

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON TRANSPORTATION

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 12, 1981

The Senate Committee on Transportation was called to order by Chairman Richard E. Blakemore, at 2:10 p.m., on Tuesday, May 12, 1981, in Room 131 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Richard E. Blakemore, Chairman
Senator William Hernstadt, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Wilbur Faiss
Senator Joe Neal
Senator James H. Bilbray

COMMITTEE MEMBER ABSENT:

Senator Clifford E. McCorkle

STAFF MEMBER PRESENT:

Kelly R. Torvik, Committee Secretary

SENATE BILL NO. 552

Mr. David Russell, representing Union Pacific Railroad Company, proposed that the present full crew law be amended. (See Exhibit C). He submitted prepared testimony to the committee (see Exhibit D) and provided information regarding crew consist (see Exhibit E). He stated that the railroads have an obligation to their employees and the public to run on a cost efficient basis. The employees would be protected and would benefit from the collective bargaining agreements.

Mr. John Eck, representing Southern Pacific Transportation Company, submitted prepared testimony to the committee (see Exhibit F).

Senator Hernstadt asked what the average crewman earned in an eight hour shift and what that crewman would earn on a reduced crew. Mr. Alden Bud Lotts, Director of Labor Relations, Union

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Pacific Railroad, stated that the average brakeman earned \$74.00 per shift. That same brakeman would earn an additional \$5.67 per shift on a reduced crew. These rates would be subject to increase.

Senator Hernstadt asked how the money which is deposited in to the productivity fund would benefit the employees. Mr. Lott explained that \$56.25 would be saved by using a reduced crew. Eight dollars of that amount would be applied to the crewmembers special allowance. The balance of \$48.25 would be placed into the employees productivity fund. At the end of the year the fund would be distributed among all employees who were employed as of the date that the agreement was signed.

Senator Hernstadt asked how much each employee would benefit each year from the productivity fund. Mr. Lott stated that benefits depend on the number of shifts that were operated with a reduced crew. The reduction is predicated upon attrition and all protected employees are entitled to work until attrition takes place. The maximum an employee can draw is one-third of his annual earnings.

Mr. Charles Babers, General Manager, western lines of the Southern Pacific Railroad, explained that his company is currently in the midst of negotiations with the United Transportation Union (UTU) with regard to a contract allowing reduced crew sizes. He stated that they have an agreement with the national union to come up with a crew consist reduction. However, the statewide union opposes the issue of allowing reduced crews. He stated that if his company was to remain a viable enterprise they needed the ability to cut rates and expenses. The savings would be shared with the employees that were affected.

Senator Faiss noted that recently there had been several rear end collisions involving trains. He asked if these trains were operating with a full crew or a reduced crew. Mr. Babers stated that the only railroad which had any experience operating with reduced crews was the Florida East Coast Railroad. He was not aware of any collisions on that railroad.

Senator Neal asked what safety features had been developed since 1963. Mr. Baber explained that the braking equipment had greatly improved. The brakemen are no longer required to set the brakes manually. The emergency brakes can be operated from the locomotive and the caboose or by separation of the air hoses that control the mechanical aspects of the operation.

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Senator Neal asked what was the proposed reduction in the crew size. Mr. Babers explained that law currently requires that there be one conductor and two brakemen. They are proposing that this be reduced to one conductor and one brakeman in addition to the engine crew. He stated that many railroads currently have the ability to reduce crews through negotiations. He did not know how long it would take before these companies realized any gain from using reduced crews. However, at some time the companies and the remaining employees would profit from a reduction in crews.

Senator Neal asked if the safety standards should be any different in Nevada because of the terrain. Mr. Baber explained that there is rough terrain throughout the West.

Senator Hernstadt asked Mr. Babers if he could assure the committee that if the full crew law were repealed and the labor and management agreement came into effect that there would be no risk of life, health and safety of the employees of the railroads or persons who might be in the vicinity of the railroads. Mr. Babers stated there would be little or no additional risk by reducing the crew. However, there could be many possibilities of increased risk. He noted more injuries take place in the caboose, where the reduction of one crew member would most likely take place.

Senator Hernstadt asked if passage of the bill would make a difference on the possible abandonment of railroad branch lines because of their viability. Mr. Babers stated that it would make a difference because of the economics.

Senator Neal asked Mr. Babers what was his ideal of a train crew. Mr. Babers stated that the ideal crew would be a brakeman, conductor and engineer. He noted that there is technology available to operate a train without any crew on board.

Senator Hernstadt asked if firemen, who are required by law, would be phased out of the crew. Mr. Babers stated that firemen had been phased out for some time.

Senator Hernstadt asked what type of crew the Florida East Coast Railroad employed. Mr. Baber stated that they have a conductor, brakeman, engineer and maybe some additional crew on board for training purposes.

Senator Neal asked how the firemen issue was resolved. Mr. Baber explained that firemen were deleted through negotiations.

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Senator Bilbray asked if there was any reduction in rates to consumers in the states that have repealed their full crew laws. Mr. Babers stated that his company had not reduced the number of brakemen on any of its crews. He noted that the Florida East Coast Railroad went from a bankrupt situation by using reduced crews. The issues of reducing the crew was very controversial. The union was forced to agree to the reduction.

Senator Bilbray stated that if 50 to 60 trains crews were working per day there would be a savings of \$4,000 to \$5,000 per day for the combined railroad industry. Senator Bilbray asked if there would be any type of guarantee from the railroads that this savings would be passed on to the consumers. Mr. Babers stated that in order to stay competitive they would have to pass the savings on to the consumers.

Chairman Blakemore asked what is the measurement of the longest train which operates in Nevada. Mr. Babers guessed the longest train would consist of 160 to 180 cars. He said occasionally trains of up to 200 cars are operated. He stated the union and management have agreed on the average length of the trains to be operated.

Mr. Russell noted that safety was a major part of the negotiations between the UTU and management. He noted that the railroads are subject to the federal laws on safety and labor. He stated that the railroads are in a paradox because they have reached an agreement with the national union but cannot exercise the provisions of the agreement because state law prohibits it. The safety problems were addressed by both union and management. The size of the train was reduced.

Senator Bilbray did not feel that the unions and the management should be allowed to determine the policy of the state. He said that, if the legislature did not feel that it was safe to operate trains with a reduced crew, it should not matter what union and management agree. Mr. Babers noted that the legislature passed the full crew law 70 years ago and there had been changes in the railway practices which made the law no longer applicable. He stated issues are discussed in depth during collective bargaining negotiations. Senator Bilbray stated it was the legislature's duty to determine what is safe.

Mr. Robert E. Irion, General Manager, south central district of the Union Pacific Railroad, stated that the company had a ratified agreement with the local UTU. When the agreement was being negotiated they addressed the issues of safety, full crews

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and the number of trains which could operate with reduced crews. He noted that basically the use of reduced crews would be limited to trains of 71 cars or less with a maximum length of 4,015 feet. These figures were determined by the national union and what it felt was safe. Additionally, the union agreed that reduced crews could be operated on trains of 71 to 121 cars by agreement between the company and the organization providing that the crew did not pick up or set any cars in route to their destination. Mr. Irion explained that many devices had been added to the railroads for safety. They now have block signal systems and centralized traffic controls. He noted that hot box detectors electronically check the bearings to see that the train is operating in a satisfactory condition. He cited a case where the use of a hot box detector had eliminated failed journals as a source of derailments. He noted that they now use dragging equipment detectors which detect if brake rigging is down or if a wheel has derailed. The use of roller bearings has limited the amount of overheated journals. The use of these systems eliminates the duties of the rear brakeman.

He stated that both union and management were interested in safety and would not agree to something that would be unsafe. He felt that safety had been addressed by the union. Mr. Irion noted that the railroads would remain under the jurisdiction of the federal safety rules. Amazing changes had taken place in the last 40 years.

Chairman Blakemore asked how long are the trains which travel through Nevada. Mr. Irion stated that his company is limited because it is a single track railroad. The sidings range from 5,700 to 6,100 feet long and this would limit the size of the train to 100 to 102 cars. Occasionally longer trains are operated. The trains average 65 cars which is dictated by the heavy terrain.

Chairman Blakemore asked if trains are fitted with radion. Mr. Irion said the company provides radios as they are available. The crew consist would have the provision that every crew member have a radio negotiated into it. This is for additional safety so that the crew members are in constant contact with one another. These are in addition to the fixed radios in the caboose and locomotive.

Senator Jacobsen asked what were the responsibilities of each crew member. Mr. Irion explained that the engineer is responsible for the operation of the locomotive. He sees that the train is handled properly to insure that it is at the correct speed without undue slack action. He operates the locomotive

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on signals from the train crew during switching. He operates the locomotive in relationship with the block signals and way-side signals and signs. The conductor is in charge of the operation of the train. He is senior to the engineer and the other crew members. The conductor performs bookkeeping jobs and observes the train as it moves over the railroad to see that it is moving safely and rules or regulations are being complied with. He visually checks the train for any unsafe conditions. The rear brakeman is in the caboose with the conductor and performs the same observation functions as the conductor. The head brakeman is in the locomotive. He also visually checks the train for any unsafe conditions along with performing the switching which is done in picking up or setting out cars.

