

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED SECOND LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 259**

Final Reading

Introduced by Fischer, 43.

Read first time January 11, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to railroads; to amend sections 37-914 and  
 2 74-1427, Reissue Revised Statutes of Nebraska; to  
 3 eliminate the Nebraska Railway Council, the Light-Density  
 4 Rail Line Assistance Act, and funds; to provide duties  
 5 for the Department of Roads; to change provisions  
 6 relating to the use of local tax funds for light-density  
 7 rail lines as prescribed; to harmonize provisions; to  
 8 repeal the original sections; and to outright repeal  
 9 sections 74-1401, 74-1402, 74-1402.01, 74-1403, 74-1404,  
 10 74-1405, 74-1405.01, 74-1405.02, 74-1405.03, 74-1406,  
 11 74-1407.01, 74-1408, 74-1410, 74-1410.01, 74-1411,  
 12 74-1411.01, 74-1412, 74-1412.01, 74-1413, 74-1414,  
 13 74-1415, 74-1415.01, 74-1415.03, 74-1415.04, 74-1415.05,  
 14 74-1415.06, 74-1419.02, 74-1420, 74-1420.01, 74-1420.02,  
 15 74-1420.03, 74-1428.01, 74-1428.02, 74-1428.03, and  
 16 74-1429, Reissue Revised Statutes of Nebraska.

1 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 37-914, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   37-914 (1) Pursuant to the National Trails System Act,  
4 and with the consent of the Governor pursuant to section 37-303, the  
5 Game and Parks Commission may acquire by gift, devise, or purchase  
6 all or any part of a railroad right-of-way in the state proposed to  
7 be abandoned for interim trail use. The commission, pursuant to the  
8 National Trails System Act, shall hold the right-of-way for one or  
9 more of the following uses:

10                   (a) To provide a state recreational trail open to the  
11 public;

12                   (b) To preserve wildlife habitat;

13                   (c) To provide a conservation, communications, utilities,  
14 and transportation corridor; and

15                   (d) Other uses approved by the commission.

16                   (2) The right-of-way may be acquired only if the State of  
17 Nebraska is reasonably protected in a manner satisfactory to the  
18 commission for the costs of remedial action and environmental cleanup  
19 for conditions arising prior to conveyance to the state and the title  
20 is free and clear of all liens and encumbrances.

21                   (3) The commission may use funds available by gift,  
22 appropriation, the Trail Development Assistance Fund, and other  
23 appropriate cash funds for uses consistent with those stated in this  
24 section and sections 37-303 and 37-1003.

25                   (4) As long as the integrity of the right-of-way as an

1 interim recreational trail and future rail use is not disturbed, the  
2 commission may lease and grant easement rights on the right-of-way.  
3 Any lease or use allowed shall be subject to all prescriptions of the  
4 National Trails System Act. All revenue collected from such leases  
5 shall be remitted to the State Treasurer for credit to the Trail  
6 Development Assistance Fund pursuant to sections 37-1003 and 37-1004.

7 (5) The commission shall continue to allow all crossings  
8 across the right-of-way acquired at the time of acquisition on  
9 substantially the same terms and conditions as they existed prior to  
10 acquisition unless otherwise agreed between the commission and  
11 interested parties.

12 (6) The acquisition of the right-of-way shall be subject  
13 to the restoration of rail service. If a proposal for the operation  
14 of a railroad is approved by the ~~Nebraska Railway Council and the~~  
15 ~~Interstate Commerce Commission, federal Surface Transportation Board,~~  
16 the right-of-way shall be sold for the market value of the land and  
17 improvements and conditioned upon (a) the operation of a railroad  
18 along the right-of-way, (b) the grant of an easement to the  
19 commission for recreational trail use adjacent to the railroad if  
20 such use is feasible, and (c) the return of the right-of-way to the  
21 commission if rail service is discontinued.

22 Sec. 2. The Department of Roads shall oversee any  
23 outstanding agreement between a railroad and the Nebraska Railway  
24 Council as of the effective date of this act, including making any  
25 outstanding payment due to a railroad.

1                   Sec. 3. Section 74-1427, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   74-1427 (1) If the governing body of a political  
4 subdivision determines that it is necessary or beneficial for the  
5 vitality of such political subdivision to expend local tax funds for  
6 ~~acquisition, rehabilitation or improvement, or operation~~ of a light-  
7 density rail line or rail facility construction, including the  
8 issuance of bonds, ~~for the purposes set forth in the Light Density~~  
9 ~~Rail Line Assistance Act,~~ the governing body shall by resolution  
10 place the proposition for such expenditure or bond issue on the  
11 general or primary election ballot or in odd-numbered years only call  
12 for a special election in such political subdivision for the purpose  
13 of approving such expenditure of local tax funds.

14                   (2) The resolution calling for the election and the  
15 election notice shall show the proposed purpose for which such local  
16 tax funds will be expended and the amount of money sought.

17                   (3) Notice of the election shall state the date the  
18 election is to be held and the hours the polls will be open. Such  
19 notice shall be published in a newspaper that is published in or of  
20 general circulation in such political subdivision at least once each  
21 week for three weeks prior to such election. If no such newspaper  
22 exists, notice shall be posted in at least three public places in the  
23 political subdivision for at least three weeks prior to such  
24 election.

25                   (4) The proposition appearing on the ballot in any

1 election shall state the purpose for which such local tax funds will  
2 be spent, the amount of local tax funds to be so expended, and the  
3 source from which the revenue will be raised. Such proposition shall  
4 be adopted if approved by a majority of those voting in such  
5 election.

6 (5) If a special election is called, the governing body  
7 shall prescribe the form of the ballot to be used.

8 (6) For purposes of this section:

9 (a) Facility means the track, ties, roadbed, and related  
10 structures, including terminals, team tracks and appurtenances,  
11 bridges, tunnels, and other structures used or usable for rail  
12 service operations;

13 (b) Light-density rail line means any rail line  
14 classified as a light-density line by the United States Department of  
15 Transportation;

16 (c) Rail facility construction means the construction of  
17 rail or rail-related facilities, including new connections between  
18 two or more existing lines, intermodal freight terminals, sidings,  
19 and relocation of existing lines, for the purpose of improving the  
20 quality and efficiency of rail freight service; and

21 (d) Rehabilitation or improvement means replacing,  
22 repairing, or upgrading, to the extent necessary to permit adequate  
23 and efficient rail freight service, facilities needed to provide  
24 service on a rail line.

25 Sec. 4. Original sections 37-914 and 74-1427, Reissue

1 Revised Statutes of Nebraska, are repealed.

2           Sec. 5. The following sections are outright repealed:

3 Sections 74-1401, 74-1402, 74-1402.01, 74-1403, 74-1404, 74-1405,

4 74-1405.01, 74-1405.02, 74-1405.03, 74-1406, 74-1407.01, 74-1408,

5 74-1410, 74-1410.01, 74-1411, 74-1411.01, 74-1412, 74-1412.01,

6 74-1413, 74-1414, 74-1415, 74-1415.01, 74-1415.03, 74-1415.04,

7 74-1415.05, 74-1415.06, 74-1419.02, 74-1420, 74-1420.01, 74-1420.02,

8 74-1420.03, 74-1428.01, 74-1428.02, 74-1428.03, and 74-1429, Reissue

9 Revised Statutes of Nebraska.