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Transportation and Telecommunications Committee
May 27, 2015

[LR338]

The Committee on Transportation and Telecommunications met at 8:00 a.m. on Wednesday, May 27, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR338. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; and Les Seiler. Senators absent: Tommy Garrett; Beau McCoy; and John Murante.

SENATOR SMITH: Good morning, everyone. And welcome to the Transportation and Telecommunications Committee hearing. The hearing today is on LR338. Let me just make some quick introductions and housekeeping items. I'd like to first introduce my colleagues that are with us here. We have Senator Les Seiler from Hastings. Senator Garrett will not be joining us today. He has a bill first up this morning so he's preparing for that. And in terms of Senator Beau McCoy, he may be joining us here a little bit later. Senator Curt Friesen from Henderson. Next to Senator Friesen is Senator Al Davis from Hyannis. Senator John Murante will be joining us a bit later. And then Vice Chair, Senator Lydia Brasch from Bancroft. Again, I am Jim Smith from Papillion. Committee staff, on my immediate right we have Mike Hybl, legal counsel to the committee. And on my left is Paul Henderson, the committee clerk. Our page today is Brandon Metzler from Omaha who just completed his junior year at UNL. If you are testifying today, please complete the sign-in sheet so it's ready to hand in to Brandon when you approach the testifier table. And for the record, at the beginning of your testimony please both state and spell your name for the transcribers. If you do not wish to testify but want to voice your support or opposition to the matter before us today, you can indicate so at the table as you entered the room. This will be part of the official record of the hearing. If you do not choose to testify you may submit your comments in writing and have them read into the official record. We don't have a large crowd here today, but can I get a show of hands how many people are planning to testify? All right. We are going to move to session at 9:00. So what I'm hoping to do is have about 20 minutes of proponents, 20 minutes of opponents, and then that will leave us some time to go into Exec Session to move things forward since we're in the last days of the session. So with that said, I'm going to use the light system. I think maybe we're going to go with five minutes. And do the math, we're not going to have a lot of time for each group of testifiers, but I am going to hold it to 20 minutes on either side. So with that, I'm going to ask Senator Davis to open on LR338.

[LR338]

SENATOR SEILER: Mr. Chairman, I have the Judiciary amendments at 9:00, so I'll be leaving a little bit before that. [LR338]

SENATOR SMITH: Okay. We'll accommodate you on that. Welcome, Senator Davis. [LR338]

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SENATOR DAVIS: (Exhibit 1, 2, 3, 4) Good morning, Senator Smith, members of the Transportation Committee. I am Senator Al Davis, D-a-v-i-s, and I represent Legislative District 43. Thank you for the opportunity to introduce LR338. This resolution would urge the Federal Rail Administration to adopt a final rule on appropriate train crew size for freight rail operations, taking into account the volume and type of freight crossing the country and the potential for increasing safety by requiring multiple crew members. In April 2014 in response partly to the July 2013 crude oil train disaster in Quebec which killed 47 people, the FRA announced its intention to issue a rule requiring two-person crews on crude oil trains and establishing minimum crew size standards for most mainline freight or passenger rail operations. The original proposed publication date for the rule was April 16, 2015, but it has been pushed back to June 10. The comment period would end on August 10, after which the rule would be prepared for final publication. I have handed out to you a press release on the original announcement of the proposed rule as well as an update of its current status. As I shared with you during the LB192 hearing in February, we are second only to Wyoming in the number of tons of freight originated, terminated, or passed through our state. Our rail lines are congested with tons of not just coal, but ethanol, anhydrous ammonia, benzene, Bakken oil, and other inherently dangerous chemicals. At the LB192 hearing you heard testimony from rail employees within our state who have personally experienced situations where they believe a second crew member either did or could have prevented a dire safety issue. With the introduction of Positive Train Control technology, rail companies are considering reducing their crew size to one crew member when possible. This is a risky development for public safety in Nebraska, particularly in light of the hazardous types of freight that are being hauled through our state and our dependence on rail to transport them. While we all rely on technology every day, there are reasons why fail-safe methods are involved in much public transport. We learned the hard way in France recently why two pilots should be required in the cockpit of an airliner at all times. But that doesn't bring back the dead. The recent Amtrak disaster involving excessive speed might have been prevented with someone else standing in the cabin of the locomotive rather than in the back. Current rules limit the ability of the engineer on a freight train to exit the locomotive, necessitating a conductor whose job it is to manage the train itself. Finally, the issue of fatigue is always one facing the men and women who operate our rail system. And a second person to talk to might keep a horrific accident from happening. I have also passed out to you an amended version of the resolution which I had drafted as a result of conversations with the committee Chair and legal counsel. The amendment modifies the language in the last "whereas" statement and the first paragraph below it to reflect a more measured tone in regards to the requirement of a two-man crew. However, I maintain that a multiple-person crew would greatly enhance freight safety as former FRA administrator, Joseph Szabo, also has said. I urge you to advance LR338 to the Legislature for consideration and send a message to the FRA encouraging them to complete their rulemaking process and clearly address this important safety issue. Thank you very much.