Senator Jacobsen asked if the engineer and crew members were qualified to perform each other's job. Mr. Irion stated that the crew members were not qualified to operate the locomotive. If one of the brakemen become sick they must put another man on the train because of the requirement for two brakemen. In other states they would not be required to put another man on the train and could operate with only the one brakeman. He stated that because the reduction in crews must be done through attrition it would be a number of years before the reduction would take place on a large scale.

Senator Jacobsen asked if the same crew members usually work together on the same runs. Mr. Irion said basically a crew stays together. However, layoffs make it difficult to keep a crew together.

Senator Neal asked what are the elements for safe operation of a train. Mr. Irion felt that the elements are that you make a move across territory without accident, hazard or endangering the public or employees involved. This is done by following the basic framework of rules that the railroad operates under.

Chairman Blakemore noted that it is necessary to have someone on each end of the train because it would be very difficult for someone to see the entire length of a train. Some trains measure up to a mile in length.

Senator Faiss asked which run is the revenue run and which run is the backhaul. Mr. Irion stated that the company handles more business west bound than east bound because California is a consuming state rather than a producing state as far as commodities are concerned.

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Senator Faiss asked what percentage of the cars moved are empty. Mr. Irion guessed that 35 percent of the cars moved are empty.

Senator Hernstadt asked if hobos still ride on the trains. Mr. Irion stated that hobos still ride on the trains. However, personnel will rarely look for or expel hobos who are on a train because it has become too hazardous. The crew usually calls for assistance from the railroad police force or special agents because there are many occasions when hobos are wanted for a crime and they may be armed.

Senator Jacobsen asked if there were any safety records of railroads in the states which are using reduced crews. Mr. Irion stated that on his railroad there have been no accidents as a result of the reduction in crews. He did not feel that there was any indication that the removal of one brakeman would increase the accident ratio.

Senator Neal noted that last year in Kelso, California, there was a train accident involving two trains. He asked what had caused that accident. Mr. Irion noted that both trains were manned with full crews. One of the trains was moving down a hill, it picked up too much speed and struck the train in front of it. Theory is that there was a false indication to the engine to pump more air into the brakes, which would cause a slight release of the brakes. The engineer did not detect the falsity soon enough to realize that he should place the brake valve in emergency and stop the train. When the brakes were finally applied the amount of air in the brakes had been depleted to the extent that the emergency feature on the locomotive was not triggered. Mr. Irion said very extensive tests determined the accident could have been avoided if action had been properly taken to stop the train.

Senator Neal asked if the matter required the attention of the entire crew. Mr. Irion stated that stopping the train only requires the attention of the engineer.

Chairman Blakemore asked if the engineer could have asked the crew in the caboose to help him stop the train. Mr. Irion stated that the engineer had a radio. However, he did not keep in contact with the crew members in the caboose.

Senator Hernstadt asked if the engineer could have reversed the drive of the motors to get some braking effect. Mr. Irion stated this could have been done to get some braking effect.

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Mr. Irion asked the committee to allow the workings of a labor agreement to prevail. The state should not involve itself as an intermediate party to labor negotiations.

Mr. Lott stated that he was the principle negotiator in negotiating the crew consist agreement on the Union Pacific Railroad. He explained the negotiation procedures.

Senator Neal asked what element was used to determine whether it would be safe to operate a train with no more than 71 cars or no longer than 4,015 feet with a reduced crew. Mr. Lott said that they took into consideration the length of the train and the work factor of the members of that crew.

Senator Neal asked what bearing it would have on safety if the crew was not required to set out or pick up cars. Mr. Lott stated that the head brakeman is usually required to set out or pick up cars and the unions did not want the head brakeman to participate in any work if the train was over 71 cars. As a result, management and union agreed to that provision in the negotiations. He added that they agreed to have full crews on heavy tonnage trains under certain conditions.

Senator Bilbray asked if there had been any studies done nationally regarding the safety of railroads and the requirement of a full crew. Mr. Lott knew of no studies.

Senator Bilbray stated that he would like to see information from an independent source stating whether or not there was a need for full crews. Mr. Lott noted that the employees, through their union representative, also made the determination that the trains could be operated safely under the provisions of crew consist. He stated that opposition on the local levels could not be dealt with by the national union because the representative had the authority to negotiate. Mr. Lott stated in his opinion if all the other railroads in the nation felt it would be safe to operate with a reduced crew that it would be just as safe in the State of Nevada. He said that the full crew law prohibits the company from implementing its agreement and the employees from collecting certain benefits. He noted that the productivity fund would be shared by every employee who was under the UTU even if they did not work on reduced crews. Senator Bilbray noted that those were pay benefits, not safety benefits.

Mr. Russell suggested that the language for the amendment which he proposed be changed to indicate a collective bargaining agreement.

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Senator Bilbray noted that the proposed amendment to Section Three appeared to be relinquishing the legislature's right to determine what is safe for the people of the state.

Mr. Russell explained that if the full crew law were to remain in effect the railroads would have to pick up another crew member at the border of the state and drop that crew member off at the other side of the state.

Mr. Nathan Jenkins, legal counsel for Southern Pacific Transportation Company, stated that the full crew law was first passed in 1909. He explained that the crews no longer consist of a fireman because it was determined by the Supreme Court that the law was passed when railroading consisted of steam railroads on which a fireman was important. However, today there is electric-diesel railroading where a fireman is unnecessary and therefore a fireman is not required. He stated that the case was brought up on two grounds. The first being that a fireman was not needed because the legislature had not intended to have fireman on diesel railroads because diesel railroads were not in existence at the time the law was passed. Secondly, if the legislature intended to have firemen it would be an unreasonable exercise of the police power of the state. He questioned the police power of the state to legislative safety for railroads.

Senator Bilbray asked Mr. Jenkins if he felt that the state could be preempted. Mr. Jenkins felt that there was a good argument that the state could be preempted because the issues were mandatory issues of collective bargaining and were covered by federal safety standards. Senator Bilbray noted that it had been determined the state had the right to regulate the weight and size of trucks for safety factors and damage to the roads. It also had the right to limit the size of buses that go through the state. He did not see how the elimination of a brakeman could be justified because of the transformation from steam to diesel engines.

Mr. L. K. Fitzgerald, the Nevada Representative of the United Transportation Union, submitted to the committee a file of petitions signed by railroad employees in opposition to Senate Bill No. 552. (This file is available in the Transportation Committee Office). He stated that Mr. Jenkins had misled the committee into believing that the full crew law was drawn only to apply to steam trains. He stated the Supreme Court had ruled the use of firemen only, not other train crew members applied to steam trains. Mr. Fitzgerald submitted prepared

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testimony to the committee in opposition to Senate Bill No. 552. (See Exhibit G). Mr. Fitzgerald stated that he was upset about the conditions under which the employees have to work in the cabooses.

Senator Hernstadt asked why other states have repealed their full crew laws and allowed the labor/management agreement to go into affect. He also asked what has happened as a result of those repeals. Mr. Fitzgerald stated that many of the states never did have a full crew law. However, they always had a standard crew. He noted that Nevada and New Jersey are the only two states which have gaming laws.

Senator Hernstadt asked why the national union would agree to something that would endanger the lives of its members. Mr. Fitzgerald stated that the national union was very desperate to raise the wages of its members. He did not approve of selling another man's job for higher wages.

Senator Bilbray asked if there was a limit to the amount of time that a brakeman can work during a shift. Mr. Fitzpatrick explained that a brakeman works a 12 hour shift.

Senator Bilbray asked if there were sleeping quarters available for the brakemen in the caboose or if the brakemen got off of the train to sleep. Mr. Fitzgerald stated that there are no sleeping quarters in the caboose. Sometimes it is tough for the crew to get rested. Under the law they have to have ten hours rest. However, this rest can be interrupted.

Senator Bilbray asked how many days a brakeman works. Mr. Fitzgerald stated that ordinarily it is regulated so a brakeman makes eight trips per month.

Senator Bilbray asked what the crew members sat on in the caboose. Mr. Fitzgerald explained that they have whiplash seats in most cabooses. However, some still have bench seats.

Mr. Fitzgerald read statistics on personal injuries which was made available by the Southern Pacific Railroad. In 1980 there were 44 accidents and 555 lost days because of slack action or undesired emergency. He read a letter from his son, L. K. Fitzgerald, Jr., who was in the caboose of a train when the caboose derailed. He felt without two men in the caboose one man could not have escaped from the caboose safely.

