

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on March 9, 1995, at
3:10 p.m. in room 410.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Carla Turk, Committee Secretary

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

Committee Business Summary:

Hearing: HJR 13
HB 364
HB 448

Executive Action: None

HEARING ON HB 448

Opening Statement by Sponsor:

REPRESENTATIVE ROGER SOMERVILLE, HD 78, Kalispell, said HB 448 clarified the legal responsibility of railroads in Montana, on their right-of-way. He said he wanted to specify; the railroad's right-of-way responsibilities in Montana. He said the legal language was important in the current law and they wanted to change the law to clarify the language for all parties involved.

He attested the specific intent was to require the railroads to maintain their right-of-ways and to remove all fire hazards. He said that with current law a fire which started on land adjacent to the railroad right-of-ways, through no fault of the railroad, and burned onto the railroad right-of-way could have required the railroad to pay the entire fire damage costs. He said the language had been cleaned up in Section 1 and now specified that railroads were responsible for their right-of-way areas, but not the areas of the adjacent landowners. He said that with the new language, if a fire started on land adjacent to the railroad right-of-way, through no fault of the railroad, and burned across the right-of-way the railroad would no longer be automatically held responsible. He maintained that if the railroad was at fault for a fire started either on or off the railroad right-of-way, the railroad would pay the damages. **REPRESENTATIVE SOMERVILLE** stated the House Highways & Transportation Committee had amended the Bill and requested the right to close.

Proponents' Testimony:

Russ Ritter, Governmental Affairs Director for Montana Rail Link, said they had requested the Bill be drafted. He reiterated the sponsor's statement that the Bill simply updated current law regarding who had the responsibility of a fire, both within the right-of-way as well as outside the right-of-way. He emphasized that the proposed change would not eliminate the railroad's responsibility for any fire initiated as a result of a train or a maintenance-of-way crew on the right-of-way or any property adjacent to the right-of-way. He termed that a key point, as it still held the railroads responsible for any fire they started. He said that if a fire was started by an individual off of the right-of-way, and it spread to the right-of-way, then it would become the individuals responsibility to pay the damages.

Mr. Ritter He said they had reviewed the amendments made by the House Committee and stated they thought the changes were reasonable. He reported his company was not trying to get away from any responsibility. He further contended the equipment and technology the railroad had today was capable of identifying when and where a fire was started, and attested that if a fire was started they still would take responsibility for extinguishing that fire and for the adjacent property damages.

James Lofftus, President, Montana Fire District Association, said they were in favor of HB 448, providing that if the railroad caused the fire they would pay the damages.

Opponents' Testimony:

Russell Hill, representing the Montana Trial Lawyers Association, said opposed HB 448 even though it leveled the playing field which was in favor of agricultural interests. He said the

language struck began on line 19. He stated that under current law a fire which burned private or railroad property along the railroad was considered prima facie evidence that the railroad was at fault and meant that the railroad had to show the fire was not their fault. He reported HB 448 would remove the burden of the railroads having to disprove that fault. He stated the House Committee amendments were good, but "dangerous" had not been inserted on line twenty-three as "dangerous" had been added to "combustible material" on line 15. He said that as a result of the exclusion on line twenty-three a railroad corporation or company may be required to keep that area free of "dangerous" materials. He termed the omission a possible technical problem.

Wade Cykorski, a Fallon County Rancher, said he opposed the Bill because he thought it would place an unfair burden on farmers and ranchers. He maintained that railroads started a lot of fires and expressed the feeling that it was safe to assume a railroad was responsible when a fire started along a railroad line. He said he felt current law was fairer to farmers and ranchers. He expressed the feeling that the railroads were trying to shirk their responsibility for fires, by placing the burden on proof on farmers and ranchers.

Questions From Committee Members and Responses:

SENATOR RIC HOLDEN asked **Russ Ritter** to respond to **Mr. Cykorski's** statement. **Mr. Ritter** said he had hoped he had made that point clear, that the responsibility would be obvious that when a train passed through and a fire started, it would be proved the railroad started the fire even if no one saw it happen. He said the railroads were trying to get the portion of law changed which pertained to a fire which originated some place else and came onto the railroad right-of-way.

SENATOR HOLDEN asked if current law wasn't already the way he described it? **Mr. Ritter** said that was not currently correct. He said that under current law the railroad was responsible for paying damages, no matter where the fire started, if it came onto their property.

SENATOR LINDA NELSON asked the width of the railroad right-of-way? **Mr. Ritter** said that varied, as their railroad had areas where the right-of-way was 600 feet wide and some were as narrow as 25 feet on each side.

SENATOR NELSON asked what an average width would be? **Mr. Ritter** said it would probably be in the area of 100 + - feet on each side.

SENATOR BARRY "SPOOK" STANG asked if it was possible to tell the point of origin for every fire started? **Mr. Hill** said he knew professionals had good means of investigation, but he also knew that in the context of litigation it was very difficult to prove.

SENATOR STANG asked how far train sparks usually flew? **Mr. Ritter** said he thought that depended on weather conditions and the combustibility factor associated with higher temperatures as well as wind factors.

SENATOR STANG asked if it would be possible for a train to pass through an area, start a fire off of the railroad right-of-way, and then have the fire return to the right-of-way? He asked how it would be proved the train, not some one else, started that fire? **Mr. Ritter** said he thought **SENATOR STANG'S** description would be obvious and did not feel that was the point being argued. He said he thought they were trying to identify and change the fact that it became difficult to prove when it was not the train's fault.

SENATOR STANG asked if the state fire bureaus had investigated fires originating along the railroad track, when the point of origin had been in question? **Mr. Ritter** said he could only answer for the Missoula University area where there had been a number of fires started when no trains had been in the locale for as many as fourteen hours, and under current law it was still their responsibility.

SENATOR STANG said he knew it was possible, in a forested area, for a spark to smolder for two or three days before a fire started. He asked if that wouldn't make it possible for a fire to have a delayed start from a train spark? **Mr. Ritter** said he thought it would be possible in the Senator's description, but didn't think that was the total case.

SENATOR MACK COLE asked if the Bill was talking about keeping the right-of-way clean of combustibles, and how was it defined? **Mr. Ritter** answered that the railroad's responsibility was to keep the right-of-way reasonably clean of debris which would cause these types of things. He said it was for their own good, as well as the neighbor's, because the railroads knew they would probably start more fires than the adjacent property owners would. He said they had concerns because last year, along their 970 + miles of track, their company spent \$566,000 in keeping their right-of-way clean.

SENATOR MACK COLE asked whose responsibility the fire was on leased land? **Mr. Ritter** said he thought that if the railroad was responsible for the fire, it was the railroad's responsibility, even if it was on the leased land. He stated that if the fire was started by the individual leasing the land, then the damages would be the individual's responsibility.

SENATOR LINDA NELSON asked if this matter had been a big problem, so as to prompt proposal of the Bill? **Mr. Ritter** said it had not been a large problem, except that the railroad had encountered a number of cases where their railroad company had paid some large damages which they felt their company had nothing to do with.

CHAIRMAN TVEIT asked what was meant by "reasonable" on line 13, as opposed to the current "100 feet"? **Mr. Ritter** said that sometimes it could be less than the 100 feet, if there appeared to be a natural boundary such as a river, even if the railroad owned some right-of-way on the other side of the river.

CHAIRMAN TVEIT asked how the railroad was going to regulate the "reasonable" distance language, especially in the fall season when they had an entire right-of-way which was combustible dried material? **Mr. Ritter** said that any time a fire started on railroad property, within any right-of-way, it would still be the railroad's responsibility. He stated they were only trying to identify outside the right-of-way, where the fire started.

CHAIRMAN TVEIT asked how current law made the railroad responsible for a fire which started on adjacent property? **Mr. Ritter** said that if the fire started on adjacent property and came onto the right-of-way, then the railroad felt it should be the responsibility of those who started the fire.

CHAIRMAN TVEIT asked if the railroads didn't prove someone else's guilt in those cases? **Mr. Ritter** said they would like to think that would happen, but it was very hard to prove with the law in its current form.

CHAIRMAN TVEIT asked if the Bill would turn the burden of proof around by 180°? **Mr. Ritter** said that they were only trying to make the railroads responsible for what they did and not necessarily responsible for what they did not do.

Closing by Sponsor:

REPRESENTATIVE SOMERVILLE said House discussion had revealed that if 100 feet remained in the law, it could require the railroad to keep private property clean in some areas. He said that was why "reasonable" appeared in the language. He said that modern railroad equipment helped reduce the number of fires that railroads presently started. He stated that spark arresters were put on equipment, and today most railroad caused fires were started by maintenance crews doing track work.

HEARING ON HJR 13

Opening Statement by Sponsor:

REPRESENTATIVE TONI HAGENER, HD 90, Havre, said HJR 13 was intended to bring the importance of uninterrupted Amtrak service to Montana and its citizens to the attention of Montanans and their Congressional Delegation. She said the resolution wasn't asking for money, but asked for concern for jobs, support for jobs, for the economy and for a public transportation facility

which provides service to Montana citizens. She said Amtrak's proposed reduction of service from seven to four days a week, which began last month, has had an immediate and significant economic impact on the Ski Tourist Industry of western Montana. She stated there were over five hundred cancellations on the second day of the change. She said it was estimated that seventy-five percent of the annual visitation to western Montana was during February and March and approximately one-third of that number arrived by Amtrak. She reported reduced service had interfered with connecting schedules for those tourists. She termed Amtrak the only available commercial transportation along U.S. Highway 2. She stated there was approximately seven hundred miles along the northern stretch of Montana which had no interconnecting east or west commercial transportation connections unless it was provided via Amtrak. She Amtrak was not only used for HiLine connections, but as a connection for the east and west coast cities, for medical services and numerous other services. She said the cut in service affected all northern states in the United States and created a type of isolation.

REPRESENTATIVE HAGENER remarked that the "whereases" within HJR 13 gave a detailed list of what the loss of daily service by Amtrak would mean to Montanans. She directed attention to the last three, because they showed how broad and significant the economic impact was. She emphasized that Amtrak was safer than driving, especially during winter driving conditions, and ridership had shown a steady rise over the years. She reported that according to the National Rail and Passenger Corporation, the total Montana ridership in 1994 was 149,304. She said that in 1994 Amtrak employed 57 Montana residents whose annual earnings totaled \$2.4-million. She said these figures did not include the corollary jobs and earnings of suppliers, tourist industry related businesses, etc. She reported support for continued daily service by Amtrak had come from Chambers of Commerces, WIFE, and Fort Peck Indian Reservation. She handed out a resolution supporting continued service from the Fort Peck Indian Reservation (**EXHIBIT # 1**).

REPRESENTATIVE HAGENER stated the proposed cutbacks would produce the opposite affect as desired, during a time when Montana was seeking good, clean forms of economic development, increased jobs and better more efficient services to its cities.

Proponents' Testimony:

Maureen Cleary Schwinden, representing Women Involved in Farm Economics (WIFE), expressed their desire to go on record as in support of HJR 13. She stated their appreciation for **REPRESENTATIVE HAGENER'S** effort in addressing a real and serious concern of those who lived in the far northeastern corner of Montana. She urged the Committee's support.

Fran Marceau, State Legislative Director for the United Transportation Union, submitted (EXHIBITS # 2, 2A, 2B, & 2C). He urged the Committee's support of HJR 13 and read exhibits 2B and 2C.

Dave Ditzel, representing the Brotherhood of Locomotive Engineers, said they had employees on Burlington Northern and Montana Rail Link in Montana. He said he thought HJR 13 would be useful to Montana's Congressional Delegation when the matter was being considered in the U.S. House of Representatives. He stated that U.S. Senator Burns' transportation sub-committee was televised on CSPAN during consideration of the reduction. He said that when the National Railroad Passenger Corporation made judgements concerning the projected national traffic formula, many of the decisions would be based on Congressional considerations.

Matthew Cohn, Administrator for the Travel Promotion Division for the Department of Commerce, said that for many of the reasons already stated they also stood in support of HJR 13.

Don Judge representing the Montana State AFLCIO, said that in order to provide revenue to the communities, they concurred in all of the previous proponents testimony and urged the Committee's support.

Pat Keim, said he was speaking as a private citizen, but could state that before moving to Helena he had been a Superintendent for Railroad Operation for Burlington Northern along the entire corridor which **REPRESENTATIVE HAGENER** described. He stated having had a first hand sight of the ridership on Amtrak and knowing well the importance of Amtrak to that area. He reported that as his reason for supporting HJR 13.

Russ Ritter, representing Montana Rail Link, said they did not serve Amtrak in any of their areas, but it was a good railroad and passenger service which they supported.

Pat Saindon, Administrator of the Transportation Planning Division of the Montana Department of Transportation (MDT), said she was present in support of HJR 13 and to let it be known that the MDT had been working with the Governor's Office to help find some resolution to this problem.

Wade Cykorski, said he was in favor of the Resolution because it was environmentally friendly and was an energy efficient means of transportation.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR BARRY "SPOOK" STANG asked if it was known how much money the federal government put into Amtrak? **Fran Marceau** replied it was his understanding that U.S. House Transportation Committee decided \$900-million would be allocated this year, \$700-million next year, \$600-million the following year, and \$500-million after that.

SENATOR STANG asked the sponsor if she thought it rather hypocritical of the Legislature to ask our elected Congressional Members to vote for a balanced budget amendment, while on the other hand tell them not to cut federal funds? **REPRESENTATIVE HAGENER** expressed the need to point out that not all of the information regarding Amtrak was included in the original budget, such as mail and floral contracts. She submitted that anyone could prove indication of poverty and need for subsistence if we were not to reveal all of their income. She said she thought greater investigation was necessary. She stated that just because the area was small, isolated, and low in population it was an easy target for cuts.

SENATOR STANG reiterated the desire to know if the sponsor thought it was hypocritical to request the money be left in? **REPRESENTATIVE HAGENER** said she still thought this was a very necessary thing for the State of Montana and did not consider her action of introducing the Resolution as hypocrisy.

SENATOR REINY JABS asked if testimony had stated that Amtrak trains ran full of passengers most of the time, and what was the percentage of ridership? **Fran Marceau** said it was his understanding that a majority of the time the Empire Builder ran through Montana it was at full capacity.

SENATOR CHUCK SWYSGOOD referred to the testimony handed out, on the last page (2C), paragraph 2 where it stated that "Amtrak is a necessary component of a balanced transportation system." He said the cost of a mile of highway construction was stated to be \$2.2-billion. He asked if that was a typo, as \$2.2-million may be closer to a realistic figure? **Fran Marceau** said the \$2.2-billion was the most expensive stretch of highway, Boston Harbor Highway. He said the figures **Dave Galt, MDT** had given him for Montana were \$1.5-million and a mile of railroad as \$1-million.

Closing by Sponsor:

REPRESENTATIVE HAGENER thanked the Committee for a good hearing and the proponents for their support. She said she thought the number of proponents indicated how seriously Montana considered the need for continuing Amtrak service across the HiLine.

HEARING ON HB 364Opening Statement by Sponsor:

REPRESENTATIVE NORM MILLS, HD 19, Billings, said HB 364 was a small bill which was an honest attempt to save a small amount of money for Montana, without cutting any programs. He depicted the Bill as a telecommunications Bill. He stated that historically, law had required railroads to maintain a freight agent in a town with a population greater than 2,000. He said that in 1987 a process had been established to allow railroads to petition the Public Service Commission (PSC) to individually close a freight agency. He said that if the railroad could prove to the PSC that a manned agency was not needed for the benefit of public convenience necessity, the PSC would allow closure of the freight agency. He said the closure meant that manual tasks once done by the agent were now being done by FAX, telephone and electronic means. He said agency closures were made through a hearing process for each agency under proposed closure. **REPRESENTATIVE MILLS** said HB 364 encouraged a modern approach for agency closures, because it allowed for a test period while the agent was still there, without a hearing. He stated that if there were not adequate protests during the test period, the PSC could allow closure without a hearing. He stated that if there were protests a hearing had to be held or the railroad would drop their request for closure. He passed out two handouts (**EXHIBITS # 3 & # 3A**).