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SENATOR SMITH: Thank you, Senator Davis. Any questions for Senator Davis from the committee? I see none. And that's not because we're not interested. We've gone through the hearing on LB192 and I know the subject matter is the same, so thank you. [LR338]

SENATOR DAVIS: Absolutely. Thank you, Senator Smith. [LR338]

SENATOR SMITH: And we will now move to proponents, those wishing to testify in support of the resolution, LR338. Welcome. [LR338]

GLENN MARKER: (Exhibit 5) Thank you. Good morning, Mr. Chairman, Senators of the committee. My name is Glenn Marker, I am the vice general chairman and a local chairman for the SMART Transportation Division. [LR338]

SENATOR SMITH: And please spell that for us. [LR338]

GLENN MARKER: Sure. Glenn, G-l-e-n-n, Marker, M-a-r-k-e-r. And I have for the last 21 years worked as a conductor and an engineer for the Union Pacific Railroad. I want to thank you for considering this LR338. This is not only important I think on a larger scale, it's also important to me on a personal scale. I work in this industry every day. And I see the effects that a one-man crew would have on me. The railroad now in their operating rules state that I, as an engineer, I cannot talk on the radio. I cannot take any type of mandatory directive, speed restrictions. I can't talk to signalmen, to foremen on Form Bs. I can't talk to dispatchers because it's unsafe. And the conductor is required to do all that work. He's also required to write down any signals we come across. He's required to write down when he talks to foremen, when we go by yellow boards that mark out speed restrictions, he's required to do roll-bys on trains passing by us if we're stopped. And my question to the railroads would be, do those rules that are now so important that the conductor, if he fails to comply with these rules, can be decertified and his federal license could be taken from him? If that rule is so important he can be decertified, what's going to happen to that rule now? Because of the unscheduled work environment and the refusal of the railroads to adequately staff boards, while we're on the road and we are stopped, one crew member is allowed to nap for 45 minutes at a time. And if one man is taken off that crew, that napping rule is going to be nullified. Now you're going to hear from the railroads that truck drivers spend long hours over the road by themselves. But truck drivers, they're allowed to stop, they're allowed to eat, they're allowed to rest, they're allowed to socialize and have a cup of coffee. We're not allowed to do that. Once I get on a train, I'm going to be on a train possibly for 12 hours by myself with no input from the outside world other than the dispatcher. You're also going to hear from the railroads that part of their plan is to have the dispatcher call me every few minutes to make sure I'm okay. Well, our overnight dispatcher who works from 10:00 at night till 6:00 in the morning dispatches a large territory, from North Platte, Nebraska, clear to Douglas,

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Wyoming. There's a rule now on the railroad that says when I stop or I'm crossing from one track to another, he's supposed to call me in advance and tell me that. And he doesn't do that now. There is absolutely no compliance with that rule on the dispatcher's part. And I have no confidence that he's going to call me or any other of the 30 trains that are going to be out there to see if I'm going to be okay or not. I have been...as the local chairman I'm also part of a team that deals with grade crossing accidents. We're a peer support team, is what we're called. And over the course of 21 years I've dealt with four crossing accidents that were all fatalities. During those crossing accidents we have hit pedestrians and automobiles at crossings. Now when we stop, we're not going to be on the crossing. We're going to be perhaps 1,000 feet away from the accident scene. And we send the conductor back to immediately assess the situation. I call 911. Without that conductor there that lag time between, is somebody okay, what emergency response do we need, I'm going to have to tie the train down in order to leave my locomotive and be going down the road. [LR338]