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Senator Hernstadt stated the testimony made him question the condition of American railroads. Mr. Fitzgerald stated the railroads in Nevada are good compared to those in the eastern United States. This is because those in the eastern United States are not properly maintained. The condition of railroads today in regard to safety is deplorable. He stated many injuries are not reported because management harasses men who report injuries. Mr. Fitzgerald cited a case where a conductor was severely injured by a trespasser who threw a broken windshield into the caboose. The conductor would have bled to death had there not been another man in the caboose with him. Mr. Fitzgerald said accidents of that type are not uncommon. He said the UTU opposed the amendment as proposed by Mr. Russell and it also opposed the repeal of the full crew law. Mr. Fitzgerald noted the testimony by management stated that there was an overwhelming vote by the UTU in Nevada to accept the collective bargaining agreement. He said that there is one local in Nevada and the vote of the membership consisted of a petition on a bulletin board which carried less than 20 signatures. The local chairman does not have to vote as he is instructed by the membership.

Mr. Rod Nelms, representing the UTU local in Winnemucca, Nevada, stated that the freight trains coming across the state were heavier, longer and carrying more dangerous cargos than ever before. Because of the suspected merger of the Union Pacific Railroad and the Western Pacific Railroad it is suspected that 10 to 20 more trains would be coming through the state in the future. He stated that a step towards safety in preventing trains carrying dangerous cargos from endangering the public would be to keep two men on the caboose. One man cannot do the job two men can do regardless of the amount of equipment available. The equipment does not always work. In cases where there are accidents on the train and one man is injured there would be no one available to help the injured man. He stated that he is opposed to the crew consist proposal and Senate Bill No. 552.

Senator Faiss asked what extra precautions were taken when dangerous cargos were transported. Mr. Nelms explained the dangerous cargos must be entrained properly so they are not too close to the caboose or the engine. Extra attention is given to cars which carry dangerous cargos.

Senator Hernstadt asked what was the maximum speed limit for trains. Mr. Nelms stated the maximum speed limit on his line was 65 miles per hour. This varies according to the conditions of the track.

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Mr. John Wright, representing the UTU Local 1117 of the Union Pacific Railroad, stated that because the railroad unions are spread out over the nation they do not have much communication among themselves. Sometimes they are forced into agreements which may not be best for the union. He stated that the Union Pacific Railroad was the first major carrier in the West to operate with reduced crews and it is still in the experimental stage. Even though management is offering financial incentives to the employees if they agree to a crew consist agreement, the members still do not want to operate with a reduced crew or to repeal the full crew law. He noted that there is not a dragging equipment detector in the state. There are only ten hot box detectors over 338 miles. They have been there for a long time.

Mr. Wright quoted the National Transportation Safety Board Inquiry into the runaway train wreck that was referred earlier. The conductor on that train had stated there was not power and the radios did not work. Before departing there was some difficulty with the radio. The conductor could not hear the conversation on the radio which could have informed him that the train was in trouble. Mr. Wright noted that with reduced crews there is a greater dependency on radio equipment. The inquiry brought out the point that there are areas on the routes where transmission is affected.

Chairman Blakemore asked if the Union Pacific Railroad used repeaters for their transmissions. Mr. Wright stated that they used repeaters.

Mr. Wright stated that the crew members do not place much faith in the radios and there are guidelines to follow when the radios fail. The company recognized that portable radios are not dependable.

Senator Hernstadt asked Mr. Wright why, in his opinion, the runaway train accident occurred. Mr. Wright noted that the lowest seniority men are assigned to the work trains. He believed that the work trains carry the non-revenue freight. Those cars are the least maintained and the least experienced men are placed on that equipment. Mr. Wright stated that if Nevada retains its full crew law it can look forward to having the best safety rating in the West. He noted that blockage of a crossing could be more severe because the crew would be smaller and could not move a disabled train as quickly. This would prevent emergency equipment from getting to its destination. A problem could be caused with less crew members to keep an eye on dangerous cargos. Because there is going to be more traffic there would be an increase in accidents.

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Mr. Al Fronzdau, Legislative Representative for the Brotherhood of Locomotive Engineers in Sparks, Nevada, noted that there are times when a hot box detector will activate when there is no hot box. This also happens with the dragging equipment detectors. He said that it is necessary to have two men in the rear of the train because of the astronomical slack action which takes place in the caboose. There have been a lot of people injured in cabooses. He cited an example where the crew member in the caboose would not be able to change sides to observe the train because of the slack action and a dangerous accident could occur.

Chairman Blakemore asked how far a caboose will move because of slack action. Mr. Fronzdau stated that he has moved as much as 120 feet in a caboose.

Chairman Blakemore asked if brakes can be applied to the caboose separately from the rest of the train. Mr. Fronzdau stated that the brakes must be applied to the entire train. He explained the air brake system on a train.

Senator Hernstadt asked if there was any form of contact between the caboose and the engine, besides the walkie-talkie and the air system. Mr. Fronzdau stated that there is not other contact except on passenger trains. On freight trains they rely strictly on hand signals or radio communications. To give every man on the railroad a radio would mix up the communications and it would be almost impossible to communicate with the other end of the train.

Senator Hernstadt asked if slack action had any sideways motion. Mr. Fronzdau stated that slack action does not produce any sideways motion. However, a rough track will cause the cars and the caboose to sway.

Senator Hernstadt asked if the engineer had any discretion to slow the train if the track was deemed unfit for the posted speed. Mr. Fronzdau stated that they can slow the train down. It is company policy that if anything indifferent is found as to the standard operation the train must be slowed down.

Senator Hernstadt asked if the company officials were responsive to safety information of dangerous condition and getting the condition fixed. Mr. Fronzdau stated that the company officials are not responsive. He noted that the hours of service law pertains to the facilities available to the crew members for eating and sleeping. He cited a case where there were no eating facilities available for the crew and the company was not responsive to see that facilities were made available. He was

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admonished for trying to protect the company and the public as well as the employees.

Senator Hernstadt asked if a complaint was filed against the company when there was a violation of a federal law. Mr. Fronzdaul stated that they would file a complaint with the Federal Railroad Administration. The last complaint filed has been in the works for 16 months and the crew is still working under the conditions that were complained about.

Senator Hernstadt asked if the union contract permitted the employees to strike in the event of failure to comply with the law and provisions of the agreement. Mr. Fronzdaul stated under the condition where a law is violated there is no way the employees can strike. Under the condition where there is a violation of the agreement the employees can strike.

Senator Hernstadt asked if the individual who violates the law pays the fine or if the company pays the fine. Mr. Fronzdaul explained the fines are assessed to the company. However, if the individual was a violator the individual is subject to a fine also.

Senator Faiss asked how much warning the crew members in the caboose have that there will be slack action. Mr. Fronzdaul stated that sometimes the crews receive no warning because it is impossible to handle each train in the same manner.

Senator Bilbray asked if the union had surveyed the safety conditions on the trains. Mr. Fronzdaul explained the Department of Transportation had made surveys.

Mr. Fronzdaul cited a case where he reported a faulty brake system on an engine. He discovered that the same engine had not been pulled out of service until close to two years after he reported the faulty brake system. He stated there is a definite need for a second brakeman.

Senator Hernstadt asked how the shippers felt about the condition of the equipment. Mr. Fronzdaul cited a case where a shipper would not use a particular railroad because they refused to furnish clean cars. He noted another case where there were several different types of hazardous and flammable materials on the same train. It was discovered if there had been an explosion the gases would have killed everything within the valley through which the train was traveling. Since that

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time measures have been taken to prevent the possibility of many different types of hazardous materials being transported on the same train.

There being no further business, the meeting adjourned at 5:10 p.m.

Respectfully submitted:


Kelly R. Torvik

APPROVED:


Senator Richard E. Blakemore

DATED: 5/18, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on Transportation, Room 323.

Day Tuesday, Date. May 12, 1981, Time 2:00

S. B. No. 552--Repeals requirements relating to size of train crews.

A. B. No. 109--Makes various changes to laws governing financial responsibility of owners or operators of motor vehicles.