Proponents' Testimony:

Pat Keim, Director of Government Affairs for Burlington Northern Railroad, read testimony beginning on page 2 of **Exhibit # 3**. Mr. Keim summarized by stating that HB 364 retained shipper protection, reduced the State's cost of unneeded hearings, and allow railroads to modernize their service. He identified letters of support from the following proponents:

Columbia Falls Aluminum	(EXHIBIT # 4)
Pacific Steel & Recycling	(EXHIBIT # 5)
W. M. Vaughey, Jr.	(EXHIBIT # 6)
General Mills, Inc.	(EXHIBIT # 7)
Watkins Shepard Trucking, Inc.	(EXHIBIT # 8)
Columbia Grain	(EXHIBIT # 9)

Bob Stevens, said he was recently retired from twenty-five years in transportation and travel work at Bozeman, and was supportive of this change in the way freight agencies were handled. He said this was not so much a railroad matter, as he thought it was a highway matter. He maintained that since World War II billions of state and federal dollars had gone into development of the highway systems around the nation. He said that as soon as the highway system improved, people traveled to shop elsewhere, and the small towns had withered and died. He said that was indicative of the situation facing the railroad, where former

services were no longer required in small towns. He said Montana was in the process of change and it was preposterous to keep an archaic rule regarding these agencies in affect.

David Hoffman, representing Union Pacific Railroad, expressed their support for HB 364 and introduced Union Pacific as Montana's other class 1 railroad. He said Union Pacific was a mainline railroad in Montana which probably operated the oldest line in the State. He said Union Pacific (UP) employed two agents in Montana, and termed UP as vital to Montana's north, south traffic. He said he would try to avoid repeating **Mr. Keim's** testimony and stated that HB 364 was important to UP because of the cost savings which were important to its customers and consumers.

Mr. Hoffman said UP employed technology which was an alternative to the agencies and was currently used by UP in many other states. He stated that UP had installed a National Customer Service Center which he felt was the most advanced technology employed by a railroad in the nation. He said it was currently in place, was working, and was convenient to UP as well as its customers and consumers. He said a shipper could call a toll-free 800 number, speak person to person with a representative to order and release cars, arrange switching instructions, receive real-time status, updates on shipments, electronic billing and much more. He said there were a variety of programs to handle every contingency which came up, and every contingency an agent would handle. He said that in Montana a shipper called the agent to make required requests, and the agent in turn called the National Customer Service Center. He said the railroad charged the shipper \$50 for every call made to the agent. He stated HB 364 provided a mechanism to eliminate an unnecessary middle step and would benefit the people of Montana.

Carla Allen, General Manager of Central Montana Rail, Inc., a short line railroad which hauled grain from Geraldine to Denton to Moccasin. She said they leased the former Milwaukee, Burlington Northern right-of-way through Montana. She read (EXHIBIT # 10).

Russ Ritter, representing Montana Rail Link (MRL), said they stood in support of HB 364. He said there had been a lot of testimony regarding technology and stated a desire to share the affects of technology in Missoula, Montana. He passed out (EXHIBIT # 10A) and said it described the way modern technology had taken over the Railroad Industry. He said he thought that the crux of HB 364 was to bring Montana's railroad system into the 21st Century. He said the exhibit described how trains were composed on location, found a specific car, etc. from one centralized point in Missoula. He said he would be available for questions on the material.

Kelly Darlington, employee of Watkins Shepard Trucking, Inc., said passage of HB 364 made sense to his employer, because it

would reduce a necessary overhead in a system which affected Montana, in the form of higher rates. He then referred to material contained in **EXHIBIT # 8** which had been handed in earlier. He emphasized that their company serviced a number of furniture dealers in Montana and it was for their protection that Watkins Shepard wanted to keep their BN rates down. He said the technology used by UP and MRL did work and with one phone call he could track every rail car, on a daily basis. He stated they could use one location to order or release their rail cars, and testified that it did work.

Opponents' Testimony:

Danny Oberg, representing the 1st District of the Montana Public Service Commission (PSC), presented written testimony in (**EXHIBIT # 11**) and stated he would not read it all. He announced there were other PSC personnel present to answer any question the Committee may have. He proceeded by reading highlights from throughout his written testimony.

Dave Ditzel, representing the Brotherhood of Locomotive Engineers, said his group did not have an employee problem with the legislation as the Bill would not eliminate any of their employees. He showed the Committee his cellular phone which had failed to work the previous week, and stated he had called the toll-free 800 number for service. He related that the service person was in Washington and could not understand the problem with the phone and **Mr. Ditzel** said he could not explain the problem properly. He said that after five days of missing calls, they still had not resolved the problem. He stated that at this point he went to a local business who dealt with cellular phones. He reported the result was that when he spoke to someone face to face, he was able to get the phone fixed. He said that he felt small agriculture shippers and others should have the opportunity to resolve shipping problems the same way he had obtained help with his phone.

Mr. Ditzel stated that another issue stressed in regard to the Bill had been keeping rates lower and said that BN didn't care about rates, and held up (**EXHIBIT # 12**) to be distributed to Committee Members. He stated that the station agent matter was not going to impact rates one way or the other, it was going to impact service. He asked the Committee to remember that impact when they considered the Bill.

Maureen Cleary Schwinden, representing Women Involved in Farm Economics (WIFE), said they were a grassroots organization with members across the State. She read directly from her policy book, page 9, under transportation number 1. "WIFE agrees that all citizens should have access to a balanced transportation system which would make adequate, reasonably priced, efficient freight and passenger service available to all." She reported making her point because so many proponents stated HB 364 was a

telecommunications bill. She stated that in some sense it was a telecommunications bill, and she agreed Montana had to catch up, but it was her feeling that the Bill was more than that. She said, to her, the Bill stated that we were decreasing the public input into the process of a hearing. She remarked that the PSC created a neutral forum, and were there to listen to the shippers and the Industry. She said that during the hearing, if the Industry could determine no need for a manned agency, the PSC would usually rule in their favor. She maintained that one shipper or one hundred shippers deserved the chance to be heard.

MS. Schwinden said their Organization had struggled with the concept of the Bill, but (WIFE) believed that the railroad has sometimes served them well. She stated a prominent reason for the service BN had provided was because of the open forum the current PSC process allowed the public. She said that as citizens they were part of the public hearings at the local level, prior to any decline in services. She said that for those living far away from Helena, the PSC represented a neutral party which was obligated to protect all of the consumers and all of the Industry through the public hearing process. She reiterated her feeling that HB 364 was not a telecommunications bill but a bill about local control and the voice of Montana people as the Bill would allow a monopolistic Industry to circumvent a process which currently served the BN well. She maintained that the process has allowed BN to enjoy the closure or decline in services of many of Montana's rural communities. She presented (**EXHIBIT # 13**) which showed the docket applications for agency removal since 1979. She briefly related some of the closure hearings and reported the outcome had been mixed, with some rulings in favor of the Industry and others favoring the small community. She attested that the current process worked.

Ms. Schwinden stated documentation showed the current system often benefitted the railroad and asked why BN wanted to pass HB 364? She explained that (WIFE) believed that the language of 50% or more could allow for an easier route for BN to circumvent the process which includes public input. She affirmed that local control was a concept the Legislature believed in, and termed HB 364 an anti-local control bill which would allow centralized services to emanate from Fort Worth, Texas, not in Montana. She maintained that Montana's fragile rural communities deserved a real person, and not a computer generated voice, or a 1-800-number. She attested that WIFE believed HB 364 would set an example for big industries to circumvent the PSC process and their Organization could not support the concept.

Ms. Schwinden read from page 10, of docket T-93.116.RR and quoted the PSC as saying "DNRC has deliberately hobbled station agents by ordering them to stop providing certain services, making a lack of shipper needs for these services of self-fulfilling profit base". She said that in some cases intimidation was potentially present. She further presented information regarding hearing procedures and stated that the expense was relatively low and not a issue within this Bill. She stated proponents had

testified that HB 364 would protect rates for grain shippers and wanted to know why BN had raised the rates on Montana grain shippers twice in the last year, when BN had experienced, historically, their greatest profits ever? She expressed the disbelief that BN would share any savings with the public and shippers.

Ms. Schwinden referred to her reservations about the Bill being a telecommunications Bill and how well a 1-800-number would serve Montanans. She cited the 1989 McDonald Pass incident when a caboose broke loose, without a caboose attendant within. She explained that the railroads had decided Montana needed to modernize and the caboose only needed a computer on board. She said that when the caboose broke loose, the computer could not call Helena to make emergency preparations and the caboose had caused excessive damage as well as posed a life threatening situation. She concluded that she didn't accept the telecommunications aspect and maintained that in some cases and places real live human beings were needed. She attested that HB 364 was actually about the ability of Montanan's in the far reaches of the State to be able to have their case heard and the disbelief that a monopolistic Industry should have an easy out. She reaffirmed that the present system worked and expressed the need to keep it in place. She agreed with **Mr. Oberg** that if BN wanted to repeal the law, then they should use that approach, but should not come forth with a bill of this nature. She urged the Committee to strongly oppose the Bill. She presented a letter from **Wanda Zuroff, Montana WIFE President** as written testimony (**EXHIBIT # 14**).

James T. Mular, retired BN Agent and Amtrak Ticket Agent, said he had forty-five years of service with the railroad. He presented written testimony in (**EXHIBIT # 15**) and stated it was more or less redundant to previous witnesses. He asked to highlight the green attachment, (**EXHIBIT # 16**), which reflected the stations of all the railroads in Montana with Amtrak Stations in the righthand box. He said those Stations were most frequently, commonly shared with BN. He stated the second attachment, (**EXHIBIT # 17**), was an employees notice of Compass changes. He pointed out the highlighted area, within the box, where the intent to employees that BN would establish a National Customer Service Center by early 1995 was stated. He said it was interesting to note that the first two sections of HB 364 was current law and the entire contents of the amendments BN was asking for could be accomplished by filing for a test period, individually, to the PSC. He attested that the Commission had the authority to grant a 90-day test period, so he could see no basic problem. He termed the underlying factor was, with passage of the language in HB 364, BN could make eleven simultaneous applications, and close the entire State down for 90-days, at one time. He stated no knowledge of motive, but referred to the inside cover of (**EXHIBIT # 3**) and stated that was the National Customer Service Center in Fort Worth, Texas. He said he had not been able to find out from **Mr. Keim** where such depot, pictured on

the front cover, was located in Montana. He contended the depot was most probably unpainted, and ill repaired because there was an intent to dispose of it.

Mr. Mular respectfully requested the Committee to search their souls regarding this particular Bill because just like the testimony being presented today, public testimony was a due process system and this Bill requested denial of due process for the public. He reiterated that there was a conflict in the Bill because everything BN was requesting in the amendment could be accomplished under present statute. He theorized that BN did not want law which was currently available to them, they wanted one shot at closures. He attested that closure of rural community agencies would render too expensive, the public's participation in future closure hearing processes which would ultimately occur. He clarified that the distance would be too great for outlying shippers to appear in opposition to closure of their only remaining, representative agency in State. **Mr. Mular** stated that five of the eleven BN Stations listed in **EXHIBIT # 16** were currently pending a decision before the PSC.

Mr. Mular stated the largest Customer Service Center in Montana was, Great Falls and service extended from the North Dakota border, across the HiLine to Cut Bank. He said MRL had testified they had an excellent system and referred to the back page of (**EXHIBIT # 17**), and the word Compass. He said Compass was the basic mainframe of BN and MRL bought the computers when they purchased the railroad and were tied into Compass. He related that the Silver Bow agent of UP had a direct access identity into the mainframe of the TCS (Transportation Customer Service) system of the NCCS in St. Louis, but in Dillon, Mt. he had limited access to trace cars.

Mr. Mular stated that BN had appeared before the Legislature in support of legislation contained in the first two Sections of HB 364. He said BN had lost a court case against the PSC and others concerning prior existing law and had come before the Legislature with the existing "public convenience and necessity" concept and the "right of due process". He said BN had asked to have the current law put in place, and now they didn't want to live with it. He concluded by asking the Committee to consider the question "could it be that the railroads don't want public hearings in each community where their station facilities are located"? He continued to question whether a small shipper could withstand personal expenses incurred when traveling hundreds of miles in protest of closures. He asked if the Committee and Legislature were being asked to expedite the railroad's strategic creation of a Montana Customer Service Center in Fort Worth, Texas, as shown in (**EXHIBIT # 17**)? He further questioned whether the public interest in each community were being denied due process to participate in 90-day test closures? He stated the fiscal note did not include any savings, and in fact stated there may be an increase of cost for serving notice and strongly urged the Committee's opposition of HB 364.

Bob Rowe, Public Service Commissioner for Flathead and Lincoln Counties and northwestern Montana, said the issue at hand was very definitely not saving agency jobs, as that was not what the PSC stood for. He said the issue was providing the best possible service to shippers and their communities, and to that extent it was an economic development issue. He expressed the feeling that Montana railroads did provide very good service and said the PSC's responsibility was to insure the continuation of that provided service in light of competing uses for their resources. He reported feeling that the hearing process was an efficient method of government resource usage, as the hearings were typically scheduled together in a manner to facilitate several hearings at once. He said there were usually several shipper witnesses.

Mr. Rowe stated the hearing process was a legitimate area for government involvement because railroads typically did not have any readily available competition which arguably was reflected in rail rate impacts, such as **Mr. Ditzel** had presented in testimony. He said the lack of competition impact was seen on the service side as well. He said that if that impact continued it was appropriate for the State to play at least a modest role. He reported the hearings were productive in giving the community an opportunity to state their concerns and receive formal answers the railroad could be held to; forcing the railroad to listening directly to the customers and attempting to work with the concerned shippers; and in ultimately in helping the PSC in making a final decision.

Mr. Rowe reported it was obvious that everyone was concerned in seeing that railroads continued to modernize. He stated that modernization had to benefit small towns as well the large cities where they may face competition and it had to be done in a manner which was responsive to customer needs. He termed customer needs as services which were affected with a public interest. He said that even though **Mr. Stevens** had appeared as a proponent, the two of them shared a real interest in promoting an efficient, reliable, intermodal system of transportation. He suggested that if **Mr. Stevens**, or others came to some of the hearings they would probably reach the conclusive fact that hearings were a smart and appropriate exercise for government. He finalized by stating that he thought the present closure procedure was understandable, familiar, and functional for everyone involved, while he thought the procedure within HB 364 was difficult to understand. He stated that the PSC made every effort to fairly balance the interests of the railroad with those of the shipper.

Wade Cykorski, a member of the Northern Plains Resource Council, read a letter written by **Nell Kubesh, Chairman, Northern Plains Ag. Task Force, (EXHIBIT # 18).** **Mr. Cykorski** said it was regrettable that his community had lost their station and he thought that getting rid of these stations was harmful to more things than just economics, such as eliminating community centers.

Debbie Smith, appearing on behalf of the Montana Chapter of the Sierra Club, said her group was opposed to HB 364 because it would allow the railroads to modify or suspend service to small communities with absolutely no opportunity for a public hearing in many cases. She said her group believed the individual rights of citizens should not be impeded by huge companies in this manner.