SENATOR SMITH: And Mr. Marker, I didn't explain the light system. When it turns to amber you have about a minute, if you could close, and then the red will come in at five minutes. [LR338]

GLENN MARKER: Okay. Okay, great. Great. Just real quickly, in the last couple of weeks I have...because of the technology that's now in the cab, my focus is mostly down here. And I have three times in one trip missed a signal because I'm dealing with the technology the railroad has put in my cab. Also because of the paperwork required for the conductor, we went through a Form B one time and he didn't know we were there until I started blowing the whistle. There's enough going on now that the two of us are occupied. If there's only one of us, I can't even imagine. And I'm just going to go to some statistics real quickly. The Association of American Railroads Web site says that train accident rates are down 46 percent since 2000; employee injury rates are down 47 percent; and grade crossing collisions are down 35 percent since 2000. That's with two-man crews. The Union Pacific Railroad made \$1.2 billion profit in the first quarter of this year. That's \$13 million profit every day. This is not need, this is greed. Thank you. I'll take any questions. [LR338]

SENATOR SMITH: Thank you, Mr. Marker. Do we have questions from the committee? I see none. Thank you. [LR338]

GLENN MARKER: Thank you. [LR338]

SENATOR SMITH: Welcome. [LR338]

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BOB BORGESON: Good morning. Senator Smith and committee, my name is Bob Borgeson, I'm the state legislative director for the Sheet Metal, Air, Rail and Transportation Union, the transportation division. We represent railroad workers across the state. I really don't have...I think Mr. Marker did a pretty good job of presenting our data. And he came here from Morrill. I don't know if he mentioned it or not, but he came from a long way away in the state to come present testimony today, so. Other than that, I would really just answer any questions if anyone has. [LR338]

SENATOR BRASCH: Can you spell your last name? [LR338]

BOB BORGESON: Borgeson, B-o-r-g-e-s-o-n. [LR338]

SENATOR BRASCH: Thank you. [LR338]

SENATOR SMITH: I'm sorry, I didn't catch that. But thank you, Senator. Any other questions for Mr. Borgeson? Seeing none, thank you for your testimony. [LR338]

BOB BORGESON: Okay. Thank you, sir. [LR338]

SENATOR SMITH: Next proponent on LR338. Welcome. [LR338]

JERRY STILMOCK: Good morning, Senators. My name is Jerry Stilmock, Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association, in support of LR338. We were here when Senator Davis and the members of the committee heard LB192. We're back again supporting, whether it's train cutting, train building, or crossing across the state, trains crossing are going to impact volunteer firefighters and volunteer rescue personnel. As Mr. Marker testified, grade crossing and grade crossing accidents, they're devastating when they happen in a community...when they happen in a rural community. And we believe that the more eyes on the scene by the railroad will help in efforts, maybe not to prevent in a grade crossing situation, but certainly after the event occurs. We're here to support the measure and urge you to consider our comments as you deliberate on the resolution. Thank you. [LR338]

SENATOR SMITH: Thank you, Mr. Stilmock. Questions from the committee? I see none. [LR338]

JERRY STILMOCK: Thank you, Senators. [LR338]

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SENATOR SMITH: Thank you. And next proponent of LR338. Welcome. [LR338]

PAT PFEIFER: Good morning, Senators, Mr. Chairman. My name is Pat Pfeifer, I'm with the Brotherhood of Locomotive Engineers and Trainmen. P-f-e-i-f-e-r. And I just want to come and thank you guys for at least getting a resolution out of here. When I look at it, I don't...you know, when we talk about the hazmat and everything, probably the biggest intent why we're looking for this is the first responder stuff. It's the stuff that would help ensure the public safety, whether a crossing accident or derailment, to notify people and stuff. And I like that you quoted Joe Szabo in there. But I'm a little concerned, back on the resolution, where we crossed out the two-man crew. But regardless of what happens with the FRA, I truly am thankful that you guys are pushing something forward out here. Again, it's just mainly safety of the rail crews, safety of the public that makes this thing so important. We're not trying to handicap any railroad, the ability to make money, collective bargain, anything. It's truly for the safety of the public. That's all I've got to say on this unless you've got something for me. And I'm probably the worst one to answer questions. [LR338]