A. B. No. 549--Provides for local issuance of parking permits for persons having temporary handicaps.

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EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
BEN G. MOORE	UTU 1270 ^{RENO 1160} ALWAYS HOE	747-0925
R. J. J. [unclear]	Boyle 165 E. Emerald Valley Sparks	358-4846
[unclear]	UTU 500 Peter Circle Reno	747-1766
John Eck	Southern Pacific	
CHRIST. BABERS	Southern Pacific	
ROBT W. TASSAET	Southern Pacific	
John + Mary Wright	UTU 1600 S. 10th ⁸⁹¹⁰⁴ A U	382-7081
M. E. Bangus	UTU 2645 Greenl. Sparks, Nev.	356-0325
D. B. [unclear]	UTU RT 1 Box 1346 & [unclear]	575-2707
L. P. [unclear]	UTU 673 MANOR DA ROIS	786-2168
FRANK LAWSON Sr	UTU 4657 W. LEONICIC Sparks	673-3772
LEE WILKES	UTU 5975 TANNERWOOD DA. Reno	847-1460
W. H. Finley	UTU 103 Emerson Way Sparks	358-2791
May F. Felt	UTU 1023 3302 SHARI WAY SPARKS	358-0970
Alden (Bud) [unclear]	Director Labor Relations, U.P.R., LLC	363-1544
Robert E. [unclear]	Genl. Mgr. U.P.R. Salt Lake City, UT	801-363-1544
[unclear]	S.P.C. Sparks, Nev.	358-8378
[unclear]	United Transp Union - Nevada Reps	358-2495
Jerry [unclear]	DMV Drivers License Div	885-5360
M. M. [unclear]	7179 1043 Saw Pao, R.R.C. Cagdr.	673-2036
[unclear]	1360 Upton Way, Sparks, NV	359-6369
Carl [unclear]	1210 Mizpah St, Winnemucca	687-5868
R. A. [unclear]	275 E St. Sparks	359-1808
Dell & Shirley Schilling	916 Greenbrae Dr Sparks	358-3687
FREDERICK A. STOLTZ	2800 STINE WAY, SPARKS	358-1757

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PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME ORGANIZATION & ADDRESS TELEPHONE

A. H. Fransdahl Bldg E 154 Carnation Lane Reno 331-3579

F. H. MEYERS Bldg E 3502 Bonanza on Reno 826-8263

C. P. Williams 1403 Pennwood Dr., Sparks 331-1496

Mr & Mrs T. L. Vaughn UTR SPARKS 359-7492

J. J. Mathern 1703 - G. St Sparks 358-5218

Edward P. (unclear) 360 York Way Sparks 358-2554

D. (unclear) UTU 1959 Flatcap Lane, Sparks, NV 359-3130

David Russell Union Pacific Railroad Company 786-2366

Robert E. Frion Genl Mgr Union Pacific RR 801-363-1544

CHAS. T. BARBERS Genl MGR. SOU PAC Salt Lake City, UT. SAN FRAN. CALIF 362-1212 EXT 21020

NATHAN M. JENKINS Echeverria & Osborne 373-8678

FULL TRAIN CREWS

EXHIBIT C

705.390 Full train crew required: Crews of four or five persons; protection of flagmen employed on April 1, 1963.

1. It shall be unlawful for any person, firm, company or corporation engaged in the business of common carrier, operating freight and passenger trains, or either of them, within or through the State of Nevada, to run or operate, or permit or cause to be run or operated, within or through this state, along or over its road or tracks, other than along or over the road or tracks within yard limits:

(a) Any freight or passenger train consisting of two cars or less, exclusive of caboose and engine and tenders, with less than a full crew consisting of not less than four persons, to wit, one engineer, one fireman, one conductor, and one brakeman; or

(b) Any freight or passenger train of three or more and less than 50 freight, passenger or other cars, exclusive of caboose and engine, with less than a full crew consisting of five person, to wit, one engineer, one fireman, one conductor and two brakemen; or

(c) Any freight or passenger train of more than 50 freight, passenger or other cars, exclusive of caboose and engine and tender, with less than a full crew, consisting of not less than five persons, to wit, one conductor, one engineer, one fireman and two brakemen.

2. No person employed as a flagman on any railroad in this state on April 1, 1963, shall be discharged or lose his employment by reason of the provisions of chapter 176, Statutes of Nevada 1963. However, whenever a flagman retires, terminates or voluntarily leaves his employment the railroad company need not replace the position so vacated, unless it is to fill a mandatory position under subsection 1.

[1:74:1913; 1919 RL p. 2976; NCL § 6318] + [2:74:1913; 1919 RL p. 2977; NCL § 6319] + [3:74:1913; 1919 RL p. 2977; NCL § 6320]—(NRS A 1963, 281)

705.410 Applicability of NRS 705.390 to 705.420. The provisions of NRS 705.390 to 705.420, inclusive, shall not apply to or include:

1. Any railroad company or receiver or manager thereof of any line of railroad in this state less than 95 miles in length.

2. Any line of railroad in this state on which but one train a day is operated each way.

3. The operation of light engines and tenders when running as such outside the yard limits.

[5:74:1913; A 1915, 107; 1919 RL p. 2977; NCL 6322]

705.420 Penalties. Any railroad company or receiver of any railroad company, and any person, firm, company or corporation engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 to 705.410, inclusive, is liable to the State of Nevada for a penalty of \$500 for each offense.

[7:74:1913; 1919 RL p. 2977; NCL § 6324]—(NRS A 1979, 201)

This will be a new sub-section of NRS 705.390 to read as follows:

"3. Nothing contained in this section, in the laws of this state, or in any order of any regulatory agency of this State, shall prevent a ~~common carrier~~ by railroad from manning its trains in accordance with any agreement between such ~~common carrier~~ and its employees or their representatives."

R. H. H. H.

FULL TRAIN CREWS

EXHIBIT D

The Nevada full-crew law, NRS 705.390, has again become outdated and an obstruction to modern railroad operations, pursuant to today's labor agreements.

The collectively negotiated labor agreements with the United Transportation Union, which represents conductors and brakemen on the railroads in Nevada, contain provisions specifying the minimum number of those crewmen required to man a train. Prior to 1963, we were required to employ one conductor and three brakemen on freight trains. However, the Nevada law (NRS 705.390) was amended in that year to permit the reduction in the size of train crews to one conductor and two brakemen, and the railroads have been operating with such crews since then.

Technological changes in rolling stock, track and signals, along with changes in operations, have advanced to the point that the second brakeman is no longer needed for the safe and efficient operation of a train. Both labor and management agree that if the railroads are going to compete successfully with other modes of transportation, excess costs must be eliminated. There is a pattern developing nationally of negotiating agreements to permit the operation of freight trains with one conductor and one brakeman, in addition to the engineer. The agreements do not deal with passenger train crews, because all passenger service is conducted by Amtrak.

Under the Railway Labor Act, a railroad cannot take unilateral action to eliminate a crew member who is required by agreement. Such a change in crew size must be made by agreement. Several railroads, including the Union Pacific, have made an agreement to reduce the crew size by one brakeman. The employees share in the financial

benefits of the reduction in crew size, and the decreases in manpower are made by attrition. The Southern Pacific and Western Pacific are presently negotiating similar agreements to reduce the crew size by one brakeman.

The developing pattern of sharing the economic benefits provides that each time a reduced crew is used, the conductor and brakeman will receive more than \$5.00 additional pay, and \$48.25 will be placed in a productivity fund. The \$5.00 figure continues to rise with subsequent general wage increases. The productivity fund will be distributed annually to employees hired on or before the date of the agreement.

Their share of the fund can be as much as one-third of their regular annual earnings.

Because reductions in force will be by attrition, no present employee will lose his job as a result of the agreement or as a result of taking the two-brakemen requirement out of the law. The protective provision of the current attrition agreement, which resulted from the 1963 changes, will remain in effect. Under these attrition agreements, we do not furlough "protected" employees during time of reduced business, but continue to operate trains with more than the minimum number of crewmen.

Neither safety nor full employment is a valid reason for retaining a law that requires extra personnel on freight trains. If the law originally was meant to help employees protect their rights, it now restricts them from the benefits of the collective bargaining agreements. Mutually beneficial agreements, such as the one negotiated by the Union Pacific, cannot be implemented in Nevada so long as the law is in effect. It is, therefore, important that the Nevada law be repealed as promptly as possible.

Reduced Crew Concept:

The reduced train crew concept on railroads in the United States began with the lesson proved by the Florida East coast Railroad that it could successfully operate with two-man train crews. While the lesson of the Florida East Coast was ignored for a long period of time, the performance of the Norfolk and Western Railroad during the long BRAC Strike a few years ago suggested what the true potential for improving productivity on railroads really was. At one point during the strike, it was reported that the N&W was moving about half of its normal volume of merchandise freight with only 15% of the normal number of employes. On long haul freight trains that would normally require crew changes at 100 mile intervals, N&W trains were being operated with about 1/5th the normal number of people. N&W's performance proved that what the Florida East Coast accomplished with short crews and other productivity improvements was no fluke. It caused some serious thought on the part of the Railroad Management and some concern for Union leaders.

Milwaukee-Conrail Pattern:

The first solid steps toward improving crew productivity was taken by the Chicago-Milwaukee, St. Paul and Pacific Railroad, which became the first to reach an Agreement with United Transportation Union covering the size of train crews. Under that Agreement, the Milwaukee Road was permitted to operate road freight and yard trains with one brakeman instead of two. In return, the Agreement provided that all road freight conductors, brakemen, and yard switchmen represented by the UTU would share in the increased productivity. The Agreement was effective April 1, 1978, over the road's 10,000 mile system.