Don Judge, representing the Montana State AFLCIO, said they wished to go on record in opposition to HB 364. He reported having been in Helena when the 1989 caboos accident had occurred, causing structural damage to his home. He said it was fortunate no serious injuries had resulted, especially since it was about 3:00 a.m. and Carroll College Dormitories were located very close to the explosion. He reported having mentioned the accident because of the question of technology replacing human beings. He said the Legislature had passed a law requiring cabooses on trains traveling in Montana and BN had challenged that issue and effectively got the federal government to state Montana had been preempted, and did not have the right to make the caboose requirement. He said that BN and MRL, whose train was actually involved in the accident in question, would dispute whether a manned caboose would have been able to stop the train or communicate preventive measures back to Helena. He reported many of those who fell victim to damages felt the desire to have had an individual, aboard the caboose, given a chance to attempt diversion tactics. He stated the present technology and that being proposed could not provide the desired options. He proposed visualizing the Railroad Industry closing all existing agencies, and asked what affect those closure would have on the Montana's business climate? He maintained nothing would happen because you were talking of fractions when the small amount of wages and station maintenance costs were compared to the tons of freight shipped by Montana. He attested these factors would mean absolutely nothing in terms of rate reduction for Montana customers. He challenged those present to ask BN, MRL, and UP if they were actually going to cut Montana shipper's rates, as the result of closing these stations, and specifically how much per unit of freight?

Mr. Judge remarked that from his Organization's standpoint, this was not a labor issue and would have no large affect on them. He attested it was a Montana issue, and an issue about the shippers. He encouraged the Committee to oppose HB 364, as he did not think it was good legislation.

Vince Van Aken, Livingston, asked to be placed on record opposing HB 364 because as a conductor for thirty years he was close to the shipper and the agents. He contended the agents knew what was going on and he expressed the feeling that management was what had failed.

Richard Van Aken, Legislative Representative and Treasurer for TCU Lodge 528, Great Falls, stated he was a railroad clerk and worked in the Centralized Agency in Great Falls. He presented himself and co-worker **John Robbins**, who was also present, as available to answer any questions the Committee may have concerning the Great Falls agency. He spoke in opposition to HB 364 on the basis of someone born and raised in rural Montana, with a deep loyalty and love for Montana, and a desire to remain in his home State. He viewed HB 364 as an invitation for good clean service jobs to leave Montana. He posed the supposition that Committee Members knew BN backed the Bill because it would make closure of the remaining agencies easier, including the three Centralized Agencies in Whitefish, Great Falls and Glendive. He stated the question was whether transferring work from Montana's Centralized Agencies to Fort Worth, Texas would make Montana better off? He stated his twenty-five years of railroad experience told him Montana would not be better served. He explained he would rather be served by a local agent who knew locations, understood special circumstances and provisions necessary to each individual shipper's needs for service, and recognized the individual as such, than some fancy, distant office. He maintained that larger shippers had an inside edge because they had personnel and computer links to work the railroad system, while smaller shippers were dependant on railroad personnel for such personal service.

Mr. Van Aken claimed HB 364 would make things simpler for the railroads, but more complicated for the small shippers in a community. He said Montanans should be asking themselves if they weren't entitled to a little local personal service from BN, as they were a major corporation which took a great of deal money out of Montana. He said it was clear BN intended to maintain as few employees and facilities in Montana as would be allowed. He presented (**EXHIBIT # 19**), an original Billings Gazette article on the same rate hike story **Mr. Ditzel** had from the Great Falls Tribune. He said these recent reports again told how much more it cost Montanan's to ship grain to the coast than Nebraska shippers paid. He maintained that Montana was paying for special service, and should receive that quality of service. He stated that in spite of agency closing the shipping rates had continued to climb and the dozen agency jobs lost could hardly be justification for rates of up to \$1,000 more per car for the thousands of cars of grain shipped from Montana. He stated current law only requested the railroads to treat Montana and its communities fairly and he asked the Committee to reject HB 364.

Fran Marceau, State Legislative Director for the United Transportation Union, said that for reasons stated by many of the opponents of HB 364, he asked to go on record as opposing it also. He submitted his written testimony (**EXHIBIT # 20**).

CHAIRMAN TVEIT passed out copies of written testimony which had been sent in for Committee presentation, as follows:

David R. Paoli, Missoula, (EXHIBIT # 21)

Pat A. Mischel, Glendive, (EXHIBIT # 22)

Cathy & Pat Murnion, Ingomar, (EXHIBIT # 23)

Questions From Committee Members and Responses:

SENATOR SWYSGOOD asked what the Helena agent had done or could have done to stop the train accident referred to in testimony? **Russ Ritter** said the train involved had not had a caboose attached, but the information of the break had been relayed, and there was a delay from the time that the impact occurred until the explosion. He said he did not feel technology at that time could have prevented the accident.

SENATOR SWYSGOOD asked if a railroad agent could have prevented that wreck? **Mr. Ritter** answered no.

SENATOR SWYSGOOD asked if **Mr. Cykorski** had testified his station had closed about thirty years ago, and asked if they still have rail service for grain shipping from their area. **Wade Cykorski** answered yes to both.

SENATOR SWYSGOOD said testimony had stated the closures could be accomplished through current law, and asked if that was correct. **Mr. Oberg** stated BN had never applied for a trial period and he had never really considered that option before this hearing. He said he would have to speak to the PSC lawyers. He said he thought trial periods could be accomplished under current law, but their may be details needing worked out. He stated thinking that it would have to be done on an agency by agency basis, and not as a system-wide procedure.

SENATOR NELSON asked if **Mr. Darlington**, from the furniture shipping segment, had indicated that closures would probably result in lower rates. She asked if grain shippers could anticipate lower rates with closures? **Pat Keim** stated he could not say that it would, or would not result in lower rates. He said that frankly, rates were based more on market. He said it results in some reduction in operation costs, and to that extent it was important to keep costs down in order to keep rates in line.

SENATOR MOHL asked if the people laid off through closures would have seniority to transfer into other vacancies? **Pat Keim** said they were in the process of hiring approximately fifty brakemen in Montana, a portion of 1,000 throughout their system. He said, yes, there would be opportunity for craft transfers. He stated a clerk with seniority could not automatically go to a brakeman's

job because it was two separate crafts and seniorities. He conveyed having recent reports of acceptance of personnel from other crafts into the brakeman's training program, on a craft transfer basis. He stated these people would be placed at the bottom of the seniority list among brakemen, but their company benefits would remain with their company seniority.

SENATOR MOHL asked if it was company policy or union policy that **Mr. Keim** referred to when he stated a clerk could not enter into the conductor or brakeman area. **Mr. Keim** said that was a union agreement.

SENATOR HOLDEN asked what position **Pat Mischel** of Glendive served in as a railroad union representative? **Don Judge** said **Mr. Mischel** served as Chairman of a central labor council in that area and formerly was an officer in the local union, but did not think that was the present case. He said **Mr. Marceau** may be able to answer.

SENATOR HOLDEN asked what authority **Mr. Mischel** spoke from? **Fran Marceau** said he was not aware of any office **Mr. Mischel** held with TCU.

SENATOR NELSON asked if a producer's protest at the closure hearing would automatically cause petition for closure to be denied? **Mr. Oberg** said that was not a given fact, but admitted that the PSC relied very heavily on shipper testimony. He stated that if the customers were happy PSC allowed the closure, and if customers stated specifically valid problems which would not be answered by the closure, the PSC customarily would not make the closure. He stated the PSC could give the benefit of the doubt to the shipper, with the hope it would be worked out in the following hearing process.

SENATOR NELSON asked if **Mr. Oberg** could clarify why the Culbertson agency had been closed, in spite of quite a little opposition present at the hearing. **Mr. Oberg** said that was an example of shipper testimony which he did not feel was enough to require a full time agent.

SENATOR NELSON stated she had wanted to clarify what had happened, because she understood **Mr. Keim** to state there had been no voices in opposition at Culbertson.

SENATOR JABS said there were eleven stations left and asked if was in the entire state of Montana or just with BN. **Mr. Oberg** said he thought those were BN Stations and thought there were around nineteen agencies left in Montana.

SENATOR JABS stated the PSC must not have denied too many closures, but had noted testimony of twenty-two closure denials. **Mr. Oberg** said he thought there were around seventy to seventy-five BN agencies in 1983 and it was now eleven.

SENATOR MOHL asked how long an application for closure currently took, before there was a public hearing. **Mr. Oberg** said the typical process of the Commission was to try to avoid the steps, as they did not want people to think they had to have a lawyer. He said that when they used to notice closure for an opportunity of hearing, people thought that very legalistic and felt the need for a lawyer to represent them, and traditionally the unions would appear in protest. He stated that as an alternative to that expense the PSC had begun noticing for public hearing. He said he supposed the process took from 60 to 90 days and stressed that the hearing had to be placed on their calendar which was set two to three months in advance.

SENATOR MOHL said **Mr. Rowe** had testified having an application on his desk for three to five weeks, and stated it was evident no action had been taken yet. **Mr. Oberg** stated that it took some time to write the drafts, it was a process of written decisions and not a yes or no vote. He said their decisions were subject to review by the court, so their written decisions had to explain the logic, and how it fit into the law.

SENATOR JERGESON said language in the Bill and the technical note on the fiscal note, as well as some testimony, stated the existing statute in subsection 2. "includes the opportunity for the general public to participate", but new language in the Bill did not seem to appear to offer any opportunity for public participation. He asked if there was an intentional reason why the Bill was drafted to not include the same public involvement in the second portion of the Bill as in the first portion and current statute? **Mr. Keim** said no, there was no intent to circumvent any of the provisions in the first portion of the Bill, which was existing law. He stated it was the intent that the second portion of the Bill would be in addition to the first part.

SENATOR JERGESON asked if the validity of testimony from the general public was ever challenged in closure hearings by BN attorneys and witnesses? **Mr. Keim** said he had attended numerous hearings and said that as a general rule they did not challenge the public's testimony, unless they saw some glaring error.

SENATOR JERGESON said he thought some people confused the difference between a shipper and a producer and asked if there was a distinction between a shipper and a customer of a shipper? **Mr. Keim** stated there was a difference, and that distinction had been clarified in a judicial decision, a shipper was essentially one who did the loading or offered the bill of lading itself. He said that in most cases that was not a farmer who tendered their grain to an elevator, who then became the controller of the grain.

SENATOR JERGESON stated he had attended a couple of **Mr. Oberg's** hearings in opposition to closures and asked how the Harlem hearing differed from the one in Froid? **Mr. Oberg** said Harlem

had several hearings with shipper representation stating closure was not in their best interest. He said the Commission had always given that shipper interest benefit of the doubt, then on the fourth hearing no shipper appeared. He said closure had been granted because shipper protest was no longer there. He said ample shipper testimony had been present for Froid testimony. He said small independent shippers had testified why it was important to have an agent in Froid who provided the specific services he needed. He said that shipper testimony had been used to make the determination against closure.

SENATOR JERGESON stated that during the Chinook closure none of the grain shippers had appeared, but a group of wool producers testified at the hearing. He asked if the wool producers were not bona fide shippers? **Mr. Oberg** stated they were, and in the first hearing when the wool producers testified he had written the order to state that BN was meeting with those producers to solve their problem. He said the other problem raised in the Chinook hearing was the cattle shipments, and specific arrangements had been made in the order which approved closure of the agency.

SENATOR JERGESON asked how the wool producers were to order their cars, now that the Chinook agent was no longer there? **Mr. Oberg** said he assumed they would make the order through the Great Falls or Fort Worth Office. He recalled the wool producers problem had been one regarding the loading dock, not the cars.

SENATOR SWYSGOOD asked, specifically, had any railroad agency station ever been kept open strictly on the basis of public testimony, and not shipper testimony? **Mr. Oberg** said, to the best of his knowledge, none had been done strictly on the basis of public testimony.

SENATOR JABS asked if it had been testified that there were four hearings in Harlem? **Mr. Oberg** stated that BN had applied for closure several times, over a ten year period. He said closure had been denied three times on the basis of testimony, and on the fourth hearing there had been no opposition and it was granted.

Closing by Sponsor:

REPRESENTATIVE MILLS stated a need to keep a few facts in mind and stated that Amtrak did not utilize any freight agents of the other railroads, and were totally separate. He said it was true the jobs had some protection through railroad employment agreements. He said this was an attempt to improve the system of doing things and would save money. He said this Bill only provided an alternate method of closing a freight agent agency, and did not remove existing law. He said the final determination was still in the hands of the PSC and they could deny closure if proper protest was given. He maintained that the Bill would save Montana some money and make it run more smoothly. He contended

that Texas was no further away from the telephone than was a town in Montana. He said the Bill did not do anything about moving the three Montana service centers out of state, as that was not protected by state law and the railroad could make that change when they desired. He said the Bill did not eliminate jobs of clerks and other people who worked around agencies, as the Bill only addressed the freight agent. He stated that railroads were a business, and needed to move forward, into the modern world.

ADJOURNMENT

Adjournment: The meeting was adjourned at 5:47 p.m.



SENATOR LARRY TVEIT, Chairman



CARLA TURK, Secretary

LJT/cmt

MONTANA SENATE
 1995 LEGISLATURE
 HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 3/9/95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN	X		
LARRY TVEIT, CHAIRMAN	X		

*Done
3/9/95*

SENATE HIGHWAYS
ITEM NO. 1
3/9/95
HJR 13

RESOLUTION #2571-95-1

TRIBAL GOVERNMENT

WHEREAS, the Fort Peck Tribal Executive Board is the duly elected body representing the Assiniboine and Sioux Tribes of the Fort Peck Reservation and is empowered to act on behalf of the Tribes. All actions shall be adherent to provisions set forth in the 1960 Constitution and By-Laws, and

WHEREAS, the National Rail Passenger Corporation known as AMTRAK is considering discontinuing services on the hi-line region in Montana, and

WHEREAS, discontinuance would thus create a transportation crisis on the Fort Peck Indian Reservation located in the remote corner of North-East Montana, and

WHEREAS, rail service is used by children needing special medical treatment in Spokane, WA. as AMTRAK has handicap facilities available, travels on a daily basis through inclement weather conditions, now

THEREFORE, BE IT RESOLVED, that because of the remote area in which the Fort Peck Indian Reservation is located and discontinuance of service would create a hardship on area residents traveling, the Fort Peck Tribes oppose AMTRAK discontinuing services in Montana.

BE IT FURTHER RESOLVED, that the Fort Peck Tribes appeal to Mr. Thomas Downs, President of the National Rail Passenger Corporation in Washington D.C. to withdraw this consideration and leave services of AMTRAK the way they are on the Fort Peck Indian Reservation and Montana.

C E R T I F I C A T I O N

I, the undersigned Secretary Accountant of the Tribal Executive Board of the Assinibone and Sioux Tribes of the Fort Peck Indian Reservation, hereby certify that the Tribal Executive Board is composed of 12 voting members of whom 11 constituting a quorum were present at a Regular meeting duly called and convened this 23rd. day of January, 1995, that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 11.

Myrna Greufe

Myrna Greufe, Secretary

Wyman Babby

Chairman/Vice-Chairman
Tribal Executive Board

Wyman Babby, Superintendent
Fort Peck Agency

*Typed Sharon Peterson 657-6793
Baucus' office*

STATE OF MONTANA AMTRAK FACTS

SENATE HIGHWAYS

EXHIBIT NO. 2DATE 3/9BILL NO. HQR 13

Amtrak Service and Ridership

Amtrak operates the long-distance Empire Builder (Chicago-Seattle/Portland) through Montana and serves the following stations:

<u>City</u>	<u>FY-94 Ridership</u>
Balton-West Glacier	3,833
Browning	1,376
Cut Bank	2,049
Essex	2,529
Glacier Park	11,635
Glasgow	4,876
Havre	15,478
Libby	4,298
Malta	3,435
Shelby	15,253
Whitefish	75,795
Wolf Point	<u>8,827</u>
Total Montana Ridership	149,384

- **Procurement/Contracts**

Amtrak expended nearly \$2.4 million for goods and services in Montana in FY 1994.

- **Employment**

In FY 94, Amtrak employed 57 Montana residents whose annualized earnings total about \$2.4 million.

