

February 7, 1996 LB 584

SENATOR WEHRBEIN: Okay. And so you would revert to that. And could you re...say that again, what that does in terms of maintenance and...

SENATOR COORDSEN: Well, it gets back to...there seems to be, as always in fencing, some confusion. Current law relative to railroads and also relative to trails that are developed on rail bank, track line or what, requires a railroad fence. And a railroad fence is a standard of construction, and it requires the railroad to be responsible for all of the construction and all of the maintenance. And if the landowner has to maintain a fence in the absence of the railroad fulfilling, they can bill the railroad, whether they ever collect anything or not. So it's a puzzle to me why we would move from something...a situation that is...doesn't require any cost to the landowner now or in the future, and say it's a good trade-off to go to a situation that requires no cost now but all of the cost in the future.

SENATOR WEHRBEIN: Okay, thank you. So that, in essence, is what you're doing is reverting, does have a new fence in place, paid for by the principal, in this case the trails, where it formerly had been railroads. But the maintenance under the present law proposal would be 50...or sole responsibility. And you were stating that the maintenance would continue under the old railroad law, which is 100 percent maintenance cost. And that's what your proposal would do by striking this amendment. That's what I wanted to be clear on. That would be my preference, too. I don't recall, we had a lot of discussion as this entered into the bill. I was not part of that directly, although Senator Wickersham and I did confer on this. I understand your concern because I would assume there's, with a little responsibility on the landowner it might assure that the fence is fixed in due course, in due time after winter snows, which we all know right now many fences are in disorder that were brand new two years ago, at least I happen to have some. And so that...whether those will...that annual fence repair trek will be done by railroads, or Game and Parks, or anyone that's responsible for fences that do not have a direct interest in having the fence in good order. Whether that will get done I would say is doubtful. So I'm inclined to support your amendment for that reason. I don't know how much negotiation was done on this in order for this to happen. But it does seem to me that for the next hundred years for the landowner to have