Under the arrangement, no employe could lose their job and the reduction in train crew size would be accomplished through attrition at the normal rate of about six percent (6%) per year. Ultimately, the Company would be able to operate most of its freight trains and yard switching assignments with one-third (1/3) fewer train crew employes. Each time a reduced train crew operates members of the reduced train crew receives a special allowance of \$4.00 (presently increased to \$5.67), as compensation for the additional service and responsi-

bilities consistent with the operation of a reduced crew. Also, for each reduced crew operation, the railroad pays \$48.25 into an Employe Productivity Fund. Each year each protected employe shares in the Fund in proportion to the tours of duty worked during the year. The Agreement also provided that new trains to compete with other transportation methods may be operated with reduced crews.

Following the Milwaukee Landmark Agreement, Conrail signed a similar Crew Consist Agreement with the United Transportation Union. As two-man train crews began operating on Conrail under the Agreement with the UTU, all Railroads were developing plans to bargain for the same benefits.

Crew Consist General Terms:

The Agreement terms for Crew Consist set by the UTU to allow Railroads to remove one man from freight train and yard crews provides for the UTU Agreements to be implemented on an attrition basis, permitting Railroads to operate trains with conductor and one brakeman in road service so long as the trains have no more than seventy (70) cars. Each time the railroad operates one of these trains in road service, or reduced crew in yard service, it must pay the two (2) remaining crew members each the special allowance of \$4.00 and, in addition, for each reduced crew operated, the Railroad contributes \$48.25 to an employe Productivity Fund. This amount represents the average basic wage for a third crew member. Eligible employes will share in this Fund in proportion to the tours of duty worked each year up to a maximum one-third (1/3) of their individual earnings during the year.

Thus the Railroads must pay out \$56.25 (\$48.25 plus \$8.00) each time it operates a train with a short crew. The \$4.00 special allowance is subject to future general wage increases (currently \$5.67) and is paid to protected, as well as new hire employes. The \$48.25 contribution remains stable. As more reduced crew assignments are worked and as the pool of protected employes is gradually reduced through attrition, the end of the year split will get bigger. Job protection is provided all trainmen hired on or before the effective date of the Agreements. Employes designated as "protected" have their promotion rights protected, their guarantee against layoffs as a result of the Agreement, and maintain their right to bid on any trainman's position in any class of service.

Savings to the Carrier:

What will the Railroads save? For one thing, the Railroads will not have to pay out any non-wage compensation, such as constructive allowances (pay for time not worked), overtime, detention time, fringe benefits (vacations, holiday pay, insurance, health and welfare) that would have gone to the third man. The Railroad will not have to pay railroad retirement taxes and will presumably save in other areas, such as the cost of interviewing, selecting, hiring, the cost of training and record keeping, expense of transporting to work site, reduction in personal injury risk and the like. These savings are looked upon as quite substantial, but there is doubt in some circles they approach \$56.00 per each tour of duty.

It is evident, however, that the employes are getting the major share of the savings. The Railroad, however, will not continue to pay into the Productivity Fund after all protected employes have been attrited.

The Railroads have believed for a long time if labor productivity is to be improved, the resulting savings must be shared with the employes affected. The Milwaukee and Conrail Agreements, which set the pattern for the United Transportation Union, have certainly done that; in fact, there are some Management representatives who think they overdo it. Other Railroads have to decide whether Crew Consist Agreements is worth the cost to them, as obviously, the UTU would not settle for less.

Union Pacific Crew Consist Agreement:

The Crew Consist Agreement on the Union Pacific was consummated effective September 15, 1980, containing terms similar to the pattern set by the United Transportation Union in the Milwaukee and Conrail Agreements. All employes on road freight and yard seniority rosters as of September 15, 1980, are protected employes. The Union Pacific in its negotiations with the UTU obtained certain rules relief from the General Chairmen which resulted in savings from the overall reduction of train crews in road and yard service. The Crew Consist Agreement, by its nature, modified train and yard rules governing assignments, seniority, extra boards, layoffs, etc.

For example, previously train and yard service employes could exercise seniority at will to second brakeman or second yard helper positions or to the extra board. However, the Crew Consist Agreement limits those rights to new hires and protected employes cannot be forced assigned to a one-brakeman position on a crew or extra boards.

The Crew Consist Agreement permits regulating the number of spare employes on the extra boards calculated to the need for must-fill vacancies. Because of the various rule modifications and savings derived therefrom, the Union Pacific negotiated with the UTU the allowance for train service employes working on reduced crews (presently \$5.67) for each tour of duty. In addition, because of the flexibilities and savings obtained, trainmen and yardmen were allowed two (2) additional benefits. One was personal leave days for road freight trainmen who do not qualify for holiday pay and the other was the establishment of the Productivity Fund for all train and yard service employes regardless of whether they worked on a reduced crew, a one-man crew, or a standard crew.

The Carrier contributes \$48.25 for crews operated on a reduced basis and at the end of the year the total accumulation of the Fund is shared by all protected train service employes in a seniority district based on a given employe's total actual working hours. The Productivity Fund payments in the Agreement was designed to share with train service employes a portion of the savings derived by the Carrier from the sum total of all the savings from numerous rules changes and reduced crew consist. The Fund is shared with all train service employes, including the majority of employes who work continuously or primarily on standard crews, as well as those who work alone, car retarder operators, yard pilots, etc.

The Productivity Fund contribution is the means or procedure whereby the Carrier shares the savings of all kinds and not just the savings worked trip wages of a reduced second trainman. Savings such as detention time of a third man at the away-from-home terminal, deadhead pay of a third man, savings of holiday pay in road and yard service where a reduced crew is off on holiday pay, the savings of overtime pay when yardmen are required to work rest days on second helper positions when the extra board is exhausted, savings of meal and lodging when a reduced crew is at the away-from-home terminal, savings on many insurance fringe benefits, etc.

In negotiations with the United Transportation Union General Chairmen, the Union Pacific also acquired the right to operate trains exceeding seventy (70) cars and not to exceed one-hundred-twenty-one (121) cars or 6,840 feet in length, including caboose when such trains are operated from terminal to terminal intact without picking up or setting out or doing switching enroute may be operated with one conductor and one brakeman.

State of Nevada Full Crew Law:

Many of the Crew Consist Agreements on Conrail contained a provision reading:

"The General Committee of Adjustment shall not oppose the Corporation in seeking relief from regulations of the regulatory agencies which would limit or preclude implementation or application of this Agreement."

In the process of negotiation with the UTU, the Union Pacific proposed a similar provision because of the Nevada Full Crew Law which provision stated:

"The Organization shall join with the Company in seeking relief from the regulations of the regulatory agencies which would limit or preclude implementation or application of this Agreement. The provisions of this Agreement shall not apply in Full Crew Law States where crew consist is contrary to the reduced crew provisions of this Agreement."

The UTU representatives objected to the requirement that they join with the Company in seeking relief and committed themselves to not opposing any action taken by the Union Pacific with the regulatory agencies for repeal of the Full Crew Statute. As a consequence, the provisions adopted in the final Agreement reads as follows:

"The provisions of this Agreement shall not apply in Full Crew Law States where crew consist is contrary to the reduced crew provisions of this Agreement."

On repeal of the Nevada State Full Crew Law, employes in Nevada would then share in the benefits of the Crew Consist Agreement.

The purpose of the provision was to preclude employes working in the State of Nevada claiming entitlement to personal leave days and other benefits where the Crew Consist Agreement could not apply. Such Agreement would apply to crews in yard service but not to crews in road service.

Two (2) years ago, an attempt was made to obtain relief through the Nevada Legislature on the Full Crew State Law; however, the Railroads' action was too late to receive favorable consideration.

Operating Rules:

The Union Pacific Crew Consist Agreement contains a provision that operable radios shall be furnished all members of a reduced crew. Portable radios for use of ground service employes in yard service will not exceed three (3) pounds and will be equipped with a suitable holder which will firmly hold the radio to the body or will be of such size as to permit being placed in coat or trouser pocket. In road service, the size and weight of portable radios used by ground service employes will not exceed that presently in use and portable radios hereafter purchased for use in road service will be of the minimum size and weight necessary to insure safe and adequate communication.

A provision is also contained therein that trains in mountain grade territory, requiring the use of hand operated retainers under the Carrier's Special Rules shall be manned by a standard crew. Employes will not be required to operate with less than the required train/yard crew consist specified in the Agreement nor will they be censured nor disciplined in any manner for refusal to do so.

The Carrier is not restricted from establishing a train crew consist in excess of the minimum on any assignment.

Current Operating Rules and Regulations governing the operation of train and yard movements are to be reviewed in light of the Crew Consist Agreement and revised as necessary

to assure safe operation by reduced train crews.

Crew Consist Agreements:

Crew Consist Agreements have been consummated (in addition to the Milwaukee, Conrail and Union Pacific), on the Missouri Pacific, RF&P, Canadian National, Burlington Northern, et al.