SENATOR SMITH: Thank you, Mr. Pfeifer. Questions from the committee? I see none. Thank you. [LR338]

PAT PFEIFER: Thank you. [LR338]

SENATOR SMITH: And other proponents of LR338. Seeing none, we will now move to opponents, those wishing to testify in opposition to LR338. Opponents. Welcome. [LR338]

KELLI O'BRIEN: (Exhibit 6) Thank you. My name is Kelli O'Brien, it's K-e-l-l-i, O'Brien is O-'-B-r-i-e-n. I represent Union Pacific Railroad today, I'm the director of public affairs for Iowa and Nebraska. Good morning. I've said my name already. I'm here this morning to testify on behalf of Union Pacific Railroad. Union Pacific is here to voice opposition regarding the language in LR338. While it is understandable that Nebraska lawmakers desire to go on record as being supportive of safe railroading, Union Pacific takes issue with the following: First, the resolution implies that the freight railroad industry is unsafe. In fact, the industry is among the safest heavy equipment industries in the nation. Indeed, the railroads are safer than any other mode of transportation. Second, the resolution conveys that the Legislature favors federal rulemaking over the collective bargaining process, even though railroad experts from labor and management have long and successfully relied upon the collective bargaining process to determine appropriate, safe crew size. Starting with the first point, the facts speak for themselves and provide that the industry is safe. The current language of LR338 leaves the erroneous impression that your constituents who are employed at Union Pacific currently do not operate freight trains safely. Please do not allow this wrong impression to become a matter of state record. Do not pass this

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resolution. The resolution acknowledges the volume of freight transported through Nebraska is significant, and that is very true. In addition to commodities listed in the resolution, railroads that operate in Nebraska also transport: fertilizer and agricultural products; industrial materials that drive building and the construction industry; automobiles and consumer goods; and other products and materials that keep the economy of Nebraska and of the nation moving forward. Union Pacific employs 8,000 employees in Nebraska. As an industry, a rail industry, we have about 15,000 employees across the state. Your railroading constituents who are employed at Union Pacific Railroad place safety as their number one priority each and every day. By supporting this resolution you are, in fact, disregarding our safety culture and the pride of those 15,000 railroad employees and what they place in their work every single day. The daily commitment to safety is reflected in the data I'd like to share from the FRA, or Federal Railroad Administration, and the Bureau of Labor statistics. This information demonstrates that America's freight railroads are operating at the safest levels in history. The Federal Railroad Administration reported that 2014 was the safest year on record for freight railroad operations in the United States. According to the U.S. Bureau of Labor Statistics, railroads have lower employee injury rates than all other modes of transportation. That means the railroads have lower employee injury rates than trucking, barge, and airline industry. Even though railroads have a lower employee injury rate than all modes of transportation, the industry is not resting on its laurels. For example, since the year 2000 the train accident rate, according to the FRA, is down 45 percent. Taking an even closer look, track-caused accident rates have decreased 54 percent, according to the FRA. FRA's statistics demonstrate that while freight railroads moved more products in 2014 than at any other time since 2007, the focus on safe train operations remain front and center through: company-wide and employee run safety initiatives; technological improvements; and ongoing capital investment to maintain a solid infrastructure. I would elaborate on some points with the industry, but I know my time is finite. So I know that other technological advancements continue to be tested, in particular the industry's work on Positive Train Control. There is every reason to expect that the industry will again see improvements in safety. Do not tie the railroads' hands by favoring minimum crew levels. As in the past, technology and progress should be supported and adjusted by industry experts, not stymied by outdated legislation. My second point, Union Pacific prefers collective bargaining over federal rulemaking. When the FRA commenced the federal rulemaking process, the FRA expressed an interest in establishing "minimum requirements for train crew size based on the type of operation." The correlation the FRA seeks to make relative to crew size and a type of operation has yet to be demonstrated. The resolution that the Legislature is considering presumes that such a correlation already exists. Before you go on record as preferring federal rulemaking to collective bargaining between labor and management, please step back and consider that to date there is no evidence demonstrating the FRA's two-person minimum crew will improve railroad safety. So in conclusion, LR338 is wrong, misleading, and an insult to an industry that places safety on its highest priority. The resolution incorrectly implies that the 15,000 Nebraskans, 8,000 Union Pacific employees, and other freight railroad employees are operating in an unsafe manner. This resolution does not

