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92 LSO - 1657

## HOUSE BILL 0267.

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HB0267

AN ACT to create W.S. 37-9-1201 through 37-9-1203 relating to railroads; authorizing railroads to obtain trackage rights over other railroads; providing compensation standards; providing safety standards; requiring approval of the Interstate Commerce Commission; prohibiting leases or sales of state lands to nonconsenting railroads; and providing for an effective date.

HOUSE BILL 0267

Introduced by:

## HOUSE ACTION ON HOUSE BILL

1/25 ☒ Introduced  
 Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☒ Read First Time and Ref. to Committee No. 6  
☐ Failed Introduction  
 Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
 Returned from Committee No. \_\_\_  
 with Recommendation:  
☐ Do Pass; ☐ Amend & Do Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to Committee No. \_\_\_  
 Re-referred to Committee No. \_\_\_  
 Returned from Committee No. \_\_\_  
 with Recommendation:  
☐ Do Pass; ☐ Amend & Do Pass; ☐ Do Not Pass;  
☐ W/O Recomm; ☐ Re-Refer to Committee No. \_\_\_  
☐ Considered in Comm. of Whole  
☐ Amended  
☐ Recommended Do Pass  
☐ Failed Comm. of Whole  
☐ Indefinitely Postponed  
☐ Other: \_\_\_  
☐ Read Second Time  
☐ Amended  
☐ Do Pass  
☐ Do Not Pass  
☐ Accelerated to 3rd Rdg.  
☐ Read Third Time  
☐ Amended  
☐ Passed ☐ Failed  
 Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☐ Held for Reconsideration  
 \_\_\_ / \_\_\_ Motion to Reconsider  
☐ Passed ☐ Failed  
 Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
 \_\_\_ / \_\_\_ Third Reading Vote  
 (On Reconsideration)  
☐ Passed ☐ Failed  
 Aye \_\_\_ No \_\_\_ Ex \_\_\_ Ab \_\_\_  
☐ Sent to Senate (No Amendments)  
☐ Sent to LSO for Engrossing  
 \_\_\_ / \_\_\_ ENGROSSED  
 \_\_\_ / \_\_\_ Sent to Senate

## (HOUSE ACTION CONT'D)

\_\_\_ / \_\_\_ Received from Senate with Request to Concur in Amendments.  
 \_\_\_ / \_\_\_ ☐ House Concurred in Senate Amendments.  
☐ House Did not Concur in Senate Amendments.  
 \_\_\_ / \_\_\_ JCC# \_\_\_  
 House Members \_\_\_ Senate Members \_\_\_  
 \_\_\_ Ch. \_\_\_ Ch.  
 \_\_\_ / \_\_\_ ☐ Request for New Committee.  
 \_\_\_ / \_\_\_ ☐ House Did Not Adopt JCC# \_\_\_  
 \_\_\_ / \_\_\_ ☐ House Adopted JCC# \_\_\_  
☐ Senate Adopted  
☐ Senate Did not Adopt  
 \_\_\_ / \_\_\_ JCC# \_\_\_  
 House Members \_\_\_ Senate Members \_\_\_  
 \_\_\_ Ch. \_\_\_ Ch.  
 \_\_\_ / \_\_\_ ☐ Request for New Committee.  
 \_\_\_ / \_\_\_ ☐ House Did Not Adopt JCC# \_\_\_  
 \_\_\_ / \_\_\_ ☐ House Adopted JCC# \_\_\_  
☐ Senate Adopted  
☐ Senate Did not Adopt  
 \_\_\_ / \_\_\_ JCC# \_\_\_  
 House Members \_\_\_ Senate Members \_\_\_  
 \_\_\_ Ch. \_\_\_ Ch.  
 \_\_\_ / \_\_\_ ☐ Request for New Committee.  
 \_\_\_ / \_\_\_ ☐ House Did Not Adopt JCC# \_\_\_  
 \_\_\_ / \_\_\_ ☐ House Adopted JCC# \_\_\_  
☐ Senate Adopted  
☐ Senate Did not Adopt  
 \_\_\_ / \_\_\_ Sent for Enrolling  
 Received from LSO  
 HEA No. \_\_\_  
 Signed by Speaker  
 Signed by President  
 Approved by Governor  
 Chapter No. \_\_\_

(SEE REVERSE SIDE OF BILL JACKET FOR SUMMARY OF SENATE ACTION)