LABOR RELATIONS DEPARTMENT

Salt Lake City, Utah
April 21, 1981

Southern Pacific Transportation Company

One East First Street • Suite 905 • Reno, Nevada 89501 • (702) 329-2492

EXHIBIT F

JOHN L. ECK
ASST. TAX COMMISSIONER

PREPARED TESTIMONY OF JOHN L. ECK BEFORE THE NEVADA STATE SENATE COMMITTEE ON TRANSPORTATION, MAY 12, 1981 IN SUPPORT OF S.B. 552 SIXTY FIRST SESSION. SUBJECT: REPEAL OF NRS 705.390, NEVADA FULL CREW LAW.

CHAIRMAN BLAKEMORE AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE, FOR THE RECORD, MY NAME IS JOHN L. ECK, REPRESENTING SOUTHERN PACIFIC TRANSPORTATION COMPANY. I HAVE WITH ME MR. CHARLES BABERS, GENERAL MANAGER OF OUR COMPANY; MR. R.W. TAGGART, GENERAL ATTORNEY IN CHARGE OF GOVERNMENTAL AFFAIRS AND MR. NATHAN JENKINS, OUR LOCAL COUNSEL FROM THE FIRM OF ECHEVERRIA AND OSBOURNE. WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY IN SUPPORT OF S.B. 552.

S.B. 552 REPEALS THE REQUIREMENTS OF NRS 705.390 WHICH MANDATE THE SIZE OF TRAIN CREWS IN NEVADA AND NRS 705.410 and 705.420, WHICH ARE THE ENFORCEMENT AND PENALTY PROVISIONS OF THE ACT.

LET ME ASSURE YOU THAT THE REQUEST TO REPEAL THE PROVISIONS OF THIS ACT IS NEITHER FRIVOLOUS OR, IN OUR OPINION, UNWARRANTED.

THE PRIMARY QUESTION TO BE CONSIDERED IN THESE DELIBERATIONS IS " SHOULD THE STATE OF NEVADA MANDATE THE TERMS OF A CONTRACT THAT IS DETERMINED THROUGH THE PROCESS OF COLLECTIVE BARGAINING IN THE PRIVATE SECTOR?"

COLLECTIVE BARGAINING HAS LONG BEEN AN INTREGAL PART OF THE RAILROAD INDUSTRY. THE RAILWAY LABOR ACT, ENACTED BY CONGRESS IN 1926, HAS PROVIDED GUIDELINES FOR NEGOTIATION WHICH HAVE PRODUCED BENEFITS FOR BOTH LABOR AND MANAGEMENT THROUGHOUT ITS LONG HISTORY.

THE RAILROAD INDUSTRY HAS A RESPONSIBILITY TO PROVIDE BOTH SAFE AND EFFICIENT TRANSPORTATION AT A REASONABLE COST TO THE CUSTOMER.

IN LIGHT OF THE INTENSE COMPETITION BETWEEN RAILROADS AND MORE IMPORTANTLY WITH OTHER MODES OF TRANSPORTATION, BOTH LABOR AND MANAGEMENT AGREE THAT EXCESS COSTS MUST BE ELIMINATED. TECHNOLOGICAL CHANGES IN ROLLING STOCK, TRACK AND SIGNALS AS WELL AS CHANGES IN OPERATIONS HAVE ADVANCED TO THE POINT WHERE THE SECOND BRAKEMAN IS NO LONGER NEEDED FOR THE SAFE AND EFFICIENT OPERATION OF A TRAIN.

THERE IS A PATTERN DEVELOPING NATIONALLY OF NEGOTIATING CONTRACTS TO PERMIT THE OPERATION OF FREIGHT TRAINS WITH ONE BRAKEMAN, A CONDUCTOR AND THE ENGINEER. IN A FEW MOMENTS I WOULD LIKE MR. BABERS TO ELABORATE ON THE ELEMENTS OF THOSE AGREEMENTS.

OF THE FOURTEEN STATES IN WHICH SOUTHERN PACIFIC OPERATES, ONLY NEVADA HAS A STATUTE MANDATING THE SIZE OF TRAIN CREWS, THE LAST TO BE REPEALED WAS ARKANSAS IN 1973. AS A MATTER OF INFORMATION, BESIDES NEVADA, MASSACHUSETTS IS THE ONLY STATE IN THE CONTIGUOUS 48 TO HAVE SUCH A LAW.

THE ORIGINAL INTENT OF THE LAW AS ENACTED IN 1913, WAS TO PROVIDE FOR THE SAFE OPERATION OF TRAINS AT A TIME WHEN RAIL TRANSPORTATION WAS IN A PRIMITIVE STATE COMPARED TO TODAY'S OPERATIONS. IN THE INTERVENING SIXTY-EIGHT YEARS SINCE ITS ENACTMENT THE LAW HAS EVOLVED INTO A LABOR-MANAGEMENT ISSUE.

I PROPOSE TO YOU THAT WHEN A STATUTE NO LONGER SERVES THE PURPOSE FOR WHICH IT WAS ENACTED, REPEAL OR AMENDMENT SHOULD BE SERIOUSLY CONSIDERED.

SOUTHERN PACIFIC TRANSPORTATION COMPANY IS PRESENTLY ENGAGED IN CONTRACT NEGOTIATIONS WITH THE UNITED TRANSPORTATION UNION AND WILL, IN THE NEAR FUTURE, PRODUCE AN AGREEMENT IN THE BEST INTEREST OF ALL PARTIES.

UNION PACIFIC AND WESTERN PACIFIC ALREADY HAVE CONTRACTS THAT HAVE BEEN RATIFIED BY THE MEMBERSHIP OF THE U.T.U.

ALL WE ARE ASKING IS THAT ONCE CONTRACTS THAT ARE NEGOTIATED THROUGH THE COLLECTIVE BARGAINING PROCESS ARE RATIFIED; CONTRACTS THAT PROVIDE FOR THE ELEMENTS OF SAFETY AS WELL AS EMPLOYMENT AND FINANCIAL SECURITY, THEY NOT BE RENDERED INVALID IN THE STATE OF NEVADA BECAUSE OF THE MANDATE OF NRS 705.390.

WITH YOUR PERMISSION MR, CHAIRMAN, I WOULD LIKE MR. BABERS TO DISCUSS THE PROPOSALS NOW BEING CONSIDERED IN OUR NEGOTIATIONS AND THEIR EFFECT ON LABOR AND MANAGEMENT.

MR. BABERS:

FOR THE EDIFICATION OF THE COMMITTEE, I HAVE ASKED MR. JENKINS TO RESEARCH THE LEGAL HISTORY SURROUNDING THIS ACT AND OFFER TO YOU SOME OBSERVATIONS REGARDING THIS STATUTE.

MR. JENKINS:

MR. CHAIRMAN, AGAIN WITH YOUR PERMISSION, A COUPLE OF CONCLUDING REMARKS. THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEVADA, WHO HAS BEEN CHARGED WITH THE RESPONSIBILITY OF ENFORCEMENT OF THIS PROVISION HAS TESTIFIED BEFORE COMMITTEES OF BOTH HOUSES OF THIS LEGISLATURE THAT THE INTERSTATE COMMERCE COMMISSION AND FEDERAL REGULATION ARE THE PREDOMINATE GOVERNING FORCE IN RAILROAD MATTERS AFFECTING INTERSTATE COMMERCE.

THE CURRENT TREND IS TO ALLOW PRIVATE ENTERPRISE TO CONDUCT ITS BUSINESS WITHOUT UNDUE REGULATION AND AS LITTLE INTERFERENCE FROM GOVERNMENT AS POSSIBLE.

IT IS OUR POSITION THAT THE STATE OF NEVADA SHOULD NOT IMPOSE STATUTORY PROVISIONS RELATIVE TO A COLLECTIVELY BARGAINED LABOR - MANAGEMENT CONTRACT WHICH CAN NOW, AS HAS BEEN DONE IN THE PAST, BE SATISFACTORILY RESOLVED THROUGH THE BEST EFFORTS THE NEGOTIATORS UNDER GUIDELINES OF THE RAILWAY LABOR ACT.

I ASK YOUR SUPPORT FOR THE PASSAGE OF SB 552.

I THANK YOU FOR YOUR KIND ATTENTION AND WE WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

UNITED TRANSPORTATION UNION

EXHIBIT G

I AM LEN FITZGERALD APPEARING BEFORE THIS COMMITTEE TO SPEAK IN OPPOSITION TO SENATE BILL NO. 552.

