. The lease should not be worth ten thousand a year, it should be worth one hundred thousand dollars a year. So you will have the same situation. There will be people sitting there with a million dollars of property, sitting on a piece of leased land that they were enjoying a very nominal lease because that was their agreement with the railroad. The railroads enjoyed the benefits of products being shipped in and out of the railroad, and these people whether they come in and try to gauge you for the price of land, or they try to gauge you on the lease. The result is the same. This bill also has language that says that the lease has to be very reasonable, and tied to market values. It also says that if in the event that you are totally damaged, and you are evicted from the property that the new owner has the responsibility to pay for the lease hold. There were some things in the house bill that should be in this bill. They are pretty technical in nature, one had to do with definition. He has

received a call from Pam Langley, who has been working on this bill on behalf of the Montana elevators association, and because of the time element, he would ask the committee to allow him to work on those amendments and he would present them to the house or possibly on the floor.

Proponents' Testimony:

Jim Peterson, representing about three thousand livestock producers across the state, Montana stockgrowers association, stated that many of these people are landowners in this situation. It is important that the lease holder has the first right of refusal.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked who pays for the appraisals.

Senator Thayer replied that the new owner of the land, or the current owner of the land would have to pay for his appraisals, and seller pays for his own appraisal. They split the cost on the third appraisal.

Senator Kennedy asked if this was for any business, or for strictly one kind of business.

Senator Thayer replied it is any land that is within three hundred feet of the railroad right of way. They are interested in protecting the property adjacent to the railroad.

Senator Kennedy stated that in Kalispell burlington northern owns ten acres right in the side of city council. It has a lot of billings on it. They are in the process right now of selling that along with some city land, to a shopping mall situation.

Senator Thayer stated that if they own property on land that they are right now leasing from the railroad, or any prospective buyer on the railroad, and they are within three hundred feet then they would come under this bill. He stated that having heard a bill that involves what Senator Kennedy is talking about in taxation, that's wrapped up and they need to get an extension of the act dealing with downtown developments. That passed through taxation tax increment suburb and renewal.

Senator Hager stated that he went through a situation where they wanted to buy some railroad land, and eventually they sold it to him on a quick claim deed. He found out that he couldn't record the quick claim deed. Under this language it says that an owner may transfer title under this section with a quick claim deed rather than a warranty deed. He eventually had to go through a survey in order to get the quick claim deed recorded.

Pam Langley, representing the Montana agriculture business association, the Montana grain elevators association, and the Montana seed trade association, stated that provision was added by the railroads because they felt that they had to have the

quick claim deed in there because of how the land was acquired. That was a burlington northern provision.

Senator Hager commented that in his case, the cost of the survey was quite a bit more than the cost of the land.

Senator Lynch asked if their individuals that have ended up with land that somebody else has property on, or is it strictly the glacier park company.

Senator Thayer stated that the glacier park company has already sold land. There are four third party groups currently. Glacier park company has been ordered by their corporation to sell and dispose of all of it's land.

Senator Lynch asked that Senator Thayer has already been damaged as far as somebody else owns the land that he would have liked to have first shot at. This bill goes into the lease part of it. Those people bought with the understanding that they are not limited by this law. This law wasn't on the books. He asked if Senator Thayer was confident that he can go back and make this law taking away rights that they purchased some months back.

Senator Thayer stated that he may be right, but the past will all come to the test.

Senator Gage stated line six on page two where it says "has a right of first refusal to purchase the land" they may want to put "to purchase or lease".

Senator Thayer stated that was a good suggestion.

Senator Hager asked if this also applies to cases where the tracks have been pulled out.

Pam Langley replied that was the intent to include the land where the tracks have been pulled out.

#### Closing by Sponsor:

Senator Thayer closed by saying that this bill is an important issue to a lot of people.

#### EXECUTIVE ACTION ON SENATE BILL 455

#### Motion:

Senator Hager moved that SB 455 do pass.

#### Discussion:

None

#### Amendments, Discussion, and Votes:

None

#### Recommendation and Vote:

The motion to do pass SB 455 passed unanimously.

EXECUTIVE ACTION ON SENATE BILL 281

Motion:

Senator Franklin moved to table SB 281.

Discussion:

None

Amendments, Discussion, and Votes:

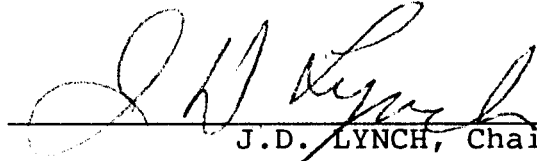
None

Recommendation and Vote:

The motion to table SB 281 passed unanimously.

ADJOURNMENT

Adjournment At: 9:15 a.m.

  
J.D. LYNCH, Chairman

  
DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

B&I COMMITTEE

DATE 2/23/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
WILLIAMS	X		
THAYER	X		
NOBLE	X		
HAGER	X		
GAGE	X		
FRANKLIN	X		
BRUSKI	X		
KENNEDY	X		
LYNCH	X		

Each day attach to minutes.

COMMITTEE ON

DATE

2/23/91

## VISITORS' REGISTER

NAME

REPRESENTING

BILL #

Check One

Support

Oppose

Sam Langley

MABA, MGEA, MSTA

455

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(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE B&I

Date 2/23/91 Bill No. SB455 Time 8:30

NAME	YES	NO
WILLIAMS	X	
THAYER	X	
NOBLE	X	
HAGER	X	
GAGE	X	
FRANKLIN	X	
BRUSKI	X	
KENNEDY	X	
LYNCH	X	

D ANDERSON  
Secretary

JD LYNCH  
Chairman

Motion: DO PASS



ROLL CALL VOTE

SENATE COMMITTEE BEI

Date 2/23/91 Bill No. SB281 Time 8:30

NAME	YES	NO
WILLIAMS	X	
THAYER	X	
NOBLE	X	
HAGER	X	
GAGE	X	
FRANKLIN	X	
BRUSKI	X	
KENNEDY	X	
LYNCH	X	

D ANDERSON  
Secretary  
Franklin  
Motion: TABLE

JD LYNCH  
Chairman

SENATE STANDING COMMITTEE REPORT

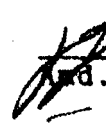
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MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 455 (first reading copy -- white), respectfully report that Senate Bill No. 455 do pass.

Signed: \_\_\_\_\_

  
John "J.D." Lynch, Chairman

 2-23-91  
Ad. Coord.

SB 2-23 10:10  
Sec. of Senate

420915SC.Sjl

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 23 day of February, 1991.

Committee: Business & Industry

Bill: SB 281

Action: Table

Ken F. Anderson  
Signature

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