World Mainline Rail Capital Spending Per Capita

Selected Countries, US Dollars, 1994

Spending by Central Governments and/or Public Sector Railways

Switzerland	\$ 228.29	Indonesia	\$ 4.00
Sweden	146.55	Iran	4.00
Austria	132.03	Namibia	3.71
Germany	110.84	South Africa	3.58
Netherlands	84.97	Colombia	3.38
Denmark	79.97	Mexico	3.24
Norway	58.27	Myanmar	2.53
Finland	51.85	India	2.27
France	51.48	Thailand	2.07
Portugal	40.34	Guinea	1.80
South Korea	31.36	Bolivia	1.75
Belarus	25.96	United States	1.64
Greece	24.23	Turkey	1.43
Hungary	24.19	Canada	1.16
Botswana	22.65	Malawi	1.02
Ireland	18.38	Romania	0.88
Britain	13.74	Zimbabwe	0.88
Slovakia	13.61	Albania	0.45
New Zealand	6.23	Bangladesh	0.45
Latvia	5.93	Pakistan	0.30
Belgium	4.89	Phillipines	0.29
Bulgaria	4.62		
Venezuela	4.20		

Does not include private sector spending, which is more important in the United States and Canada than elsewhere.

—Sources: National Association of Railroad Passengers, International Railway Journal

HJ13

Mr. Chairman, members of the committee. I am Fran Marceau, State Legislative Director for the United Transportation Union. I would like to urge your support of this resolution. A strong Amtrak system should be included in any plans for a National Transportation System.

Amtrak facts.

Amtrak serves 530 stations in 45 states.

Amtrak's appropriation from Congress each year accounts for only 3 percent of the U.S. Department of Transportation's Budget and only 7/100 of one percent of the total U.S. budget.

I am providing you with a fact sheet which shows that many countries subsidize their rail systems at a much higher rate than the U.S..

Amtrak is being singled out among transportation modes for cuts. Much has been made of the alleged \$35 per Amtrak passenger subsidy. But the GAO points out that air travelers receive a \$65 per trip subsidy, and that air travel to smaller communities is subsidized by an additional \$55 per passenger.

Privatization is not an option. No rail passenger system in the world makes money, nor does any single Amtrak route. That includes the Northeast Corridor. And once abandoned, rail passenger service won't come back. The freight railroads will not maintain their tracks to passenger-safe levels. If left to the states, unfunded mandates are already out of the question.

High speed rail will be a dead issue. Without Amtrak as a foundation to build on, efforts to finance and operate high speed rail will become pipedreams.

I recently had an opportunity to ride Amtrak's metroline from D.C. to New York, a trip which took just over two (2) hours and forty (40) minutes. This is the type of service I would hope we would someday be able to enjoy in Montana

Instead of curtailment of a train which on many days is loaded to full capacity and has to turn passengers away.

Amtrak is a necessary component of a balanced transportation system.

We cannot afford to keep building new highways, which can cost as much as \$2.2 billion per mile. Nor can we keep building airports. The new Denver airport cost \$4 billion. Transportation officials conclude that the cost of rail expansion is less than building new highway lanes, without even considering the cost of higher auto air pollution and traffic accident costs. One rail line can carry as many people each hour as 16 lanes of highway.

Amtrak is energy-efficient and the most environmentally friendly of the transportation modes. Intercity rail passenger service is almost twice as fuel efficient as commercial air, and 1.5 times as fuel efficient as the automobile. Passenger trains also produce less pollution than automobiles and airplanes.

Killing Amtrak makes no economic sense at all. Amtrak employs nearly 25,000 people. Tens of thousands of rail car builders and supply workers depend on their employers' Amtrak contracts. The taxes on those salaries and on sales of supplies to Amtrak exceed Amtrak's congressional funding.

In Montana, Amtrak employs 57 Montana residents whose annual income is about 2.4 million dollars and in 1994 Amtrak expended 2.4 million dollars for goods and services in Montana.

Thank you for allowing me this opportunity to testify in support of this resolution.

SENATE HIGHWAYS

EXHIBIT NO. 3

DATE 3/9/95

BILL NO. HB 364

Do Montanans deserve service like this?



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

- *"THERE IS NO LAW AT THIS TIME THAT PREVENTS THE RAILROADS FROM TESTING A SERVICE SYSTEM-THEY HAVE THE CAPABILITIES TO DO SO"*

The PSC has denied requests for such service tests as not provided for by law.

- *"THESE RAILROAD EMPLOYEES (LOCAL AGENTS) WERE MUCH MORE CONCERNED WITH EFFICIENCY AND SERVICE THEN THE DISEMBODIED VOICES AT THE TOLL FREE NUMBER, MANY OF WHOM WERE UNFAMILIAR WITH HOW TO FIX PROBLEMS."*

We have no "disembodied voices". The calls are handled by live employees who are concerned with providing efficient service and have the benefits of better training and ready access to the computers and support personnel to accomplish that job.

- *"...MUCH OF THE TIME (WHEN CALLS ARE MADE) THERE WAS NO ANSWER OR CALLS ARE NOT RETURNED"*

The standard is that all calls be answered within two to three rings and all calls are returned. At the new Ft Worth customer service center this is monitored by computer and performance posted on a realtime tote board for staff and supervisors to observe.

- *"IN THE PAST, AGENTS HAVE BEEN VERY HELPFUL IN SITUATIONS CALLING FOR REPAIRS TO CARS, LOST CARS, ETC...."*

That is still the case at the customer service centers, but now the people doing it have the resources at hand to do the job. The local agent of old had to call someone at headquarters to get it done.

- *"ON SITE VISUAL INSPECTION BY AGENTS HAS ALSO BEEN A VITAL PART OF THE RAILROADS' SERVICES."*

In the past most such inspections involved small shipments in less than car load lots, a business railroads have not been in for many years. Where needed inspections are still performed on site by qualified railroad employees.

- *"...THE AGENT REMAINS, BUT APPARENTLY HAS BEEN INSTRUCTED THAT ANY CALLS FOR ASSISTANCE MUST BE REFERRED TO THE 800 NUMBER."*

The local agent is available to receive calls but he himself has to relay to the service centers the information and requests because that is where service orders are processed into the computer or otherwise acted on. That has always been the case. The agents are not under instructions to simply forward the calls.

- *"PAST CLOSURES ...DISCOURAGE SHIPPERS FROM PROTESTING...."*

Experiences has demonstrated that closures have been allowed only when shippers have seen fit not to protest. Shippers frequently protest and don't seem to have been "intimidated" by past closures.

- *"INDEED, MANY SMALL SHIPPERS ARE RELUCTANT TO MAKE THEIR VOICES HEARD BECAUSE THEY HAVE ENOUGH DIFFICULTY GETTING RELIABLE SERVICE AS IT IS...."*

Not so. Most protesters are smaller shippers. Usually they testify that they are comfortable with what they have. They are uncertain about the change.

- *"...THE PUBLIC SERVICE COMMISSION NEEDS TO BE ABLE TO ASSIST SHIPPERS..."*

HB 364 keeps the PSC in control of the process and doesn't change its shipper protective powers.

- *" IT IS MOST LIKELY THAT FEW WILL VOICE OBJECTION TO THE CLOSURE OF STATIONS...."*

That is because the majority realize the local agency is an unneeded expense.

- *"THE FINANCIAL STRENGTH OF THE BN IS DUE IN LARGE MEASURE TO THE EXISTENCE AND DEVELOPMENT OF NONRAILWAY ASSETS"*

That argument has nothing to do with the issue. The issue is service and needless hearings. Besides BN has no "nonrailway assets". The repeaters of the quote is apparently unaware that nearly 10 years ago BN Railroad was spunoff and has since stood alone with no "nonrail assets".

SENATE HIGHWAYS

EXHIBIT NO. 14DATE 3/9/95BILL NO. HB 364**Columbia Falls Aluminum Company**

2000 Aluminum Drive
Columbia Falls, MT 59912
406/892-8220

March 9, 1995

Senator Larry Tveit
Chairman, Highways and
Transportation Committee
Montana State Senate
Capitol Station
Helena, MT 59620

Dear Senator Tveit:

RE: HB 364

I am writing to you in support of HB 364, a bill detailing a service test prior to the closing of a railroad agency.

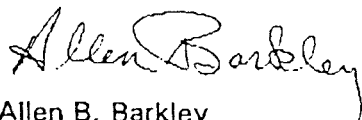
Columbia Falls Aluminum has several reasons for giving testimony on this bill. The first is that we are a major customer of Burlington Northern Railroad (BN), shipping in excess of 660,000 tons of freight each year. As a customer, we feel this bill does not restrict customer rights in that it does not eliminate the opportunity for customers of BN to comment before the Public Service Commission (PSC) regarding service concerns. It does allow them to experience the level of service proposed by the railroad after removal of the agency, prior to losing the agency, so that testimony given to the PSC, if any, will be more informed.

Also, Columbia Falls has already experienced the PSC process as it exists today and has had its local rail agency closed. Columbia Falls Aluminum did not have the luxury afforded by this bill of testing the process before getting the opportunity to provide testimony to the PSC. However, we have experienced the change and have no major problems with the information system we currently deal with. In fact, we now have easier and faster access to information regarding the status of our incoming and outgoing freight shipments.

Another concern for CFAC is that as a customer of BN, we do not wish to resist changes that have the potential of reducing our freight charges through improved efficiencies within the BN system.

Thank you for the opportunity to comment on this bill.

Sincerely,



Allen B. Barkley
External Affairs Manager

SENATE HIGHWAYS

EXHIBIT NO. 5DATE 3/9/95BILL NO. HB 364Buying and selling
the basics.


Pacific
Steel & Recycling

Corporate Office
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Great Falls, Montana 59403
(406) 727-6222
MT 1-800-332-9930
FAX: (406) 453-4269

February 1, 1995

Chairman
House Highways and
Transportation Committee
Helena, Montana

Dear Mr. Chairman:

I am writing this letter to support proposed legislation to amend Section 69-14-202, MCA.

This proposed legislation would allow a person, corporation, or association operating a railroad to test a service system before modifying or discontinuing a facility.

Currently, after proper notice is given of the desire to modify or discontinue service to a facility, a hearing is held at the location to be modified or discontinued. This involves considerable expense for the State of Montana (sending PSC staff to the hearing), as well as the railroad involved. In cases where the shipping public does not show up to testify, this is a total waste of money.

I believe the proposed amendment makes sense. Allow the railroad to file a formal application, notify the shippers involved and run the 90 day test period.

Let the shippers test the new service system. If the Public Service Commission does not receive written protests from the required number of shippers, they would have the authority to modify or discontinue the service. The PSC has fulfilled its obligation with no additional cost.

If, however, sufficient number of written protests are submitted to the PSC, they can set a hearing and feel reasonably sure that people will show up to testify. This would allow the PSC to more fully justify the expense of sending staff to the hearing.

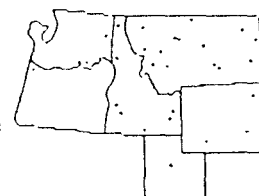
If feel the proposed amendment to Section 69-14-202, MCA would be more fiscally responsible.

I apologize for not presenting my thoughts in person. Other job responsibilities do not allow me to leave my office.

Sincerely,

George T. O'Dore
George T. O'Dore
Transportation Manager

Serving the Northwest for over 100 years.



W. M. VAUGHEY, JR.

P.O. BOX 46

HAVRE, MONTANA 59501-0046

(406) 265-5421

SENATE HIGHWAYS

EXHIBIT NO. 6

DATE 3/9/95

BILL NO. HB 364

February 8, 1995

The Honorable Shiell Anderson, Chairman
Highways and Transportation Committee
Montana State House of Representatives
Capitol Station
Helena, MT 59620

RE: In support of House Bill 364

Dear Chairman Anderson:

A 26-year resident of Havre, I naturally would have an interest in the good continuing financial health of the Burlington Northern Railroad, a major employer of our area.

In this context I write to express strong support for HB 364. I have read the entire bill through and find that the 90-day test period for any elimination of an agent's position gives fair chance for expression to both sides in any instance where there is contention.

Through my years in the Havre area it has become obvious to me that of primary importance to continued good railroad jobs for Havre area residents is the good financial health of the Burlington Northern Railroad.

In light particularly of the fairness aspects of HB 364, I hope this measure is given a DO PASS recommendation by your Committee.

Sincerely,

W. M. Vaughey, Jr.

WMV/blp

cc: All members of the House Highways and Transportation Committee
State Representative Norm Mills
✓ Pat Keim, Director of Govt. Affairs, Burlington Northern



General Mills, Inc.
Northwest Grain Operations

#2 Fifth Street North, Suite 200
Post Office Box 5022
Great Falls, Montana 59403
(406) 761-6252

P. 2/5
SENATE HIGHWAYS
EXHIBIT NO. 7
DATE 3/9/95
BILL NO. HB 364

February 7, 1995

Chairman of the House Highway and Transportation Committee
Montana State Legislature
Helena, MT 59601

Chairman and Members of the Committee:

General Mills, Inc. supports House Bill 364 in an effort to simplify the status of an agency closure. Increased technology and consolidation in the industry have allowed Burlington Northern Railroad to reduce unnecessary agencies. This bill provides an effective compromise between random closures and unreasonable political pressure that forces unneeded agencies to remain open. We urge you to pass this piece of legislation.

Sincerely,

Kerry Schaefer
Regional Manager
NW Grain Operations
General Mills, Inc.

KS/sl



SENATE HIGHWAYS

EXHIBIT NO. 8

DATE 3/9/95

HB 364

HELENA TERMINAL
P.O. BOX 5055
HELENA, MONTANA 59604-5055
WATS 800-824-0913
406 / 442-9536

TRUCKING INC.

HOME OFFICE
P.O. BOX 5328
MISSOULA, MONTANA 59806-5328
WATS 800-548-8895
406 / 728-6121

Testimony for HB 364

Watkins and Shepard is in support of HB 364.

Watkins and Shepard loads about 300 boxcars of furniture per month at our Mississippi terminals and ships them to 7 western locations for redistribution, including two locations in Montana; Helena and Shelby.

With today's technology most BN agents serve no purpose for Watkins and Shepard. All communication is handled direct with BN via fax machines, computers and telephones.

It makes little sense to keep unneeded overhead in the system which ends up effecting us in the form of higher rates.

For our business to continue to grow we need a railroad that is competitive and very service oriented. Fortunately, Montana is served by the Burlington Northern and their service ranks at the very top of all rail service. We urge you to pass HB 364 so BN can continue to utilize technology advances to provide better service to its customers in Montana.

Thank you,

Ray Kuntz
Vice President of Operations and Sales

RJK/lmd

SENATE HIGHWAYS

EXHIBIT NO. 9DATE 3/9/95NO. HB 364**COLUMBIA GRAIN INTERNATIONAL, INC.**

900 - 2nd Avenue North, Suite 1
P.O. Box 1969
Great Falls, Montana 59403
406-453-6506



February 10, 1995

To: Members
Montana State Legislature
Helena, Montana 59620

From: Vince Goecke
Manager Montana Division
Great Falls, Montana 59401

Re: HB 364

As manager of Columbia Grain Montana Division I'd like to submit this letter in support of House Bill 364.

The process set forth in this bill to determine the viability and necessity of a facility is fair and equitable to all parties involved. It provides for efficiency and overall cost reductions.

As a company Columbia Grain ships over 10,000 car loads of grain annually. These shipments originate from Montana and move to all corners of the United States and Mexico. One person in our Great Falls office bill and track these shipments with the aide of an inexpensive computer. As a course of business we also bill and track rail cars for producers and small independent elevators.

While I realize this bill is designed to save time, money and expedite the procedure of closing agencies it is not a reduction of service to Montana customers. The current system we use of tracking and billing railcars is far superior to the agency system. Its fast, accurate and requires minimal training.