SENATE BILL #552 WILL REPEAL REQUIREMENTS RELATING TO THE SIZE OF TRAIN CREWS: THIS LAW HAS BEEN IN EFFECT SINCE 1913 AND WAS AMENDED THE LAST TIME IN 1963. THERE IS NOW REQUIRED TO BE AN ENGINEER, CONDUCTOR AND TWO BRAKEMEN ON TRAINS OF OVER TWO CARS EXCLUSIVE OF THE CABOOSE. THE LAW REQUIRES THE USE OF A FIREMAN BUT IN 1965 THE DISTRICT COURT OF ORMSBY COUNTY RULED THE USE OF A FIREMAN ON DIESEL ENGINES INVALID AND STIPULATED THAT TWO MEN WOULD BE IN THE FORWARD CAB OF LOCOMOTIVES BETWEEN TERMINALS AT ALL TIMES. THE ATTORNEY FOR THE RAILROADS AGREED TO THAT STIPULATION AND AGREED THAT THERE WOULD ALWAYS BE TWO MEN, THE ENGINEER AND THE HEAD BRAKEMAN, IN THE CAB OF THE LOCOMOTIVE, BETWEEN TERMINALS.

SENATE BILL #552 STATES THAT THE OPERATION OF MODERN RAILROADS WITH ALL THE TECHNICAL ADVANCES NOW IN USE MAKE IT POSSIBLE TO OPERATE TRAINS SAFELY AND EFFICIENTLY WITH SMALLER CREWS. TO ADDRESS THIS STATEMENT LET ME SAY THAT RAILROAD CARS HAVE GOTTEN LARGER AND CARRY MUCH HEAVIER LAODS AND AS A CONSEQUENCE OF THESE LARGER CARS THE TRAINS ARE MUCH LONGER. IT IS NOT UNUSUAL FOR A TRAIN TO EXCEED TWO MILES IN LENGTH MAKING IT ALMOST IMPOSSIBLE TO OBSERVE THE ENTIRE TRAIN WHILE RUNNING. THE RAILROADS ALSO MAKE MUCH OF THE FACT THAT RADIOS ARE ON BOTH LOCOMOTIVES AND CABOOSES SO THAT COMMUNICATION FROM BOTH ENDS OF THE TRAIN IS AVAILABLE. WHAT IS NOT SAID IS HOW MANY FAILURES OF RADIOS OCCUR. THERE ARE RADIOS IN LOCOMOTIVES AND CABOOSES BUT IF THE ONE IN THE CABOOSE IS NOT WORKING WHAT COMMUNICATION DO WE HAVE WITH THE LOCOMOTIVE. SOMETIMES WE HAVE HANDHELD WALKIE TALKIE RADIOS BUT AT THE PRESENT TIME AT SPARKS THERE IS ONE RADIO ASSIGNED TO THE USE OF APPROXIMATELY THIRTY TRAIN CREWS OPERATING BETWEEN SPARKS AND CARLIN, NEVADA. WE ASKED FOR MORE RADIOS AND ARE TOLD THEY ARE TOO EXPENSIVE AT THIS TIME AND THEY DO NOT FURNISH US ANY. WHEN WE ASSUME DUTY AT SPARKS AND FIND THE TRAIN

WE ARE CALLED FOR HAS A DEFECTIVE RADIO, WE ASK FOR A REPLACEMENT AND ARE GENERALLY TOLD THAT THERE ARE NO REPLACEMENTS AND TO DEPART TOWN WITHOUT RADIO COMMUNICATION. I WOULD LIKE TO READ TO THIS COMMITTEE A COMPLAINT RELATIVE TO CABOOSE NO. SP 4041 WITH REGARD TO THE OPERATION OF THE RADIO. WE ALL KNOW THAT TO OPERATE A RADIO IT IS NECESSARY TO HAVE ELECTRICAL POWER. THIS PARTICULAR RADIO COULD NOT OPERATE BECAUSE THE CABOOSE WAS REPORTED ON JUNE 8, 1979, AS HAVING A COMPLETE ELECTRICAL FAILURE AND UNTIL FEBRUARY 13, 1980, WAS REPORTED A TOTAL OF 31 TIMES AT VARIOUS POINTS ON THE SOUTHERN PACIFIC AND UNION PACIFIC RAILROADS. AFTER FEBRUARY 13, 1980, THIS CONDITION WAS REPORTED FOR THE NEXT TWELVE MONTHS WITHOUT ANY REPAIRS BEING MADE. THIS MATTER HAS NOW BEEN TAKEN UP WITH THE FEDERAL RAILROAD ADMINISTRATION UNDER DATE OF APRIL 9, 1981. IN AN EFFORT TO HAVE THE ELECTRICAL SYSTEM REPLACED. WHILE THIS PERHAPS IS NOT A TYPICAL CASE WE HAVE MANY CABOOSES REPORTED WITH ELECTRICAL PROBLEMS THAT GO UNREPAIRED FOR LONG PERIODS OF TIME. NO POWER ON CABOOSE - NO RADIO IN OPERATION.

I WOULD LIKE NOW TO GIVE YOU A FEW REMARKS ON THE OPERATION OF THE HOT BOX DETECTOR THAT I HAVE PASSED ON FREIGHT TRAINS ON THE SOUTHERN PACIFIC AT MILL CITY, NEVADA. IN THIS PARTICULAR INCIDENT, WE HAD DETECTED A HOT BEARING ON THE TRAIN BY THE SMELL OF HOT METAL AND SOME SMOKE PRIOR TO REACHING THE HOT BOX DETECTOR. WE IMMEDIATELY STOPPED THE TRAIN AND I WALKED FROM THE CABOOSE UNTIL I REACHED A CAR WITH A VERY VERY HOT BEARING. I HELD THE TRAIN UNTIL WE GOT SOME WATER FROM THE ENGINE AND COOLED OFF THE BEARING AS WELL AS POSSIBLE AND THEN PROCEEDED AT A WALKING SPEED TO A SPUR SOME FOUR MILES AHEAD. WHILE PROCEEDING TO THE SPUR WE WENT THROUGH OR BY THE HOT BOX DETECTOR AND DID NOT TRIGGER IT OFF EVEN THOUGH THE BEARING WAS STILL VERY HOT. I REPORTED THE FAILURE OF THE DETECTOR AND WAS TOLD THAT THE HEAT FROM ONE END OF THE AXLE HAD RADIATED TO THE OTHER END AND THAT THERE WAS NOT ENOUGH DIFFERENCE BETWEEN THEM TO REGISTER A DIFFERENTIAL IN HEAT BETWEEN BOTH ENDS OF THE AXLE. SO MUCH FOR THE INFALLIBILITY OF THE HOT BOX DETECTORS. IN A BOOK OF INSTRUCTIONS PUT OUT BY THE SOUTHERN PACIFIC RAILROAD IT IS STATED THAT IT IS IMPORTANT YOU KEEP A CLOSE LOOKOUT FOR SITUATIONS WHERE YOU COULD HAVE HOT BOXES ON BOTH JOURNALS OF THE SAME AXLE AND NOT HAVE SUFFICIENT TEMPERATURE DIFFERENTIAL TO ACTIVATE THE DETECTOR. IT IS ALSO STATED THAT THESE DEVICES DO NOT RELIEVE YOU OF YOUR RESPONSIBILITY TO FREQUENTLY INSPECT YOUR TRAIN