Received from House  
Read First Time and Ref. to  
Committee No. \_\_\_\_\_  
Returned from Committee No. \_\_\_\_\_  
with Recommendation:  
    ☐ Do Pass; ☐ Amend & Do  
    Pass; ☐ Do Not Pass;  
    ☐ W/O Recomm; ☐ Re-Refer  
    to Committee No. \_\_\_\_\_  
Re-referred to Committee No. \_\_\_\_\_  
Returned from Committee No. \_\_\_\_\_  
with Recommendation:  
    ☐ Do Pass; ☐ Amend & Do  
    Pass; ☐ Do Not Pass;  
    ☐ W/O Recomm; ☐ Re-Rafer  
    to Committee No. \_\_\_\_\_  
Considered in Comm. of Whole  
    ☐ Amended  
    ☐ Recommended Do Pass  
    ☐ Failed Comm. of Whole  
    ☐ Indefinitely Postponed  
    ☐ Other: \_\_\_\_\_  
Read Second Time  
    ☐ Amended  
    ☐ Do Pass  
    ☐ Do Not Pass  
    ☐ Accelerated to 3rd Rdg.  
Read Third Time  
    ☐ Amended  
    ☐ Passed ☐ Failed  
        Aye \_\_\_\_\_ No \_\_\_\_\_ Ex \_\_\_\_\_ Ab \_\_\_\_\_  
    ☐ Held for Reconsideration  
\_\_\_\_ / \_\_\_\_ Motion to Reconsider  
    ☐ Passed ☐ Failed  
        Aye \_\_\_\_\_ No \_\_\_\_\_ Ex \_\_\_\_\_ Ab \_\_\_\_\_  
\_\_\_\_ / \_\_\_\_ Third Reading Vote  
    (On Reconsideration)  
    ☐ Passed ☐ Failed  
        Aye \_\_\_\_\_ No \_\_\_\_\_ Ex \_\_\_\_\_ Ab \_\_\_\_\_  
Sent to House  
Sent to LSO for ENROLLING

34 Dred vs Committee

(SEE REVERSE SIDE OF BILL JACKET FOR  
SUMMARY OF HOUSE ACTION)

House of Intro  
To Com. No. \_\_\_\_\_  
Stand Report Do      Amd      Not       
Com Whole Do      Amd      Not       
2nd Reading Amd       
3rd Reading Amd      Pass      Fail     

Second House  
To Com No. \_\_\_\_\_  
Stand Report Do      Amd      Not       
Com Whole Do      Amd      Not       
2nd Reading Amd       
3rd Reading Amd      Pass      Fail     

1993

STATE OF WYOMING

93LSO-0657.01

HOUSE BILL NO. 0267

Railroad Competition Act-2.

Sponsored by: Representative(s) VASEY and Senator(s) MALDONADO

A BILL

for

1 AN ACT to create W.S. 37-9-1201 through 37-9-1203 relating  
2 to railroads; authorizing railroads to obtain trackage  
3 rights over other railroads; providing compensation stan-  
4 dards; providing safety standards; requiring approval of  
5 the Interstate Commerce Commission; prohibiting leases or  
6 sales of state lands to nonconsenting railroads; and pro-  
7 viding for an effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. W.S. 37-9-1201 through 37-9-1203 are cre-  
10 ated to read;

11 ARTICLE 12

- 1 -

**NO SIGNIFICANT FISCAL OR  
PERSONNEL IMPACT AT STATE LEVEL**

HB 267

## 1 RAILROAD COMPETITION ACT

2 37-9-1201. Trackage rights; compensation; safety;  
3 dispatching.

4 (a) Any railroad may obtain trackage rights over any  
5 other railroad from any point within the state of Wyoming  
6 where they connect to any other point within the state of  
7 Wyoming. These rights shall include the right to deliver  
8 and originate freight and passengers at any point served  
9 by the trackage rights.

10 (b) Any person may obtain trackage rights over any  
11 railroad from any point within the state of Wyoming to any  
12 other point within the state of Wyoming to provide passen-  
13 ger service and less than carload lot freight service.  
14 These rights shall include the right to deliver and origi-  
15 nate passengers or less than carload lot freight service  
16 at any point served by the trackage rights.

17 (c) The owning railroad shall be compensated by the  
18 railroad or person acquiring the trackage rights on the  
19 following basis:

20 (i) Maintenance of way and related expenses  
21 including maintenance of track, structures, communications

1 and signals and dispatching expenses, shall be allocated  
2 on the basis of the relative gross ton miles used by the  
3 railroads over the trackage in question and shall be  
4 determined using the accounting rules and regulations of  
5 the federal Interstate Commerce Commission;

6 (ii) Any capital costs incurred solely to accom-  
7 modate the tenant railroad shall be borne by the tenant  
8 railroad;

9 (iii) The owning railroad shall be entitled to a  
10 payment designed to give it a return on this investment  
11 and to compensate for indirect overhead costs that cannot  
12 be allocated to the trackage in question of ten percent  
13 (10%). The payment shall be proportional to the gross ton  
14 miles used. In the case of passenger or less than carload  
15 lot freight service the payment shall be based on a return  
16 on investment of five percent (5%). The formula shall be:

17 (A) Calculate the total payment needed to  
18 achieve a fifteen percent (15%) return on the trackage and  
19 related required capital investment needed to operate the  
20 railroad including maintenance of way equipment regularly  
21 assigned to the trackage in question but not including any  
22 motive power or rolling stock. The capital investment

1 shall be based on original cost less depreciation of those  
2 items included. It shall not be calculated on replacement  
3 cost;

4 (B) Apportion this payment between the own-  
5 ing railroad and tenant railroads according to the gross  
6 ton miles used by each railroad on an annual basis.