I sincerely hope as members of the committee you'll support HB 364.

Sincerely,

Vince Goecke
Montana Branch Manager
Columbia Grain International, Inc.

HIB 364 Testimony
Carla Allen, Central Montana Rail, Inc.
March 9, 1995

Central Montana Rail, Inc. is involved in a unique situation that demonstrates the necessity for some alternative to the current law regarding railroad agencies.

Central Montana Rail's one and only office is located in Denton and has always been located in Denton. Our shippers order the majority of their cars directly from BN in Fort Worth and bill their cars directly with BN in Great Falls. CMR has not had an agent in Geraldine since it took over the line in 1985.

In July of last year we decided to donate the depot in Geraldine to the Geraldine Historical Committee. I expected this to be a matter of some simple paperwork.

On the local news one night I saw that BN was giving a depot to a local group in Rudyard, so I called Pat Keim to see what was involved. He asked if a petition had ever been filed with the PSC to move the agent and abandon the depot. I didn't know if it had or not. I thought maybe it had been part of the original proceeding between the BN and the State. Neither the State nor the PSC had any record of such a petition.

I asked if the process of filing to close the agency could be waived since we had never had an agent in Geraldine. Because of the nature of the current laws regarding closure's of railroad agencies, CMR was required to go through the formal process of filing a petition.

It was frustrating for us and disappointing for the Geraldine Historical Committee that the transfer was held up on a formality. They had hoped to start renovations last fall - at least put on a new roof to prevent any further deterioration.

We had our attorney draw up the necessary paperwork and the petition was filed January 25, 1995 to close an agency that has not been in use for 10 years. Notice of Opportunity for Public Hearing was issued on February 14, 1995. The deadline for response was Monday, March 6, 1995. No requests for a public hearing were received. The matter is on the Public Service Commission agenda on Monday, March 13, 1995. Hopefully the matter will be resolved.

Of all the things that require my time and attention and the State's time and attention, this is not one. We are spending valuable time and resources on something that has no affect on the day to day operation of Central Montana Rail, Inc.

I hope you will support HB 364.

Thank you for your time and consideration.

SENATE HIGHWAYS

EXHIBIT NO. EX 10A

DATE 3/9/95

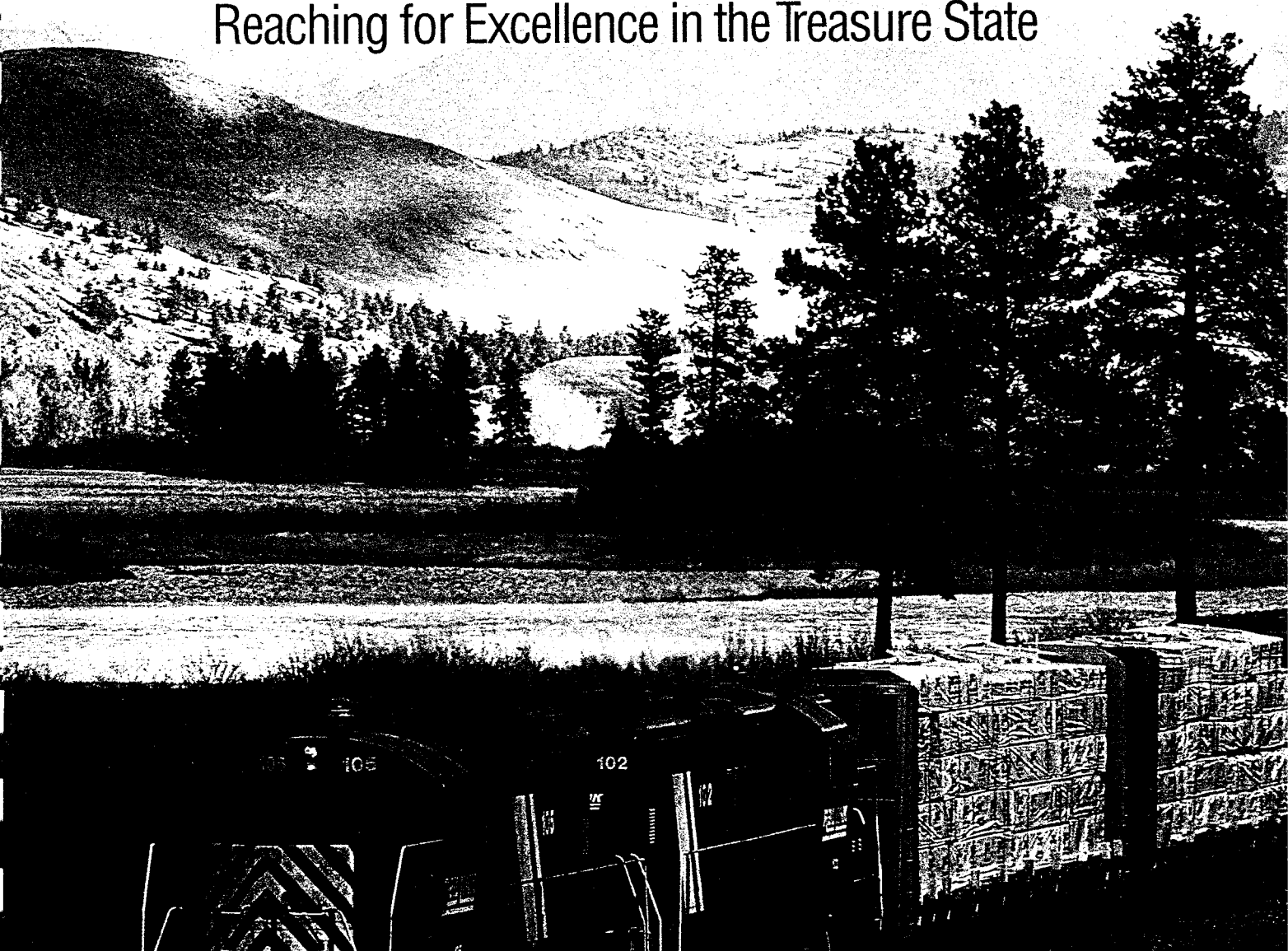
BILL NO. HB 364

GRS micro Traffic Master® II

and

Montana Rail Link

Reaching for Excellence in the Treasure State



The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

GRS

Danny Oberg
Montana Public Service Commission
Helena MT 59620
444-6199

Testimony of the Montana Public Service Commission on HB 364

Statute Designed to Insure Quality Service

Mr. Chairman, Members of the Committee, the MPSC appreciates this opportunity to appear before you and comment on this modification to railroad statutes dealing with a railroad's obligation to maintain a depot and agent in communities they serve.

There is a rich and colorful history dating back 50 years and more at the Commission with the closure of railroad depots. In fact, if you ask your parents most of them will still refer to the PSC as the Railroad Commission.

The Staggers Act largely transferred regulation of the railroads from the state Government to the Federal Government. For the last dozen years the MPSC's oversight of railroads has largely been limited to depots, certain safety considerations, and complaint resolution.

The Law Has Worked

During my tenure on the PSC I have participated in the widespread closure of the agency service in Montana and the consolidation of services into a handful of centralized service centers. **I probably have the dubious distinction of closing more railroad depots than any other Commissioner in Montana history.**

These closures have resulted from hearings that are held in local communities where shippers, community leaders, and elected officials like yourself have had an opportunity to offer testimony to the PSC on the proposed depot closure. While it has taken BN 3 or 4 tries to close some depots, the fact of the matter is that the present statute has worked as I believe the Legislature intended. When BN was able to meet the needs and concerns of its shippers their closure requests are granted.

BN can and has closed most of its wide-strung and expensive customer service operations. All as they have to do is take care of the concerns of their shippers and a closure becomes a matter of fact. When shippers present opposition to a closure then the Commission has generally ruled in favor of continued local service.

As the policy makers of this state, I would ask you to question what problem is attempted to be solve before you modify present statutes. I would submit to you that while BN may have had a problem a decade ago there is no problem now that you need to correct. The system has

worked- and BN has only 11 depots left. **Five of those depots they have never even asked to close.**

The Real Reason for this Bill...

What I believe this bill is really about is BN asking the Legislature to cooperate and provide a vehicle for Burlington Northern Railroad to close its 3 Centralized Service Centers (in Great Falls, Glendive and Whitefish) and move all of those operations to Fort Worth, Texas. I would submit to you that it is not in the best interest of Montana's grain, timber and business community for you to rewrite Montana law to give BN an easy way out of the state. This session of the Legislature is being asked to appropriate several hundred thousand dollars to continue to fight BN's monopolistic pricing policies in the continuing battle known as McCardy Farms. Removing their Montana customer service operations to Texas is another monopolistic business practice. **Most disturbing, is if this bill is enacted into law BurlingtonNorthern Railroad would have a much easier standard in moving all customer services out of the state than it had even closing one isolated depot in a small community. That just doesn't seem right or fair.**

HB 364 is a Major Shift in Public Policy

In many ways this is a radical bill:

- * We believe it virtually guarantees there will be no chance for the PSC to hold a hearing on a closure and transfer..

 - the 50% protest figure is an insurmountable hurdle and will give only the appearance of regulation or public input.

- * If passed, this bill shifts the burden of proof from the railroad to the shippers. Before they could even be heard, shippers would have to organize themselves to petition for a hearing.

- * this bill represents a radical shift in policy most recently expressed by the 1987 Legislature. Rural legislators insisted on language in Section 69-14-202 (2) (Line 20 of the bill) that requires the Commission to take into consideration testimony presented by the general public. The proposed language beginning on line 23 does not give the public a chance to comment unless a required number of shippers request a hearing. These sections appear to be in direct conflict.

 - **Legislators are our most frequent witnesses at agency closures and under this bill you may not even have an opportunity to represent your constituents.**

- * I readily concede that many depots have been kept open when only an infrequent or

EXHIBIT 11

DATE 3-9-95

1 HB 364

small shipper has opposed a closure on the basis of safety or shipper concerns. Rather than be a defect that needs to be corrected I would submit to you that is the purpose of the statute- to protect the small shipper who has no economic clout or market power from the monopoly railroad. We believe the small shipper is the loser in this bill.

* The MPSC is precluded under this bill from holding a hearing and attaching reasonable conditions that might protect shippers if a transfer from operations to Ft.Worth must be approved.

- We might want to require certain service hours, times that calls must be responded to etc. However, unless the threshold level is reached there will be no hearing and no record established to develop a reasonable order.

It is clear to me that this bill is really about the Legislature being asked to approve an expedited and fast track procedure for Burlington Northern to transfer jobs and services to Fort Worth Texas.

This bill is simply about one company coming in and getting a long standing public policy changed for their own interests at the expense of many Montana businesses.

I recognize the people of Montana sent you down here with a new mandate. I don't think this bill meets any of the criteria that Montanan's expect out of this Legislature:

- It is not about jobs, **in fact it will expedite losing good Montana jobs.**
- It's not about cutting government. **This bill won't affect our staff at all.**
- It's not about improving the business climate. **Grain elevators and shippers around the state would argue it will hamper their businesses..**
- It's not about fairness.- **it's not fair to change the rules in the middle of the of the game.** This Commission and Burlington Northern has assured it's shippers that, if and when, the day came that they sought to consolidate their operations out of state the people and shippers of Montana would have their day before the PSC to protect their interests. This bill severely limits and (in my opinion) takes away that right. Realistically, the 50% threshold will never be reached.

Don't fix what isn't broken!

The Commission believes that HB 364 is not in the public interest and should be rejected. There are no amendments that can make it acceptable. Present law is the best vehicle to insure that Montana's shippers interests are considered when BN makes its upcoming application to close its Montana service centers and move jobs and services to Fort Worth.

Danny Oberg
February 10, 1995

Sherry Book Tribune
2/18/95

Shippers say they are paying for merger

Grain spokesman charges BN unfair to captive states

The Associated Press

BILLINGS — Montana's captive grain shippers are paying the increased costs of the Burlington Northern's merger with the Santa Fe Railway, said an executive with the Montana Wheat and Barley Committee.

"This merger is costing more than they wanted," said Jim Christianson. "They are trying to recoup

the overpayment. We are seeing it already."

Freight rates for shipping wheat from Montana to Portland, Ore., have been raised twice since October when BN first announced its bid to merge with the Santa Fe.

Officials for Burlington Northern disagree with Christianson.

"There is no connection between our pricing strategy and the

merger," said corporate spokesman Richard Russack. "We are not using it as a rationale for higher prices."

Russack said the idea that BN needed higher rates to pay for the merger was "a false piece of logic."

As of January 1995, it costs \$3,542 to ship a hopper car of wheat from Plentywood to Portland. A grain farmer from Alliance, Neb., pays \$2,504 to ship a carload of wheat to Portland, even though Alliance is 268 miles further from Portland than Plentywood.

It costs \$2,782 for a hopper car of wheat to be shipped the 992 miles from Billings to Portland, Ore. That translates to \$278 more for 478 fewer miles, compared with Alli-

ance, Neb.

"The train from Alliance passes through Billings," said Terry Whiteside, a transportation consultant who advises the Montana Wheat and Barley Committee. "It has lower rates even though by the time it passes through Billings it has covered 40 percent of its miles to Portland. It is unbelievable," he said.

Rates in Alliance went up in January, after dropping in June and December 1993, and remaining stable for nearly a year.

Burlington Northern has direct competition in Nebraska, but has no competitors in Plentywood.

Captive shippers are protected under the Staggers Rail Act of 1980,

administered by the Interstate Commerce Commission. The law ended regulation of railroad freight rates except where competition was absent or ineffective.

President Clinton is recommending abolishing the ICC and sending its rail regulating functions to the Department of Transportation.

A 1980 request by Montana farmers for a ruling by the ICC on grain rates has not been resolved.

The commission said the rates were unreasonable, but the Federal Court of Appeals ruled in 1993 that the ICC did not use an appropriate rate test. The case was sent back to the commission.