WE NEED TWO MEN ON THE CABOOSE TO KEEP CONSTANT LOOKOUT OF BOTH SIDES OF THE TRAIN WHILE RUNNING BECAUSE OF OTHER CIRCUMSTANCES SUCH AS A BRAKE RIGGING DROPPING DOWN ON EITHER SIDE OF THE CAR AND POSSIBLY CAUSING A DERAILMENT, MANY TIMES THESE CAN ONLY BE SEEN ON ONE SIDE AS THEY TEND TO THROW ROCKS AND DIRT OUT AS WE MOVE. AT NIGHT WE SEE FLASHES OF WHAT WE CALL FIRE FROM METAL RUBBING ON METAL AND AGAIN SOMETIMES ONLY ON ONE SIDE. ALSO BECAUSE THE CREW ON THE HEAD END OF THE TRAIN HAVE JUST ABOUT ALL THEY CAN DO TO MAINTAIN A CONSTANT LOOKOUT FOR SIGNALS GOVERNING THE MOVEMENT OF THE TRAIN AS THE SIGNALS, BOTH AUDIBLE AND VISIBLE, ARE APPROACHED. THE RAILROADS HAVE A PROGRAM OF EFFICIENCY TESTS THAT ARE USED ON CREWS ON TRAINS TO SEE THAT THEY ARE ON THE JOB AND IF A CREW ON HEAD END MISSES A SIGNAL THAT IS PLACED BY THE TESTING OFFICER, THAT CREW IS OUT OF A JOB. YOU KNOW THAT THE CREWS ON THE HEAD END ARE LOOKING AHEAD AND NOT WORRYING TOO MUCH ABOUT THE TRAIN THAT IS BEHIND THE LOCOMOTIVE BECAUSE THEY CAN DEPEND ON THE OBSERVATION AT ALL TIMES FROM THE CABOOSE. ANOTHER PROBLEM THAT IS FACED BY MEN ON CABOOSES IF THEY WERE ALONE. SLEEPING. NO ONE DELIBERATELY SLEEPS ON THE JOB BUT IT HAPPENS TO THE BEST OF MEN BUT THE OTHER MEMBER OF THE CREW WILL IMMEDIATELY CALL TO HIM AND THEN KNOWING THERE IS A PROBLEM WILL KEEP UP A CONVERSATION AND SEE THAT THE MAN IS ALERT. WE HAVE A SAYING ON THE RAILROAD - ANY MAN WHO SLEEPS COULD WAKE UP DEAD - THE RAILROAD ACKNOWLEDGES THIS PROBLEM BY HAVING A RULE THAT SAYS "EMPLOYEES MUST NOT SLEEP WHILE ON DUTY. LYING DOWN OR ASSUMING A RECLINING POSITION, WITH EYES CLOSED OR EYES COVERED OR CONCEALED, WILL BE CONSIDERED SLEEPING". THE IRREGULARITY OF OUR TIME OF GOING TO WORK PRESENTS A PROBLEM TO US BECAUSE AFTER WE HAVE HAD A COMPLETE NIGHTS SLEEP, WE CALL OUR EMPLOYER AND ARE TOLD WE STAND TO GOT TO WORK AT 4:00PM. AFTER HAVING GOTTEN UP AT 7:00AM IT IS AN IMPOSSIBILITY FOR SOME OF US TO GO BACK TO BED AND SLEEP. WE WAIT FOR THE CALL AT 4:00PM. IT DOES NOT COME. WE THEN CALL THE OFFICE AND ARE TOLD IT IS NOW 7:00PM. WE HAVE DINNER. STILL NO CALL. ON OUR NEXT INQUIRY WE ARE TOLD IT WILL BE 10:00PM. WE GO TO BED AND THEN THEY CALL US WITH THE USUAL ONE AND ONE HALF HOUR CALL FOR 10:00PM. WE ARE NOW SUBJECT TO BE ALERT UNTIL 10:00AM OR ALL THROUGH THE VERY LONG NIGHT. THE PROBLEM OF WHEN WE ARE GOING TO GO TO WORK IS ONE OF LONG STANDING AND THE CAUSE OF MANY MANY COMPLAINTS. MOSTLY TO NO AVAIL BECAUSE WE ALWAYS GET THE SAME ANSWER WHEN WE ASK FOR A LINEUP OF TRAINS AND THE ANSWER IS "I'M TOO BUSY NOW" I'LL GET TO IT AS SOON AS POSSIBLE.

SENATE BILL #552 SPEAKS TO THE SAFE OPERATION AT A REASONABLE COST. I ASK, REASONABLE COST TO WHOM. WHAT IS THE REASONABLE COST OF A PERSONS LIFE, EITHER AN EMPLOYEE OR A MEMBER OF THE PUBLIC. IN A RECENTLY SETTLED COURT CASE, A JURY AWARDED THE SUM OF FIFTY TWO MILLION DOLLARS TO TWO CHILDREN WHOSE PARENTS DIED AS A RESULT OF TOXIC GAS BEING RE-LEASED FROM A DERAILED TANK CAR CONTAINING HAZARDOUS ANHYDROUS AMMONIA AND THE GAS SPREAD TO THE HOME OF THE PEOPLE AND KILLED THEM. THE LAWYER IN THIS CASE SAID, IN PART "STATE GOVERNMENTS HAVE ABSOLUTELY NO CONTROL OVER AN INTERSTATE RAILROAD. AND, UNFORTUNATELY, THE FEDERAL GOVERNMENT ALSO HAS LITTLE CONTROL OVER THE RAILROADS." AT LEAST WE HAVE A LAW IN THE STATE OF NEVADA THAT PROVIDES ENOUGH MEN ON TRAINS TO KEEP A CONSTANT LOOKOUT FOR POSSIBLE DEFECTS. I OFTEN WONDER WHAT THE PEOPLE IN THE CITY OF RENO WOULD THINK IF THEY KNEW WHAT DANGEROUS COMMODITIES MOVE THROUGH THE CENTER OF TOWN EVERY DAY. A DERAILMENT OF A CAR OF CHLORINE WITH RESULTING LEAKAGE, WOULD BE A TERRIBLE DISASTER. TODAY WE HAUL CLASS A EXPLOSIVES, RADIOACTIVE MATERIALS AND TANK CARS CONTAINING ANHYDROUS AMMONIA, CHLORINE, HYDROGEN FLOURIDE, POISON GAS AND FLAMMABLE GAS. I AM SURE YOU HAVE READ OF THE NUMEROUS TIMES ENTIRE TOWNS HAVE HAD TO BE EVACUATED BECAUSE OF TRAIN WRECKS OR DERAILMENTS CAUSING THE AFOREMENTIONED COMMODITIES TO BE LOOSED UPON THE PUBLIC. ISN'T THE SMALL COST OF HAVING CONSTANT SURVIELENCE ON BOTH SIDES OF THE TRAIN FROM THE CABOOSE, THAT MIGHT PREVENT JUST ONE EVENT THAT COST FIFTY TWO MILLION DOLLARS AND TWO LIVES, A REASONABLE COST.

MOVING AROUND ON A CABOOSE WHILE IT IS IN MOTION IS ASKING FOR A PERSONAL INJURY DUE TO SLACK ACTION. SLACK ACTION CAN BEST BE DESCRIBED BY STATING THAT WHEN THE SLACK RUNS IN YOU ARE IN A SLINGSHOT - WHEN THE SLACK RUNS OUT YOU ARE ON THE END OF A GAME OF CRACK THE WHIP. IN MY OWN EXPERIENCE OF SLACK ACTION, I HAVE BEEN THROWN THROUGH A CUPOLA WINDOW EVEN THOUGH I WAS HANGING ON WITH ALL MY STRENGTH. FORTUNATELY FOR ME, IT HAPPENED IN A COMMUNITY WHERE I WAS ABLE TO BE TAKEN TO THE HOSPITAL FOR THE NECESSARY STITCHING. TWO OTHER TIMES I HAVE BEEN KNOCKED UNCONSCIOUS AND WAS REVIVED BY THE OTHER MEMBER OF THE CREW.

TO ADDRESS THE SENATE BILL #552 STATEMENT THAT THE DETERMINATION FOR THE SIZE OF TRAIN CREWS IS BEST MADE THROUGH COLLECTIVE BARGAINING

WHILE THE RAILROADS WERE SUCCESSFULL IN GETTING THE COURT TO INVALIDATE THE USE OF A FIREMAN BY STATING WITHOUT HESITATION TO THE COURT THAT THERE WOULD ALWAYS BE TWO MEN IN THE CAB OF THE LOCOMOTIVE BETWEEN TERMINALS - THE SOUTHERN PACIFIC COMPANY HAS ON THREE DIFFERENT OCCASIONS OPERATED TRAINS WITH AN ENGINEER IN THE LOCOMOTIVE AND A CONDUCTOR IN THE CABOOSE WITH NO OTHER EMPLOYEES BEING USED ON TRAINS OF 100 CARS OR MORE. IF THEY WOULD FLAUNT THE LAW OF THE STATE, I ASK YOU WHAT THEY WOULD DO IF ALL THEY HAD TO LIVE UP TO WAS A COLLECTIVE BARGAINING AGREEMENT WITH RESPECT TO SAFETY. (READ LETTER FROM PUBLIC SERVICE COMMISSION) WHEN I WAS A SAFETY COMMITTEEMAN AND WAS PERSISTENT ABOUT A POTENTIAL HAZARD, I USED TO GET THE FEELING THAT THE ATTITUDE OF THE CARRIER WAS THAT NOTHING HAS HAPPENED YET. IT APPEARS TO ME THAT THIS IS THE ATTITUDE SHOWN BY SENATE BILL #552.

IN THE MINDS OF MOST OF THE MEN WHO OPERATE THE TRAINS IS THE FEAR OF BEING INJURED OR BECOMING SICK ON A CABOOSE WITH NO COMMUNICATION AVAILABLE. SOMETIMES THE TRAINS OPERATE FROM TERMINAL TO TERMINAL WITHOUT STOPPING. ONE DISTRICT ON THE SOUTHERN PACIFIC IS 288 MILES. IF ONE SHOULD BECOME UNCONCIOUS OR BLEEDING HE IS IN A BAD SITUATION IF HE IS ALONE IN THE CABOOSE. IN MY OVER FOURTY YEARS OF BEING ON FREIGHT TRAINS IT IS MY OPINION THAT EVERY TRAIN BEING OPERATED TODAY IN THE STATE OF NEVADA IS A POTENTIAL ACCIDENT GOING SOMEWHERE TO HAPPEN UNLESS CONSTANT OBSERVATION OF THE TRAIN WHILE RUNNING IS OBSERVED.