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support or sustain the safest and most efficient railroad industry in this nation's history. For all these reasons and more, that's included in my complete testimony, I urge you to vote against LR338. I thank you for allowing me to testify today and look forward to answering any questions you may have. [LR338]

SENATOR SMITH: Thank you, Ms. O'Brien. Do we have questions for Ms. O'Brien from the committee? [LR338]

KELLI O'BRIEN: I'm happy to also answer those if, at the end of the opponents, if anyone thinks of something else. Okay? Thank you very much. [LR338]

SENATOR SMITH: Thank you very much. Next opponent to LR338. Opponent. Welcome. [LR338]

JEFF DAVIS: (Exhibit 7) Mr. Chairman, members of the committee, Jeff Davis appearing on behalf of BNSF Railway. BNSF Railway and I share the concerns of Senator Davis and those employees you heard testify about safety concerns this morning. We just differ on how to get there. In 1980, it took BNSF and our predecessor railroads 110 men and 22 crew changes to move one train from Chicago to Los Angeles. Now it takes us 20 men and 10 crew changes. Today, with about 40 percent of the manpower we had in 1980, the rail industry moves almost twice the amount of freight in less than half the time, while reducing the number of train accidents by roughly 75 percent. It's technology. The last three years have been the safest years in the history of the railroad industry and the safest in the history of BNSF. Safer than the days when we had three-man crews, safer than the days when we had five- or six-man crews, safer than the days when legislators starting filing bills like LB192 more than 100 years ago. I have two specific problems with LR338. I appreciate Senator Davis' amendment, but we still have issues in that there is simply no evidence to support that there is any safety benefit to having two men on a train. They cannot show you one study, they cannot show you one piece of evidence in support of this position. As justification for this statement we now have a quote from former FRA administrator Joe Szabo. Joe Szabo, the Illinois state legislative director for the UTU, the Bob Borgeson of Illinois. Illinois, a state where two of the last three governors have been sentenced to jail. Here are the facts: In 2010, Metrolink, the commuter rail system serving Los Angeles, concluded a 16-month pilot project to use two-person crews on 13 percent of all its trains. Their findings, it did not result in improved safety. Metrolink cited other studies by the FRA, the National Transportation Safety Board, and the California Public Utilities Commission that said two crew members in the cab could have an unintended contrary effect on safety due to a potential for distraction. In 2009, the California PUC concluded: A second set of eyes provides only minimal safety improvement and should be employed only on a temporary basis, given the fact that it could aggravate engineer distraction and consequently engineer error. Human errors

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cause most rail accidents: crew fatigue, medical condition, use of personal electronic devices. The FRA has looked at all these issues more than once in the last few years and instead of addressing it with crew size, they've banned the use of electronic devices and taken other actions to ensure that rest periods are undisturbed. Automatic couplers, air, and now electronic brakes, replacement of cabooses with end-of-train devices measuring brake pressure and warning lights, modern wayside detectors, all of these are just examples of technology. Better equipment design, better materials, better signaling, better communications equipment, that's what's making railroading safer. I suspect that the die is already cast here. I think many of you have already pledged to sign on to this resolution. But I want to ask each and every one of you that are sponsoring this resolution, that are voting this resolution, including Senator Davis, for one thing today. Before you vote this resolution out of committee, please produce one single piece of actual scientific evidence that supports the notion that two-man crews are any safer than any other method. Ladies and gentlemen, yesterday you approved LB581 that provides a taxpayer subsidy to our competitors so they can retrofit their vehicles for natural gas. Four states and the District of Columbia have already legalized driverless cars. On March 7, Nevada approved Freightliner's application to begin operating the first semi truck that can drive itself. Technology is not going to stand still and neither is our competition. The Legislature has done a lot of work to make Nebraska's business climate attractive for technology and investment. Let's not start rolling up the sidewalks. Let's not support policies that in 10 or 20 years could inhibit the growth of an industry in this state. Let's not pass bills and resolutions inhibiting the development of technology that can save people's lives. Thank you. [LR338]