DOCKET	ORDER NO.	NAME/REQUEST	SENATE HIGHWAYS	
			EXHIBIT NO.	ACTION
	17	Discontinuance of Station Agents, Stations, and Side Traces	13	3/9
			DATE	HB 364
			BNRC NO.	
			Required prior notice and permission of Board of RR Commissioners for such actions	
T-6081	4674	BNRC - Consolidate agency operations at Lodge Grass, Montana		Application dismissed for lack of jurisdiction
T-6191	4425	BNRC - Establish a centralized customer service center at Glendive, Montana		Application granted in part; denied in part
T-6200	4365	Complaint of the Brotherhood of Railway and Airline Clerks against BNRC concerning its direct service agency serving Frazer, Nashua, Saco, and Hinsdale out of Glasgow...		Cited confusion; stipulated corrective action for BNRC
T-6201	4366	Complaint of the Brotherhood of Railway and Airline Clerks against BNRC concerning its direct service agency serving Galata, Devon, Kevin, and Sunburst out of Shelby...		Cited confusion; stipulated corrective action for BNRC
T-6329	4364	BNRC - Consolidate agency operations - Browning, Montana		Petition denied
T-6330	4826	BNRC - Discontinue the station of Poplar, Montana (with Wolf Point)		Application granted
T-6330	4826a	BNRC - Discontinue the station of Poplar, Montana		Supplemental final order
T-6375	4529	BNRC - Consolidate agency operations at Belt, Carter, and Choteau, Montana with agency operations at Great Falls, Montana		Application granted in part; denied in part
T-6376, T-6310, T-6311	4456	BNRC - Establish a centralized customer service center at Sidney, Montana, to serve patrons in Sidney, Fairview, Lambert and Richey, Montana		Application granted in part; denied in part (Errata follows order)
T-6452	4403	BNRC - Consolidate agency operations at Whitehall, Montana, with applicant's agency at Three Forks, Montana		Dismissed application
T-6453	4457	BNRC - Consolidate agency operations at St. Regis, Montana, with station agency operations at Superior, Montana		Granted application; BN shall sell/dispose/remove St. Region station depot facilities
T-6455 T-6605	4429	BNRC - Consolidate agency operations at Columbus, Rapalje, Broadview and Bridger with agency operations at Laurel, Montana		Dismissed application to consolidate Columbus, Bridger and Rapalje; granted application to consolidate operations in Broadview, Montana, with those in Laurel, Montana
T-6457	4428	BNRC - Consolidate agency operations at Big Timber with agency operations at Livingston, Montana		Dismissed application
T-6603	4461	BNRC - Establish a centralized customer service center at Shelby, Montana, to serve patrons in Kevin, Lothair, Galata, Devon, Dunkirk, and Sunburst		Granted application
T-6604	4447	BNRC - Establish a centralized customer service center at Glasgow, Montana		Granted application

DOCKET	ORDER NO.	NAME/REQUEST	ACTION
T-6694	4375a	BNRC's unauthorized removal of its depot building at Philipsburg, Montana	BNRC replace depot facilities at Philipsburg
T-6914	4473	Petition of Rosebud County Commissioners to require installation of signalling devices by BNRC	Granted petition
T-6952	4854a	BNRC - Establish a centralized customer service center at Scobey, Montana, to serve patrons located in Opheim, Glentana, Richland, Peerless, and Four Buttes, Montana	Denied application
T-6954 (FO & PO)	4812	BNRC - Establish a centralized customer service center at Plentywood, Montana, to serve patrons in Froid, Homestead, Medicine Lake, Reserve, Antelope, Redstone, and Flaxville, Montana	Denied application as it related to Froid, Homestead, Medicine Lake, Reserve, and Antelope; granted application related to Redstone and Flaxville; ordered consolidation of Flaxville/ Redstone agency with Scobey agency
T-7249 (PO)	5025	BNRC - Consolidate its Bainville, Montana, agency with applicant's agency at Culbertson, Montana	Granted w/limitations/provisions
T-7249	5025a	BNRC - Consolidate its Bainville, Montana, agency with applicant's agency at Culbertson, Montana	Granted w/limitations/provisions
T-7270 (misc. orders)	4606, 4606a, 4606b	BNRC - Unauthorized move of its station agent from the Circle, Montana depot building to the Farmers Union Elevator in Circle, Montana	Granted with stipulations; rejected request to dispose of building
T-7323 (PO & FO)	5285	BNRC - Consolidate its agency operations at Garrison, Montana with those at Deer Lodge, Montana	Denied application
T-7343	4901	BNRC - Consolidate agency operations at Sheridan and Twin Bridges, Montana with its agency at Alder, Montana and to dualize its agency operations at Alder and Whitehall, Montana	Granted as modified; approved consolidated of Sheridan and Twin Bridges with Alder; approved request to dualize Alder with Whitehall with provisions
T-7344	5268	BNRC - Consolidate its agency operations at Bonner, Montana with Missoula, Montana	Granted application
T-7377	4839	BNRC - Authority to established a centralized customer service center at Havre, Montana	Granted in part; denied in part
T-7401 (PO & FO)	5075 5075a	BNRC - Consolidate agency operations at Ledger and Valier, Montana with agency operations at Conrad, Montana	Granted application; authorized the sale or disposal of facilities
T-7402	5284	BNRC - Consolidate Dutton, Brady and Power, Montana with Great Falls, Montana	Granted application in part; denied in part
T-7403	4810	BNRC - Dualize agency operations at Harlem and Chinook Montana	Denied application
T-7406 (PO&FO)	5269 5269a	BNRC - Dualize its agency operations at Polson and Ronan, Montana	Granted application with provision

DOCKET	ORDER NO.	NAME/REQUEST	ACTION
T-7504	4892	BNRC - Consolidate the Silver Bow, Montana, agency with agency at Butte, Montana	Denied application
T-7517	4893	Complaint of Russell R. Andrews, Teton County Attorney, concerning BNRC Grain Car Shortage	
T-7940	5036	BNRC - Dispose of the depot building at Butte, Montana	Granted with provisions
T-8018	5240	BNRC - Trialize Darby, Hamilton, and Stevensville, Montana, agency operations	Denied application
T-8039	5074	BNRC - Dispose of the depot building at Missoula, Montana	Granted with provisions
T-8187	5308	BNRC - Consolidate agency operations at Trident and Three Forks, Montana	Granted application
T-8238	5387	BNRC - Remove old depot building at Miles City, Montana	Granted application with provision for appropriate action to preserve historical significance of depot building
T-8400 (PO & FO)	5625 5625a	BNRC - Discontinue its direct service agency (DSA) operations at Stanford	Denied application
T-8422	5290	UPRC - Abandon and remove the stockyards at Kidd, Montana	Granted application with provisions
T-8502	5339	BNRC - Dualize its agency operations at Bozeman and Belgrade, Montana	Granted application
T-8650	5389	UPRC - Abandon and remove the stockyards at Dillon, Montana	Granted application with provisions
T-8651	5390	UPRC - Abandon and remove the stockyards at Divide, Montana	Granted application with provisions
T-8689	5632	BNRC - Dualize agency operations at harlem and Chinook, Montana	Denied application
T-8808		BNRC - Trialize agency operations at Sidney, Fairview, and Circle, Montana	(BNRC's reply brief to BRAC's brief regarding BN's duty to staff facilities)
T-9183	5836	BNRC - Discontinue its agency and dispose of the depot facility at Wibaux, Montana	Granted application
T-9201	5835	BNRC - Discontinue its agency and dispose of the depot facility at Fairview, Montana	Granted application
T-9236 (mult. docs)	5859	BNRC - Discontinue its agency operations at Fort Benton, Montana	Denied application
T-9247	5691	BNRC - Discontinue its agency operations at Terry, Montana and to dispose of the depot facility	Denied application
T-9293 PO&FO	5917 & 5917A	BNRC - Discontinuance of its agency operations at Harlem, Montana	Denied application
T-9294	5979	BNRC - Discontinue its agency and dispose of the depot facility at Chinook, Montana	Granted application subject to conditions

DOCKET	ORDER NO.	NAME/REQUEST	ACTION
T-9297	5954	BNRC - Discontinue its agency operations at Scobey/Four Buttes, Montana	Granted application
T-9301	5955	BNRC - Discontinue its agency operations at Froid/Homestead, Montana and to dispose of the depot at Froid and Homestead, Montana	Denied application
T-9447	6036a	UPRC - Relocate agency services from its Silver Bow agency to the National Customer Service Center at St. Louis, Missouri	Denied application
T-9448	6072	UPRC - Relocate agency services from its Dillon Agency to the National Customer Service Center at St. Louis, Missouri	Denied application
T-9573	6072	BNRC - Complaint by Transportation Communications International Union, concerning a Hardin, Montana, agent position	
T-9595	6079	BNRC - Discontinue agency operations at Hardin, Montana	Granted application
T-9632	6094	BNRC - Authority to close its agency at Sidney, Montana	Granted application

DOCKET	ORDER NO.	NAME/REQUEST	ACTION
T-9182	5866	BNRC - Discontinue its agency and dispose of the depot facility at Hysham, Montana	Granted application
T-9236	5859	BNRC - Discontinue its agency operations at Fort Benton, Montana	Denied application
T-9301	5955	BNRC - Discontinue its agency operations at Froid/Homestead, Montana and to dispose of the depot at Froid and Homestead, Montana	Denied application
T-9573	6072	BNRC - Complaint by Transportation Communications Interational Union concerning a Hardin, Montana, agent position	
T-9632	6094	BNRC - Close its agency at Sidney, Montana	Granted application
T-9910	6189	BNRC - Close its agency at Libby, Montana	Denied application
T-9911	6180	BNRC - Close its agency at Eureka, Montana	Denied application
T-9912	6184	BNRC - Close its agency at Kalispell, Montana	Denied application
T-9913	6190	BNRC - Discontinue agency services at Wolf Point, Montana	Granted application
T-9984	6241a	BNRC - Discontinue agency services at Garrison, Montana and dispose of the facility	Granted application
T-93.114.RR	6321a	BNRC - Discontinue agency services at Browning, Montana	Granted application
T-93.115.RR	6277	BNRC - Discontinue agency services at Glasgow, Montana	Granted application
T-93.115.RR	6277a	BNRC - Discontinue agency services at Glasgow, Montana	Amended order and granted application
T-93.116.RR	6289	BNRC - Discontinue agency services at Froid, Montana	Denied application
T-93.117.RR	6283	BNRC - Discontinue agency services at Harlem, Montana	Granted application

EXHIBIT 13
DATE 3-9-95
HB 364



WIFE Women Involved In Farm Economics

SENATE HIGHWAYS

EXHIBIT NO. 14

DATE 3/9/95

BILL NO. HB 364

March 6, 1995

MEMBERS OF THE SENATE HIGHWAYS COMMITTEE:

For the past 18 years, Montana WIFE has been involved in all aspects of transportation issues as they affect agriculture. WIFE does stand in opposition to HB 364. We believe the law as presently written is working well. The Public Service Commission has been performing its duties efficiently, notifying shippers and communities of hearings when the Burlington Northern Railroad has applied to close its agencies.

The Railroad has the capabilities of 'testing a service system' now. The shippers and communities have the right to protest under the present law and the Public Service Commission has the authority to study the situation and to make a decision. HB 364 is, therefore, unnecessary.

WIFE is involved in all aspects of living, including rural communities and family farms. We monitor each bill, research and look at the total impact a bill would have on agriculture before making any statement.

Sometimes WIFE stands in agreement but WIFE also stands in opposition when we feel agriculture will be affected.

If I can be of further assistance, please feel free to drop me a note or you may like to visit with our WIFE Lobbyist, Maureen Schwinden.

Montana WIFE urges your support for all agriculture to oppose this bill. Thank you for your consideration.

Sincerely,

Wanda Zuroff
Montana WIFE President
Box 123
Richey, MT 59259

SENATE HIGHWAYS

EXHIBIT NO. 15

DATE 3/9/95

BILL NO. HB 364

BEFORE THE
MONTANA SENATE HIGHWAYS & TRANSPORTATION
COMMITTEE

STATEMENT OF JAMES T. MULAR, RETIRED RAILROAD
AGENT, AND AMTRAK TICKET AGENT.

IN OPPOSITION TO HOUSE BILL 364

THURSDAY, MARCH 9TH, 1995

HOUSE BILL NO. 364 CLOSE RAILROAD STATIONS FOR
90 DAY TEST PERIOD WITHOUT
PUBLIC HEARINGS.

THE PRESENT LAW: (SECTION 69-14-202 MCA)

Requires that the railroads must make application to close, consolidate, or modify rail station facility services. The burden is on the railroad to prove that "PUBLIC CONVENIENCE & NECESSITY" is no longer required by rail customers. Before the P.S.C. can close/consolidate/or modify these services. Public hearings must be conducted in the communities where the facility is located. Shipper and public testimony must be weighed and balanced against the burden on the railroad(s). If the burden is on the shipper and the public- The Commission denies relief to the railroads.

CONFLICTS

HB 364 WOULD DENY PUBLIC INTEREST AND DUE PROCESS IN EACH COMMUNITY WHERE THESE FACILITIES ARE LOCATED.

COST SAVINGS

THE FISCAL NOTE REFLECTS COST NEUTRAL FACTORS. AND A POSSIBLE COST INCREASE FOR ISSUING NOTICES TO ALL SHIPPERS. USUALLY THE PSC CONDUCTS THESE HEARINGS WHENEVER THEY HAVE OTHER CASES WITHIN THE AREA.

AMENDMENTS TO HB 364

HB 364 Would allow each railroad to file individual simultaneous applications for a 90 day TEST CLOSURE PERIOD. Without public participation. Only the shippers would have to be notified.

30 Days prior to the 90 day expiration period OVER 50% OF THE SHIPPERS WOULD HAVE TO PROTEST.

AS AN EXAMPLE: BN has 11 open Montana stations. Libby Eureka- Kalispell- Whitefish- Shelby- Sweetgrass- Havre- Froid- Great Falls- Glendive- and Forsyth. The railroad could submit 11 individual PSC applications AT ONE TIME. CLOSE THE STATIONS FOR 90 DAYS.

OVER 50% of the SHIPPERS WOULD HAVE TO PROTEST. If that percentage doesn't EXCEED 50% . The PSC is compelled to issue permanent closure orders.

(see reverse side)

BURLINGTON NORTHERN MONTANA STATION FACILITIES

The largest BN agency facility is located in Great Falls. Beginning in 1987 - The railroad started closing its single man stations. And consolidated them into one centralized location. Great Falls became what is called a Centralized Customer Service Center (CCSC). Between 1987 and 1994 Over 35 stations were consolidated with Great Falls. These stations encompass the entire hi-line from Scobey to Cut Bank, thence southward branch lines Shelby/Great Falls/Mossmain/Lewistown/Great Falls.

GLENDIVE CCSC: services 10 Montana Stations that were closed during this period. Also Glendive Services 8 Southwester North Dakota Stations, and 4 Northwest South Dakota Stations.

BN's WHITEFISH, CCSC: Services 5 stations that were closed during the 1987/1994 time frame.

It is doubtfull (if not impossible) that shippers who use these CCSC's would protest, and then travel hundreds of miles to testify in public hearings. For example shippers in Scobey, Culbertson or Glasgow would have to lay over in Great Falls at their own expense. A Small shipper could not bear these expenses

CONCLUSION

Attached to this statement find a copy of a map reflecting the open railroad station facilities in Montana. Closure of BN's ll stations could impede AMTRAKS station stops. This in turn could deny station stops. Inasmuch as BN and Amtrak share some station facilities.

THE BOTTOM LINE

This legislature is being asked to expedite BN's strategic initiatives in creating a National Customer Service Center (NCSC) in Ft. Worth, Texas. Attached is a copy of an Employee Bulletin issued on July 20, 1992. Note our boxed in portion. BN's NCSC is expected to be in FULL OPERATION IN EARLY 1995. The Montana legislature is being lobbied to pass legislation that would enable BN to complete their time frame.

RAILROADS CAN APPLY TO MPSC FOR 90 DAY TEST CLOSURE PERIODS UNDER EXISTING LAW. HB 364

Sections 1 & 2 in HB 364 (Sec. 69-14-202 MCA) allow railroads to seek the same relief appearing in amended section 3.

MEMBERS OF THE COMMITTEE - ASK YOURSELVES:

COULD IT BE THAT THE RAILROAD(S) DON'T WANT PUBLIC HEARINGS IN EACH COMMUNITY WHERE THEIR STATION FACILITY'S ARE LOCATED?

CAN A SMALL SHIPPER WITHSTAND PERSONAL EXPENSES TO TRAVEL HUNDREDS OF MILES AND PARTICIPATE IN PUBLIC HEARINGS?

IS THIS COMMITTEE AND LEGISLATURE BEING ASKED TO EXPIDITE THE RAILROADS STRATEGIC INITIATIVES IN CREATING A NCSC IN FORT WORTH, TEXAS?

FINALLY. WHAT ABOUT THE PUBLIC INTEREST IN EACH COMMUNITY - SUCH AS LOCAL GOVERNMENTS - ECONOMIC IMPACTS AND PUBLIC SAFETY?

ARE THEY BEING DENIED DUE PROCESS TO PARTICIPATE IN OPPOSING OR SUPPORTING A 90 DAYS TEST CLOSURE?

Some members of this committee have paricipated in these public hearings. Your input played important roles in the proceedings. The Montana legislature conducts public hearings during their 90 days session. A railroad is a public service corporation. And being such they should be answerable to the Public.

HB 364 DENIES DUE PROCESS WHICH IS THE FOUNDATION OF OUR LEGISLATURE. MR. VANDERBILT - OF THE NEW YORK CENTRAL RAILROAD ONCE SAID: " THE PUBLIC BE DAMNED " I HOPE THAT MONTANA RAILROADS ARE NOT THINKING THE SAME THING.