7 (iv) Labor protection costs shall be paid by the  
8 tenant railroad only if required by federal law or regula-  
9 tions;

10 (v) No charge shall be made for loss of traffic  
11 by the owning railroad due to the tenant railroad's activ-  
12 ity unless required by federal law or regulations;

13 (vi) Payments for the use of the trackage rights  
14 shall be made monthly based on estimates made by the own-  
15 ing railroad of the amounts involved with a final payment  
16 due ten (10) days after the owning railroad has made a  
17 final determination of the amounts owed based on the final  
18 figures for the preceding year. Monthly payments shall be  
19 due on the tenth day of the following month.

20 (d) Notwithstanding subsection (c) of this section  
21 the railroads may agree among themselves to any compensa-

1     tion terms even if these are at variance with the above  
2     section.

3           (e) Any compensation terms required by the Interstate  
4     Commerce Commission or any other federal regulatory agency  
5     with jurisdiction shall take precedence over the require-  
6     ments of subsections (c) and (d) of this section.

7           (f) The owning railroad may make and enforce any  
8     safety regulation it deems prudent for the safe operation  
9     of the railroad except that no regulation shall be more  
10    stringent for the tenant railroad than the owning rail-  
11    road. Any safety requirements of any federal regulatory  
12    agency with jurisdiction shall take precedence over the  
13    requirements of this section.

14          (g) The owning railroad shall give trains of the ten-  
15    ant railroad the same priority of dispatching as its own  
16    trains of a similar class. Where the owning railroad does  
17    not operate trains of a similar class the priority shall  
18    be:

19           (i) Passenger trains;

20           (ii) Mixed passenger and freight trains;

21           (iii) Inter-modal trains (trains primarily or

1 exclusively trailers or containers on flat cars);

2 (iv) General merchandise freights;

3 (v) Unit trains carrying bulk commodities;

4 (vi) Way freights.

5 (h) Any requirements imposed by federal agencies with  
6 jurisdiction shall take precedence over the requirements  
7 of this section.

8 (j) It is the obligation of both the owning and the  
9 tenant or prospective tenant railroads to seek any federal  
10 approvals necessary to put into effect any trackage rights  
11 under this section. No trackage rights shall be put into  
12 effect under this section without such federal regulatory  
13 approvals as may be required by federal law unless those  
14 requirements are waived by the appropriate federal regula-  
15 tory agency.

16 37-9-1202. State leases or sales prohibited in speci-  
17 fied instances. The board of land commissioners shall not  
18 grant or sell any lease, easement, right-of-way, mineral  
19 lease or land to any railroad or any entity which is more  
20 than forty-nine percent (49%) owned by any railroad or any  
21 company which owns or controls more than forty-nine per-



1 cent (49%) of any railroad doing business within the state  
2 of Wyoming unless the railroad consents in writing to  
3 abide by the requirements of this act and to diligently  
4 seek any federal regulatory approvals necessary to imple-  
5 ment any trackage rights requested by any other railroad  
6 pursuant to this act. The written consent shall be in the  
7 form and have the contents deemed necessary by the attor-  
8 ney general to implement the intent of this act.

9 37-9-1203. New railroads; switching privileges; defi-  
10 nitions.

11 (a) Any new railroad which is a common carrier shall  
12 have the same rights as any existing railroad even if this  
13 railroad is owned by one (1) or more shippers and is cre-  
14 ated for the purpose of taking advantage of this act  
15 except that if a new railroad is created from the trackage  
16 of an existing railroad the new railroad the the parent  
17 railroad may agree at the time the new railroad is created  
18 to limit its rights to obtain trackage rights over the  
19 parent railroad and except that any new railroad shall use  
20 the crews and observe the work rules of the owning rail-  
21 road.

22 (b) All railroads shall grant to all other railroads

1 with which they interconnect within the state of Wyoming  
2 switching privileges enabling them to serve all customers  
3 within ten (10) miles of the point of interconnections.  
4 The compensation for these privileges shall be by any just  
5 and equitable means the railroads may agree on. In case  
6 the railroads do not agree the owning railroad shall be  
7 paid a fee by the tenant railroad equal to one percent  
8 (1%) of the portion of the total charge for the traffic  
9 moved which the tenant railroad receives. Any require-  
10 ments of any federal regulatory agency shall take prece-  
11 dence over the requirements of this act concerning switch-  
12 ing privileges.

13 (c) As used in this act:

14 (i) "Gross ton miles" means for each train the  
15 miles traveled over the trackage in question multiplied by  
16 the total weight of the train;

17 (ii) "This act" means W.S. 37-9-1201 through  
18 37-9-1203.

19 Section 2. This act shall have no effect on any  
20 trackage rights in effect at the time of the passage of  
21 this act or any trackage rights imposed by any federal  
22 regulatory agency subsequent to the passage of this act.

1       Section 3. The purpose of this act is to increase  
2       competition among railroads within the state of Wyoming to  
3       encourage commerce within the state. It is the intent of  
4       this act to be consistent with the intent and provisions  
5       of the federal Interstate Commerce Act. The act shall be  
6       liberally construed to achieve these purposes.

7       Section 4. This act shall not be used as cause to  
8       abridge or abrogate any existing contract.

9           Section 5. This act is effective July 1, 1993.

10 (END)