SENATOR SMITH: Thank you, Mr. Davis. Questions from the committee? Senator Brasch. [LR338]

SENATOR BRASCH: Thank you, Mr. Chairman. Your testimony is very compelling on the safety. Where I find a matter of consideration would be in light of Homeland Security. I am wondering if one person should run into difficulty with a terrorist, for example, if they're able to protect and keep...the security we are hearing every day on national news. And there's great potential for harm here. [LR338]

JEFF DAVIS: And, Senator, that would have to be addressed. Right now, as it stands, we have a collective bargaining agreement with the union. It requires two men on every train. We cannot arbitrarily change that agreement without the consent of the union. It is a binding contract. So that is an issue that would have to be addressed. All of these safety issues that Pat Pfeifer and all of these other gentlemen are talking about, those are all issues that would have to be worked through before we ever get to that point. And I'm not saying that we have all of the answers, I'm just saying we don't know what technology is going to be developed in the next 10 or 20 years. If you go out and you test drive one of the new Tesla cars, they automatically slow down when they get too close to another vehicle. The steering wheel starts to vibrate if you get outside the lane.

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The technology, whether or not we have a train that will operate itself or whether or not we can have a second engineer who can remotely take over that train at any point, those are just some of the options that are going to be out there in the future. The technology may not quite be there yet. [LR338]

SENATOR BRASCH: And I would argue that there's hackers in technology as well. So I remain concerned on one individual. And the question here today, as you mentioned, is the safety. But I think we need to look beyond that as well, so. [LR338]

JEFF DAVIS: Right. And I agree with you. And like I say, we have a contract with our union. We're going to honor that contract. And I commit to you that we're going to work with them to solve this problem. [LR338]

SENATOR BRASCH: Very good. I have no other questions. And thank you for your testimony, very thoughtful. [LR338]

SENATOR SMITH: Thank you, Senator. Further questions from the committee? Senator Seiler. [LR338]

SENATOR SEILER: I just have a comment, Jeff, that's not quite on point but I think you'll catch the drift of it. Last night on television they were showing two individuals demonstrating a self-parking car and it ran over them. So sometimes technology doesn't quite work. [LR338]

JEFF DAVIS: Well, and I agree. And we've had some bad experiences with technology as well. I mean, we have well-meaning people right now that are after us to install scrubbers and filters on our locomotives that basically cause them to break down. [LR338]

SENATOR SEILER: Really? Wow. Thank you. [LR338]

SENATOR SMITH: Thank you, Senator Seiler. Questions? I see none. Thank you, Mr. Davis, for your testimony. [LR338]

JEFF DAVIS: Thank you, Senator. [LR338]

SENATOR SMITH: Do we have other opponents, those wishing to testify in opposition to LR338? Seeing none, anyone wishing to testify in the neutral capacity? Neutral. Welcome. [LR338]

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ERIK WOOD: Thank you. Good morning. My name is Erik Wood, W-o-o-d, I'm here to testify in the neutral. I just want to clarify a few points that was discussed today. I am a locomotive engineer. I am part of the BLET. One of the points being is we are a much safer railroad than we were when I hired on 23 years ago. With that being said, we're also safer because there is two-man crews. And all the statistics that have been presented today are with two-man crews, not one man, so it's something to take into consideration. Also, Warren Buffett, the owner of our company, and Matt Rose, the CO officer, have both been quoted as stating that this industry, our railroad, will never be 100 percent accident free. There's articles out there, we could provide them to you guys. I just want to let you guys know about that. Collective bargaining keeps coming up. In any other law that's been passed in the state, does that influence you guys either way with collective bargaining telling the state lawmakers what to do, what not to do? I'm curious. That was brought up. Also the public...with us being on locomotives, we cannot cut crossings, let first emergency responders get to the accident victims if there's only one person. So I just wanted to point out a few of those things. Do you guys have any questions? [LR338]