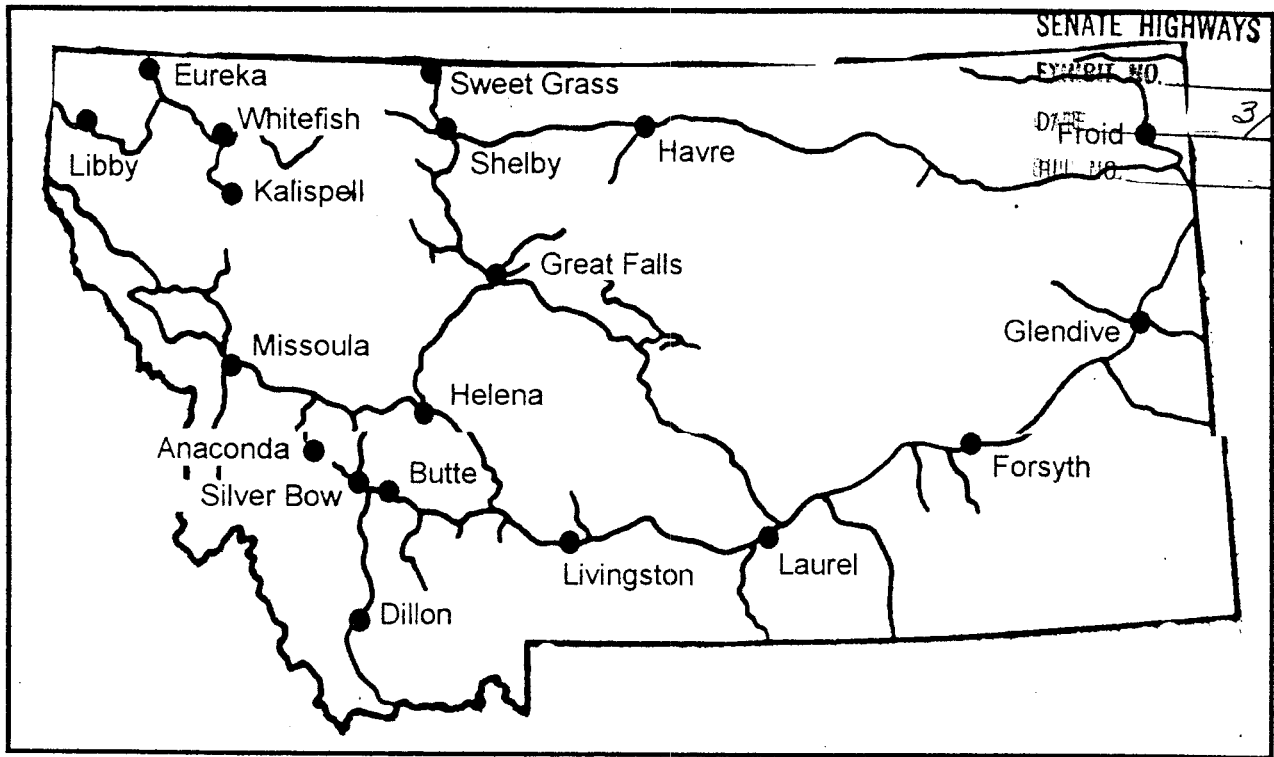
I URGE THAT YOU VOTE AGAINST HB 364 FOR THE BENEFIT OF THE MONTANA COMMUNITIES INVOLVED.

THANK YOU FOR ALLOWING ME TO APPEAR AND TESTIFY BEFORE THIS COMMITTEE.

Respectfully submitted this 9th day of March 1995.

MONTANA RAILROAD STATIONS

House Bill 364



Montana stations located on Burlington Northern Railroad:

Libby	Sweet Grass
Eureka	Havre
Kalispell	Great Falls
Whitefish	Froid
Shelby	Forsyth
	Glendive

NOTE

Libby, Eureka, Shelby, and Forsyth station closures are pending before the Montana Public Service Commission. Public hearings have been held, awaiting Commission orders.

Montana Public Service Commission denied BN station closure authority for Froid, Montana. BN appealed for judicial review. Case pending in 1st Judicial District, Helena.

Montana stations located on Montana Rail Link

Missoula
Helena
Livingston
Laurel

Montana Stations located on Montana Western Railroad

Butte
Anaconda

Montana stations located on Union Pacific Railroad

Silver Bow
Dillon

Montana Amtrak passenger stations

Wolf Point
Glasgow
Malta
Havre
Shelby (Great Falls & Butte bus-line connection)
Cut Bank
Browning
Glacier Park (closed seasonally)
Essex (stops at Isaac Walton Inn)
West Glacier
Whitefish
Libby

Our Regional Sales organization has demonstrated that we can be successful selling BN services to new, small- and medium-size customers, some of whom shipped on BN years ago. In the next 60 days, we will strengthen this sales effort with additional people from operations being moved into this group. You will be hearing more about this program next month.

SENATE RIGHTS
EXHIBIT NO. 17
DATE 3/9/95
HB 364

Strategic Initiatives:

We are launching today two strategic initiatives: One is a three-year effort to create an integrated train dispatching center and the other, a similar multi-year effort to build a customer service center. Both centers will be world-class, state-of-the-art undertakings and are planned to be located in Fort Worth.

BN will benefit immensely from combining its dispatching activities into a single center, equipped with the necessary computing and telecommunications capability to improve management of our entire network on a real-time basis. Another benefit will be better communications with our customers regarding shipment status, arrival times and pickup times. A project team is being put together to define the specific operating procedures, equipment needs and migration plan to move from our current system of multiple dispatching offices to a single center that will include the current Network Control Center. As a result of this initiative, there will be further improvement in customer service and precision execution. There will also be significant savings.

VCSC
The concept for a BN Customer Service Center is also the result of many years of study. By Sept. 1, a complete implementation plan will be developed for review by BN's senior management team. Recognizing the need to consolidate all customer service activities within a single center is another strategic step toward adjusting the size of BN's work force while providing higher levels of customer service. We will invest in information technology support and physical facilities, beginning in 1993, and we expect the Center to be in full operation early in 1995.

Further study and economic analysis will be required to implement both of these centers efficiently.

All of these actions are correct for BN at this time. They grow out of the strategic study we undertook called Shaping BN's Future. They are timely as we go about bringing into balance our resources with our business demand. We want a nimble operation that has a manageable fixed cost, with the agility to respond to opportunities for improved volumes at the lowest possible expense. Only in this way, can we achieve high levels of customer service at the right operating costs to produce an operating ratio of 80 percent and below. This operating ratio will be necessary to compete and survive now and in the years ahead.

A number of these actions will affect BN people. We are committed to smooth, orderly transitions in all of our consolidation actions. We will strive to treat all affected employees with fairness and respect. For those people whose work and, therefore, positions will not be necessary, we will provide an appropriate severance package. For those people who may be asked to relocate, the company will provide a relocation package and it's unlikely that many relocations will occur before mid-1993. In all instances, we will make every effort to handle the situation of each employee affected by these actions with utmost care and concern for the individual.

As we move through the planning and implementation phases of these actions, as well as create others, we are committed to keeping all BN people informed.

Richard Russack, VP,
Communications

COMPASS POINTS
COMPASS POINTS
COMPASS POINTS
COMPASS POINTS

07/20/92

PLEASE POST ON A BULLETIN BOARD FOR ALL EMPLOYEES TO READ.

●● Grinstein announces actions and strategic initiatives
to strengthen BN's competitiveness

Ten days ago, BN's senior management met for two days to review and discuss the progress of G-30 and our revenue situation for the balance of 1992. We concluded that BN has a long ways to go to reach the performance levels we are capable of.

G-30's work has been good, but the rate with which we have reduced operating costs and uncovered new sources of revenue is not fast enough to reach our 1992 performance goals. We are not changing our goals, but we must adapt our business to the competitive and pricing pressures that have impacted our revenues. Therefore, we agreed to take a number of actions immediately to stimulate significant, lasting operating cost reductions that we will watch closely so as not to impact adversely on essential customer service levels. These actions and others to follow will also help move BN toward becoming the kind of railroad we must become -- the best in our industry.

We are in an urgent, competitive battle and all of us in senior management are committed to not just surviving, but winning. I'm sure each of you share that commitment, too.

Today, all of us perform some tasks that either can be done differently and more efficiently, or completely eliminated. By eliminating unnecessary work and prioritizing other activities, we will continue the process aimed at reaching a stable and secure work force level.

In addition, we are taking the following actions:

- Freezing hiring;
- Reviewing in advance any relocations in order to achieve a 20 percent reduction in moving expenses for the balance of the year; developing a strategic plan to reduce significantly these expenses on a long-term basis;
- Cutting by 10 percent our business travel expenses for the balance of the year.

These actions can provide us with \$5 to \$10 million in savings.

We also are exploring ways to reduce trains starts, fill excess car and train capacity, and reroute existing trains to improve cycle times -- all as part of the precision execution process, and all done with a continuing focus on improving our safety performance. Further, our sales and marketing people are meeting to analyze business opportunities by customer in the central and southern corridors, following

(SEE REVERSE SIDE)

Northern Plains Resource Council

SENATE HIGHWAYS

EXHIBIT NO. 18

DATE 3/9/95

BILL NO. HB 364

TESTIMONY AGAINST HB 364

3/9/95

Nell Kubesh, Chair, Northern Plains Ag. Task Force

I am a farmer from Glendive and I am concerned about this proposal, which would in essence give Burlington Northern free rein to close any station in Montana with very short notice. This proposal is very wrong because it denies the very safeguards that were implicit when the U.S. subsidized the railroads used to settle the West. I won't go into the details, but everyone knows that there would be little business developed in Montana without federal funding of railroads and highways (also airlines).

Glendive has lost many good-paying jobs in the last few years because of realignments and consolidation of railways. With another hit, our economy will take another nose-dive. We have serious concerns about the changes this bill would bring. Will a headquarters in Texas, which knows nothing about our local circumstances, now direct all traffic in Montana? Does anyone know what the consequences of this will be? Will each station have to meet quotas every day? And will each station, and its captive shippers, have any way to respond, or will they just have to wonder when their station will close?

We are also aware that without regular train schedules and stops, our grain shipping will be in jeopardy. Closures would mean that some farmers would have to haul their grain another 80 miles to find a market, which will escalate our expenses and increase shipping rates. We in eastern Montana know that railroad promises of keeping stations open won't mean much if HB 364 passes. This bill will leave us with no recourse.

I hope that your committee will take a long skeptical look at the data that BN must be giving you, and keep in mind that you are representing Montana's small shippers as well as large. Without the small feeder lines, the main lines will become less viable.

A vote AGAINST HB 364 will be a vote for farmers and small businesses.

Business

Section
D

Sunday, March 5, 1995

BN rate gap widens

Montana's captive grain shippers paying the freight

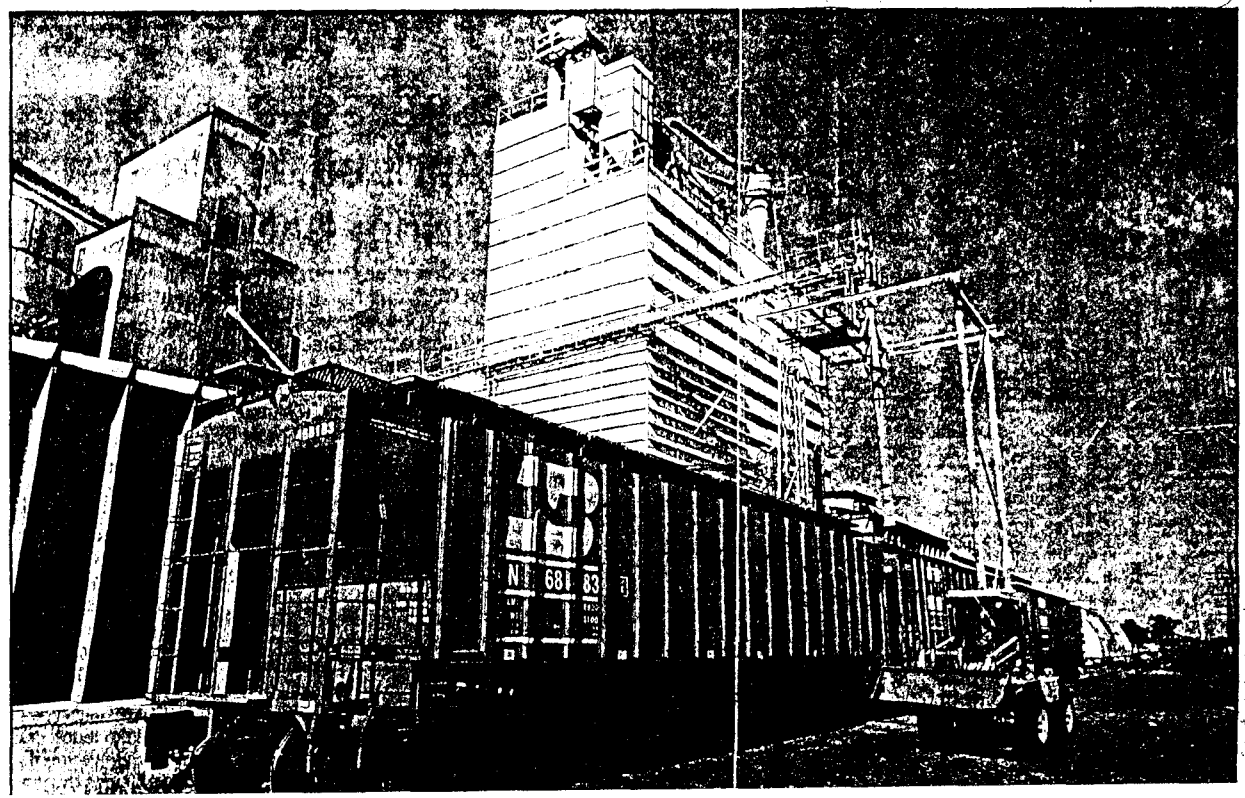
By JIM CRANSBERRY
of the Gazette Staff

FROM PLENTYWOOD, MONT., to Portland, Ore., it is 1,203 miles on the Burlington Northern Railroad. From Alliance, Neb., to Portland it is 1,471 miles on the BN. To ship a hopper car of wheat from Plentywood to Portland, it costs \$1,038 more than to ship a hopper car of wheat from Alliance to Portland even though Alliance is 268 miles further from Portland than is Plentywood.

Why? Because BN has no competition in Plentywood. That is not news. It has been that way for a long time.

But the disparity in rates for grain shippers in Montana, who are captive to BN, versus the rates in Nebraska, where the BN has direct competition, is widening. (See chart.)

It appears that the fears of Montana grain farmers of getting stuck for the increased costs of the BN merger with the Santa Fe Railway are being



HOUSE BILL 364

Mr. Chairman, members of the committee, I am Fran Marceau, State Legislative Director for the United Transportation Union. I would like to urge you to oppose HB364.

There is presently a procedure in place which allows for the discontinuance of Railroad agencies if the Public Service Commission deems such closure appropriate. It should be noted that the procedure presently used by the PSC has granted railroads the authority to close many agencies. There are only eleven stations on the entire Burlington Northern line in Montana. Closures are pending on four of the eleven, awaiting a decision by the PSC.

What this bill is attempting to do is to interfere with the PSC's decision making ability to require a railroad station to remain open for public convenience and necessity and for the safe operation of the railroad. Through gamesmanship and maneuvering, this bill will prevent the PSC from making the decisions and doing the job it is intended to do.

If this bill passes I'm sure other modes of transportation and the utilities will have legislation introduced to see if they might also weaken the Commission's authority for their own self interests.

Once again, I urge you to oppose HB364.

Thank you.