SENATOR SMITH: No. [LR338]

ERIK WOOD: All right. Thank you. [LR338]

SENATOR SMITH: Oh, yes. Please spell your name for us. [LR338]

ERIK WOOD: E-r-i-k W-o-o-d. [LR338]

SENATOR SMITH: Thank you. [LR338]

ERIK WOOD: Thank you. [LR338]

SENATOR SMITH: Okay. Anyone wishing to testify in the neutral capacity? All right. Seeing none, Senator Davis, would you like to close? [LR338]

SENATOR DAVIS: Thank you, Chairman Smith. And I'm just going to be very brief. And I think Senator Brasch went to a point that's important to think about and that is wild card situations that are out there. So we know that there are some that have already taken place in other fields. We don't know what happened to the plane that has been missing for a year and a half, but we do know what happened there that some human interaction took place on that plane. We know that the plane that crashed in France had one person sitting in the cockpit; the other one had left. These are situations where an individual takes control of a public piece of machinery, which we all rely on in our everyday life, and does something devastating and

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terrible with it. I'm not saying that's going to happen, but I agree with Senator Brasch that hacking is possible. We know that the rule that the FRA is looking at came about after the crash in Canada, the train wreck in Canada which killed 47 people. I believe that was relating to improper parking on a hill with one person in that train. Do we want to take those risks? And I just want to refute something that is in the written testimony of Jeff Davis when he says, I suspect some of you have already traded your votes on this resolution today. I didn't do any vote trading. I want you to know that. And I think all of you know that too. So with that, I appreciate the time here and I'd take any questions. [LR338]

SENATOR SMITH: Thank you, Senator Davis. And I hope Mr. Jeff Davis doesn't take offense. I guess that maybe I missed that part. I didn't hear him mention a vote trade. [LR338]

SENATOR DAVIS: Written testimony. [LR338]

SENATOR SMITH: It's written in the written testimony, all right. But I didn't hear his presentation. [LR338]

SENATOR DAVIS: I felt that if it was in the written testimony, it needed to be refuted, Senator Smith. [LR338]

SENATOR SMITH: Okay. Senator Davis, thank you for bringing the resolution. And this is a...for those that may be listening to us or watching us by the live feed or that are in the audience here, this is a very controversial topic. And there are strong feelings on both sides. And on behalf of the committee I just want to make a couple of comments. First, I just want to repeat that our lack of questions is not representative of us not being interested in this topic. We heard testimony extensively on LB192 and so I think the committee has a good understanding of the issue at hand. We certainly have great appreciation for the workers, the transportation workers on the railroad. I know they work hard every day to keep commerce moving, keep our economy moving, and to do it safely. And we greatly appreciate their efforts. And we greatly appreciate our railroads who are investing in our state and our country. Union Pacific, we're so very proud of having Union Pacific headquartered in Nebraska and the presence of Burlington Northern. We appreciate their investment in Nebraska. Without them and moving the commerce forward, we wouldn't be what we are today as a country or as a state. And then I also greatly appreciate--now I think I'm speaking on behalf of the committee--the focus on safety. And that's a combination of both the workers and the railroad management and leadership. I'm very proud of seeing how the railroads are operating safely. I think it's something to be very proud of, what's happening in our state with the headquarters of UP here and the presence of BNSF. So I admire the focus on safety there and I do see it as a team effort. I think the committee sees it as a team effort as well. So we don't take this issue lightly and appreciate you bringing the resolution forward. And thanks for

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everyone's time here today. Any questions for Senator Davis before we end? Seeing none, thank you, Senator Davis. [LR338]

SENATOR DAVIS: Thank you. [LR338]

SENATOR SMITH: With that, we're going to conclude the hearing, end the hearing for the day. And we're going to go into Exec right away, so we'll wait a few minutes to let the room clear. [LR338]