EXHIBIT NO. 21DATE 3/9/95BILL NO. HB 364**DAVID R. PAOLI**

ATTORNEY AT LAW

210 NORTH HIGGINS AVENUE SUITE 336 MISSOULA, MONTANA 59802

March 8, 1995

VIA FAX 900-225-1600

Senator Larry J. Tveit, Chairman
Senate Highways and Transportation Committee
Capitol Station
Helena, MT 59601

Re: HB 364

Dear Chairman Tveit:

I cannot be at the hearing you will conduct regarding HB 364. However, I wanted to send you a short letter opposing HB 364.

The Burlington Northern Railroad or its predecessors, have enjoyed tremendous financial wealth from our state. From the very early days when the land grants provided BN with millions and millions of acres of Montana land, including the riches the land held, to this day when they operate in our state and profit from those operations. I believe along with the many benefits the Burlington Northern derives from our state also imposes on BN a good deal of responsibility. Part of that responsibility is maintaining and operating railroad depots in the State of Montana. To pass HB 364 will drastically hurt the customer service BN should be expected to provide to Montana consumers and customers. Customer services is also a responsibility of doing business in this state. It is completely unacceptable to require Montanans to seek assistance and customer service from Fort Worth, Texas, if a question arises regarding business conducted with the Burlington Northern.

Additionally, and more fundamentally, I have a serious objection to an out-of-state corporation that has been regulated for many years by the Montana Public Service Commission to now, when it objects to the Public Service Commission, to approach the Montana Legislature for relief. The Montana Public Service Commission has been established and is the process by which these matters of closing railroad depots are to be handled. Now, BN chooses to circumvent that process, in its own self-interest, and appeal to the Montana Legislature to "backdoor" the Public Service Commission. Even the Burlington Northern has to play by the rules. Please vote against HB 364.

Very Sincerely Yours,


David R. Paoli

DRP:cef

SENATE HIGHWAYS

EXHIBIT NO. 22

DATE 3/9/95

BILL NO. HB 364

MARCH 6, 1995

SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE

RE-HB 364 (MONTANA RAIL STATION BILL)

SENATOR LARRY TVEIT-CHAIRMAN

SENATOR BILL SWYSGOOD-VICE CHAIRMAN

MEMBERS OF THE COMMITTEE-SENATORS MACK COLE, RICK HOLDEN, REINY JABS,
GREG JERGESON, ARNIE MOHL, LINDA NELSON, AND BARRY (SPOOK) STANG.

DEAR SENATORS:

House Bill 364 (An act allowing a railroad to conduct a service system test before modifying or closing a facility) is now assigned to your committee for consideration. I would ask you to vote against HB 364 because the present law entitles all shippers to an equal voice in dealing with their railroad agency.

Most importantly is the fact that the Mt. Legislature has changed the law several times over the last 10-15 years, always resulting in the something "Reduction of Service for the Shipper", Higher profits for the Railroads. I have attended several agency closing hearings in Eastern Mt. over the years and heard the railroads contention that if we can consolidate into 4 agencies in Montana we would be better off. Now one of Montana's Railroads has a plan to move all agency work to Ft. Worth, TX, while still generating 50-100 million dollars worth of revenue in Eastern Mt. Would you accept State Farm Insurance to have an agent or adjuster in Ft. Worth, TX to serve people in Eastern Montana, without questioning the possibility that the service to Montana's would be hurt?

Senators, HB 364 is wrong, it restricts small shippers in Montana from having any voice in rail transportation that effects it's business, and ignores the safety role that a local or regional agency would play in case of an emergency. Please vote against HB 364!!

Thank You

Pat A. Mischel

47 Rd 261

Glendive, Mt. 59330

406-365-6690

BEACH, ND		
BEACH COOP	701-872-3761	JERRY JANZ
BEACH FAX	701-872-3312	
DAKOTA FARM EQUIPMENT	701-872-3737	DON BALLARD
WEST PLAINS IMPLEMENT	701-872-4154	HARRY ZACHMANN
CIRCLE, MT		
FARMERS ELEVATOR	406-485-3313	ED MALLET
FARMERS UNION OIL (CENEX)	406-485-2525	LARRY KWASNEY
ROLANDSON IMPLEMENT X	406-485-2145	OLLIE ROLANDSON - Box 310
COLSTRIP, MT		
MONTANA POWER	406-748-2366	MINE SESSIONS
GENERAL METALS	206-572-4000	BRIAN KUSHIN - EXT. 26
STONE CONTAINER	406-748-4303	WALT DUDLEY 740-1314 cellular
NORTHERN CHEYENNE PINE	406-748-2367	MILLARD BRADEN 749-0131 ↓
NORTHERN CHEYENNE FAX	406-784-2375	
FALLON, MT		
HARVEST STATES LINE ELEV. X	406-486-5430	DAVE CORBIN Box 36 59326
FORSYTH, MT		
NORTHERN CHEYENNE PINE	406-784-2367	RONNIE
GLENDIVE, MT		
CENEX FERTILIZER X	406-365-8381	BOB MOSBY - OFFICE - 2111 W TOWN
& FARMERS UNION OIL	406-365-4366	PLANT PHONE
CENEX PIPELINE X	406-365-2210	MILT PRESCOTT Box 240
FISHERS INDUSTRIES X	406-687-3383	BILL LAFOND - Robt 1246
FISHERS FAX	406-687-3345	
FARMERS ELEVATOR X	406-365-8311	JOEL SALZER - po. Box 1391 59330
HARVEST STATES COOP X	406-365-5241	FRANK TEETERS Box 1131
MILNE IMPLEMENT X	406-365-2533	KURT OR KYLE MILNE - Box 1208
BORDER STEEL X	406-365-4398	BRETT 2703 W. TOWN
HYSHAM, MT		
SIMPLOT SOIL BUILDERS	406-342-5660	MORRIS SPANNAGEL
TRI-COUNTY COOP	406-342-5221	STEVE WILKENS
MILES CITY, MT		
PEAVEY (AGRIBASICS 232-2009) X	406-232-6850	MARK SETHRE 714 PHILLIPS
PEAVEY FAX	406-232-6859	WES BURLEY 3RD + ATLANTIC
CENEX LAND LAKES X	406-232-3520	PAT SLOAN 803 PHILLIPS
PACIFIC HIDE & FUR	406-232-3583	JAKE VOLZ 901 N. LAKE AV
TRANSCISCO RAIL SERVICES X	406-232-1527	WARD WEIGUM 901 N. LAKE AV.
TRANSCISCO'S FAX	406-232-7686	DON HARTMAN
ALLWASTE RAILCAR CLEANING	406-232-0103	
ALLWASTE'S FAX	406-232-0120	
MONTANA EXPLOSIVES INC	406-232-1632	
MONTANA EXPLOSIVES FAX	406-232-1660	
TERRY, MT		
FARMERS UNION TRADING	406-637-5741	ROGER REUTHER
PRAIRIE ELEVATOR	406-637-5537	SUE & STEVE TIBBETTS
WORDEN, MT		
VOGEL LAND & CATTLE	406-967-2966	DAN VOGEL
FARMERS UNION OIL	406-967-3100	BOB JACOBSEN
TRI-STATE OIL	307-746-3688	CHARLES MARTIN
Sidney Holly Sugar X	482-3307	Box 1168 59270

31	<u>MCLAUGHLIN, SD 08435</u> S.D. WHEAT GROWERS ASSN	605-823-4442	GERRY CRAWFORD
32	<u>MCINTOSH, SD 08464</u> MCINTOSH WATAGUA EQUITY	605-273-4266	GARY SCHWALK
33	<u>THUNDER HAWK, SD 08495</u> SOUTHWEST GRAIN	605-374-3794	MIKE JENNINGS
34	<u>LEMMON, SD 08504</u> SOUTHWEST GRAIN	605-374-3301	TODD OSTER
35	DITTUS INC	605-374-3373	STEVE MEIER
36	<u>HETTINGER, ND 08527</u> HETTINGER COOP EQUITY EXCHANGE	701-567-2408	JON SEAMANDS
37	CENEX/FARMERS UNION OIL	701-567-4343	FRED WANGLER
38	CONTINENTAL METALS	701-567-2568	REGGIE ROBINSON
39	<u>REEDER ND 08545</u> REEDER EQUITY	701-853-2302	LARRY JACKSON
40	<u>GASCOYNE, ND 08551</u> AMERICAN COLLOID FAX #	701-275-8201 701-275-8229	JUANITA AASE
41	KNIFE RIVER COAL CO	701-275-8211	ROD NIELSON
42	STERLING AG SERVICES	509-547-4632	JOE PAGE
43	<u>SCRANTON, ND 08555</u> SCRANTON EQUITY EXCHANGE FAX #	701-275-8233 701-275-8281	MIKE WEDWICK
44	<u>BOWMAN, ND 08567</u> BOWMAN GRAIN	701-523-3173	DAN SWANSON
45	BOWMAN WOOL & LIVESTOCK	701-523-3167	JIM MELANEY
46	FARMERS UNION OIL	701-523-3268	ROGER WARBIS
47	<u>RHAME, ND 08581</u> FARMERS EQUITY UNION	701-279-5543	MERRILL BRUISKER Tom Johnson
48	<u>BAKER, MT 08615</u> EQUITY COOP <i>Box 488 X</i>	406-778-2226	JIM SCHAEFER <i>59313</i>
49	BAKER GRAIN	406-778-2511	MERLIN ZINK
50	AGRONOMY CENTER <i>Q CENEX</i>	406-778-2929	BOB BRENDT
51	MILPARK HUGHES DRILLING FLUIDS	406-778-2480	PAUL HOFF
52	<u>PLEVNA, MT 08628</u> PLEVNA EQUITY EXCHANGE	406-778-2226	JIM SCHAEFER
53	<u>ISMAY, MT 08644</u> ISMAY GRAIN	406-772-5743	DAVE NEMITZ

SENATE HIGHWAYS

EXHIBIT NO. 23

DATE 3/9

BILL NO. HB 364

P

Cathy & Pat Murnion

P.O. Box 97

Ingomar, MT 59039

March 7, 1995

Senator Larry Tveit
Capitol Station
Helena, MT 59620

RE: HB 364

Dear Senator Tveit:

I just wanted to send you some information I received from Mary Nielson, WIFE transportation chairman concerning the BN bill. While I do not personally live near a railroad, I am concerned as to their operations due to the fact that we do sell wheat to elevators who use the railroad. I will also admit that I do not wholly understand the processes which are being considered in this bill. I would like to say that my understanding is that BN already has the ability to close agencies under current provisions. I do not understand why the State of Montana would want to write laws which would lessen the responsibility of the railroad to the citizens of Montana.

I would urge you to oppose this bill. Thank You.

Sincerely,



Cathy Murnion

THE FOLLOWING MESSAGE SHOULD BE SENT FROM YOUR CHAPTER TO YOUR SENATOR PLEASE.

HOUSE BILL 364 (Norm Mills, etc.) IS ENDEAVORING TO CHANGE AND COMPLICATE THE PRESENT LAW UNNECESSARILY. It is a total waste of the legislatures' time!
And WIFE is among those opposing it.

The law as presently written is working well... there is no need to further complicate it with the proposals being advanced by this Bill.

The Public Service Commission has been performing its duties efficiently, notifying shippers and communities of hearings when any railroad has applied to close its agencies.

Presently, agency closures in Libby, Eureka, Shelby and Forsyth are pending before the PSC. The agency in Froid, where the Commission held a hearing and denied the application, is being appealed by the BNRR for judicial review. It is in the Judicial District of Helena. All agencies are still open at this point. The Froid agent is still in position, although his duties are supposedly being replaced by a toll-free telephone number, where shippers (i.e. elevators) can call for assistance.

At the hearing in Froid, shippers repeatedly said that the service from the 800 number was not satisfactory. Instances of messages left, and calls not being returned were numerous. One shipper actually 'lost' a car that was bringing safflower oil up from the South (in the summertime!) and, getting no satisfaction from the toll-free service- asked for assistance from the agent, who then gave them some satisfaction and they located the car.

The PSC ruled that the local shippers had benefited from having a local agent. The present law served well, and there seems to be no logical reason to complicate the procedure any farther.

There is no law at this time that prevents the railroad from 'testing a service system'- they have the capabilities of doing that. The shippers and communities, the general public all have the right to protest under the present law. The PSC has the authority to study the situation and make a decision.

Under Section 1. of 69-14-202, MCA, it reads: Every person, corporation or association operating a railroad in the state.... **shall maintain and staff facilities for shipment and delivery of freight and shall ship and deliver freight and accomodate passengers in such facilities as were maintained and staffed on Jan. 1, 1987.**

At that time, there were many more services provided for shippers in compliance with the above section of the law, not the least of which was an agent that could personally assist with problems, whether it was with unclean hopper cars, or those with deficiencies of any nature; or assisting rail passengers with information or their luggage, on AMTRAK.

These employees of the railroad were much more concerned with efficiency and service than those disembodied voices at the toll-free number, many of whom were unfamiliar with 'how to fix' problems. Presently, the 800 number is in Great Falls. Shippers have repeatedly complained at Public Service Commissions hearings that much of the time either there was no answer, or the calls made were not returned.

If that service is removed from the State, and there are no agents left to assist

shippers, just what is the service going to be like then? Remember, this State is captive, for the most part, to one railroad. There is a strong possibility that soon, the ICC will be discharged from its duties. Should the BN- already the largest RR in the nation, be allowed to merge with the Santa Fe- does this mean that this State will get even less service, less cars for grain?

Many of the station agents have become valued members of the communities.

And, under the provisions of the new portion of the law, will elevators dare to protest? Many already are afraid to make their voices heard, since the frequent car shortages may affect them even more than average! This was adequately proven to WIFE members who asked their local elevators for late car delivery information to be taken to the ICC Rail Car Shortage hearing last year. About 15 elevators responded to the query-- ON CONDITION OF ANONYMITY!

PLEASE OPPOSE ANY CHANGES IN THE PRESENT LAW, WHICH WORKS WELL!

DATE 3/9/95

SENATE COMMITTEE ON Senate Highway

BILLS BEING HEARD TODAY: HJR 13 HB 364
HB 448

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
F.G. Marceau	UTU	HJ 13	✓	
M.D. Quinn	UTU	HJR 13	✓	
F.G. Marceau	UTU	HB 364		✓
M.D. Quinn	UTU	HB 364		✓
R.D. VanAken	TEU	HB 364		✓
R.D. VanAken	TEU	HJ 13	✓	✓
Bob Adams	retiree	HB 364	✓	
Kelly Darlington	Watkins Shepard	HB 364	✓	
J.P. Robbins	TEU	HB 364		✓
J.P. Robbins	TEU	HJ 13	✓	
Matthew Cohn	Dept of Commerce	HJ 13	✓	
Lanny Uberg	PSC	HB 364		✓
JAMES T. MULAR	TEU	HJ 13	✓	
JAMES T. MULAR	TEU	HB 364		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/9/95

SENATE COMMITTEE ON Senate Highway

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HB 448

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Check One

Name	Representing	Bill No.	Support	Oppose
Careah Allen	Central Montana Rail	364	✓	
Dorrah Smith	Seneca Club	364		X
D. DITZEL	BRO of LOCOMOTIVE ENGINEERS	364		X
DI DITZEL	BRO of LOCOMOTIVE ENGINEERS	HJR 13	✓	
D DITZEL	BRO of LOCO ENGRS	HB 448	✓	
JAMES A. LOFFTOS	MT FIRE DIST ASSN	HB 448	✓	
PAT Keim	Burlington Northern	HB 364 HB 448	✓	
Pam Langley	Montana Grain Elevator Assn	HB 364	✓	
Margaret Mary - Schwink	WIFE	HB 364		X
Ray Rowe	PSC	HB 364		X
Pat Saindon	MDT	HJR 73	✓	
Vince Thacker	Wky. Aff	HB 364		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY