

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 2, 2024

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-first day of the One Hundred Eighth Legislature, Second Session. Our chaplain for today is Senator Dorn. Please rise.

DORN: Good morning. Please join me in a word of prayer. Dear Lord, your name is to be blessed forever. We know-- we know all wisdom and all power belong to you alone. You are the only one in charge of the times and of the seasons and of the eras of history. You know you alone establish rulers and government as you see fit. We also know you are pleased when we ask you to give us discernment and to make us into people who have understanding. So we ask that of you today. May we live and act and govern as people who recognize your strength, as well as your great love for all of us. May everything we do be for your glory and the good of the people we represent. And we ask all of these things in the mighty and holy name of your son, Jesus Christ. Amen.

KELLY: For the pledge of allegiance from Senator Day's district I represent-- or I recognize Sergeant Stanley Washington of the 1057th Army.

STANLEY WASHINGTON: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, and with liberty and justice for all.

KELLY: Thank you. I call to order the twenty-first day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: There's a quorum present, Mr. President.

KELLY: Are there any corrections for the Journal?

CLERK: I have no corrections this morning, sir.

KELLY: Are there any messages, reports, or announcements?

CLERK: There are, Mr. President. Reference Report concerning 4 appointments as referenced. Additionally, your Committee on Government, Military and Veterans Affairs, chaired by Senator Brewer, reports LB830, LB847, LB848, LB895, LB936, LB940, and LB1102, all placed on General File. The Report of Registered Lobbyists from February 1, 2024 can be found in the Journal. Additionally, agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website. And notice that the Revenue Committee

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will be holding an Executive Session at 10:00 under the south balcony; Revenue, 10:00 under the south balcony. That's all I have at this time, Mr. President.

KELLY: Thank you, Mr. Clerk. Please proceed to the first item on the agenda.

CLERK: Mr. President, first item, LB31, introduced by Senator Jacobson. It's a bill for an act relating to railroads; requires a train crew of at least 2 individuals as prescribed; provides fines; and provides duties for the Public Service Commission. The bill was read for the first time on January 5 of 2023, and referred to the Transportation and Telecommunications Committee. When the Legislature left the bill yesterday, Mr. President, pending was the bill itself as well as other amendments.

KELLY: Senator Jacobson, you're recognized for a 1-minute refresher.

JACOBSON: Thank you, Mr. President; colleagues. Day 3, we'll get to this-- we'll get to a cloture vote, I think, by noon today. So hang on. We'll continue to slog ahead on bringing issues. Hopefully, they'll all be pertinent to what we're talking about. I do want to mention most of you who have probably who have looked ahead, I have filed an amendment that is behind a couple of amendments that Senator Slama has introduced to waste time. So hopefully she'll move those out at some point here and, and we can talk about my substantive amendment that's been filed at the end of the day yesterday. That amendment basically is meant to bring some kind of compromise in terms of some of the discussions we've had. It would put a 2-year sunset on the bill which would-- and I'll get on the mic later and talk to you some specifics about that particular amendment. But in the meantime, I just want to reiterate, again, the fact that there's been a lot of things discussed. Some of it's factual, some of it maybe not so factual. I'm going to continue to try to bring information for you to make good decisions so that when we get to the cloture vote you're informed when you make that decision. So thank you, Mr. President.

KELLY: Thank you, Senator Jacobson. Mr. Clerk, for agenda items.

CLERK: Mr. President, Senator Slama would offer FA209 to amend LB31 by striking Section 2.

KELLY: Senator Slama, you're recognized to open on the amendment.

SLAMA: Thank you, Mr. President and good morning, colleagues. I have a new amendment. I withdrew my amendment from yesterday at the end of

the day. We didn't need to go to a vote on it. We, we are in a filibuster. But to my credit, Senator Linehan started it so I, I cannot necessarily take responsibility for this whole thing. I, I do want to briefly just, again, reiterate Senator Jacobson is a wonderful colleague. I'm great friends with him. And this has nothing to do with him personally or anything against anybody who works for the railroads. My uncle actually retired from the railroads and I just respect the heck out of them for everything they do for our communities both inside and outside of their work. But when it comes to a 2-man crew-- and I'm, I'm sorry, Mr. Clerk, my amendment isn't on the board yet. OK. Thank you very much. And just to set the table for today's discussion, I think there's 4 big reasons as to why we shouldn't move forward with LB31 when it comes up for a vote around noon today. So first, LB31 isn't necessarily about safety. I know it's coming from the perspective of wanting to increase safety, but there's just no data or evidence that suggests that 1-person crews are safer. Secondly, this puts railroads at a competitive disadvantage, which is bad for the movement of goods across country, bad for the environment, and bad for state infrastructure. The issue of crew size belongs in union discussions, union bargaining processes where it's always been, and also the states just don't have the authority to mandate crew size. It's clearly federally preempted. And this bill becoming law will end up in court if it is enforced. It has been talked about on the floor how 11 other states have 2-man crew statutes in place. I believe Kansas is one of them. But the problem is, is that none of these 2-man crew laws are being enforced because when they are enforced they end up in court and they lose. So first off, let's talk about safety, because I know that that is something that's very personal to a lot of people. And I've had some very heartfelt comments extended to my office about concerns on safety. And I, I appreciate those so much and I appreciate people being willing to share their stories and open up to my office and the offices of others. But I have to look at the data as a lawmaker, and it's just clear that there's just not any evidence showing that crew size makes a difference when it comes to safety. So when we're talking about the assertion that 1-man crews are safer than 2-man crews, that's something that's demonstrably false and has been proven false several times. The real-world performance of 1-person crews is reflected in data from the United States and around the world, especially when compared to Europe, establishes that they pose-- the 1-man crews pose no risk to safety. 1-man crew is actually the standard in Europe as well. So 1-person crews have long been used safely throughout the United States and the world, especially Europe: passenger trains, nonunion short lines, many foreign railroads have used 1-person crews for decades.

U.S. passenger trains have operated for many years with only 1 crew member in the cab. Operating with a single crew member in the cab is now standard for commuter trains and Amtrak trips. All light rail and Amtrak operates on routes less than 6 hours at speeds up to 129 miles an hour with only 1 person in the cab. And when we're talking about those Amtrak lines, we're talking about hundreds of people that could be on those trains. Having spent a decent amount of time on the East Coast for college, those Amtrak trains get packed. Especially those commuter lines around rush hour. And the standard is they operate with 1 person in the cab. Many short lines have been operating safely and effectively with 1-person crews for decades. In an Oliver Wyman study, which I had referenced before, and I know a few other people have referenced before, European data compares the safety performance of 1-person crews in Europe versus 2-person crews in the U.S. And this Wyman study found that there was no evidence that railroads operating with 2-person crews are statistically safer than railroads operating with 1-person crews. And this is with European operations typically at a higher degree of operating precision, faster train speeds, shorter blocks, and more train activity in the U.S. So the studies from Wyman and ICF International both found virtually no difference in accident rates between 1-person and 2-person operations. The Wyman study compared the aggregate data comparing U.S. railroads. ICF international was a slightly different study and it used the fault tree analysis, which forecasted accident rates once the crew policy was fully implemented. Moreover, the more we look at the safety side, operationally, there's not a need for a second crew member. The technology we have when it comes to operating trains is incredible. We have positive train control, also known as PTC. It makes redundant any-- many of the functions traditionally performed by the conductor. Things like observing wayside signals and recording dispatching orders. PTC is a computerized system that, if necessary, stops a train automatically if the engineer fails to take the necessary action. So when we're talking about if the conductor has a heart attack or an aneurysm or a health crisis or he's diabetic and he goes unconscious, that train's coming to a stop automatically. Locomotive technology has evolved, so only the engineer has operational controls that impact the train. The engineer's workload has been further reduced by the implementation of locomotive energy management systems which improve train handling. To issues raised of community safety, train crews are not expected to perform as first responders and are not trained to be first responders. To the contrary, they are trained to move away from danger, including dangers arising from the potential releases of hazardous materials. So, again, when we're talking about a 2-man crew, whether it's a train coming across a health emergency, getting into an

accident with a vehicle or otherwise, or a derailment, these crew members aren't trained to be first responders. They're not the ones who are trained to respond to medical emergencies, to respond to hazardous material leaks. So having-- whether you have 1 or 2 people, it doesn't make a difference because they're not responding to that situation in the first place and are trained by their companies. Like it or not it's the policy, and it's understandable not to respond to those incidences. Moreover, something called an "alerter" is in every single locomotive that we have in the U.S. If the train operator has made no action nor pushed the alerter button within 30 seconds or 2 minutes, it kind of depends on the speed and a few other things, the alerter initiates an emergency stop. In the event of a medical or other emergency in the cab, the train will stop. Again, that's another safety requirement that we have in place for these 1-man crews if there is a health emergency or otherwise. To the extent that there are responsibilities PTC does not eliminate, railroads and unions will identify those safety issues again through the bargaining process and work through them during that bargaining process. Railroads would ensure those operations comply with all FRA safety regulations. Railroads have already been analyzing the risks such a move might pose. And like any change that could affect safety, they care-- they would carefully assess those risks and adopt necessary mitigation measures before implementing any changes to crew size. So one example that's been raised quite a lot has been East Palestine-- East Palestine--

KELLY: One minute.

SLAMA: --thank you, Mr. President-- and the derailment there. There were 3 people on that train when it derailed. It did not make a difference in any of the outcomes that we saw. So no matter what, when, when you're looking at this data, it's clear that not only would a 2-person crew not make a difference when you look at the statistics, even having a 2-person crew under the guise of a 1-man crew, if there's a medical emergency might be considered a liability is problematic as well because (1) our conductors-- our engineers are not first responders. And secondly, there are automatic stops in place to bring that train automatically to a stop if there is a health crisis, health emergency either on the train or outside of the train. I'll come back to a few of the other points later, but I just wanted to set the table with some of the big issues we're going to be talking about today. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator DeBoer, you're recognized to speak.

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DeBOER: Thank you, Mr. President. Good morning, colleagues. I haven't spoken on this issue yet because I didn't want to help filibuster a bill that I like. So I haven't talked to you about it yet, but I will say I voted it out of committee. I support this bill strongly and I think it is about safety. But one thing I did want to come up and talk about today is in the last couple of days, I've heard a whole bunch of legal terms thrown around and it's a lot of fog of legal terms. So I wanted to make it really simple because last night I thought there's so many legal things being said on this floor and it's-- it just-- it starts to sound confusing and maybe I'm wrong, maybe-- because to me this is real simple. So I spent 3 hours reading cases again last night, and after 3 hours I discovered, hey, I wasn't wrong. I did know, it is simple. So 3 hours of my life gone, but I'm a nerd so I kind of enjoyed it. Here's the deal. This is how it works. Under the Safety Act states can make laws about railroad safety if the federal government does not. If the federal government does, we can't. It's that simple. And here's how it goes. If we pass this law and then in March or whenever the federal government puts out their ruling that says you have to have 2 people on the train. Great. We agree. Nothing happens. If the feds don't put out a ruling? Great. It's our area. Nothing happens. We get to decide. If the feds disagree with us? Great. They get to decide. They're the 300-pound gorilla in the room and they get to decide. And then what happens? There's nothing scary that happens next. If they decide it's 1-person crew, the Governor doesn't have to go to bed without his supper. We don't all get sent to timeout as legislators. We just can't enforce our law. That's literally it. We can't enforce our law. Nothing bad happens. If we pass this law because we say, hey, we in Nebraska believe in this safety mechanism and somehow the feds come back and decide to do 1, we just can't enforce it. That's it. There's nothing else to it. So I don't know, it's not real complicated. If they preempt us, we can't enforce it. If they don't preempt us, we get to make our own rules. That's what the Safety Act says. Thank you, Mr. President.

KELLY: Thank you, Senator DeBoer. Senator Albrecht would like to recognize the physician of the day, Dr. Dave Hoelting from Pender. Please stand and be recognized by your Nebraska Legislature. Senator Linehan, you're recognized to speak.

LINEHAN: Good morning, Mr. President. Good morning, colleagues. I just want to say for the record, and I already told Senator Jacobson this, when you are filibustering a bill you shouldn't have to sit next to the sponsor of the bill. It's very awkward. Not only do we sit next to each other, but we share the same microphone. So he's-- he may be coming over towards Senator Blood for the rest of the morning. I'm

going to repeat some of the things I've said previously. The idea that we're interjecting ourselves into a huge private company with one of the strongest unions in the country, and it's somehow any of our business, I just-- I don't-- I don't think that's right. We're also one of the reasons it would be good for the unions to have this go-- have this rule pass. Because clearly, from what we've heard for the last few days, this is a bargaining point when the unions and management sit down every 5 years to figure out what the contract's going to be, they win this. They are now under a union contract that says there has to be 2 people on the train. So we take that away, we empower them more. Now, maybe that-- that's what we want to do. I don't think we ought to be doing that. And I also find it more than just a tiny bit, like quite a bit frustrating, that somehow-- and we've been in hearings all week-- I have been, all of us have-- I'm on Education and Revenue, and all we've heard all week is we shouldn't involve ourselves with local control, that we should trust the local-- and we're going to hear more of it this afternoon in Revenue, that we have to trust our school boards and we have to trust our county governments and we have to trust the cities and we shouldn't involve ourselves even though we send them hundreds of millions of dollars every year. So we pick up the tab, but somehow we're not supposed to be involved in the decision process. I was thinking this morning, it's like-- that's what teen-- teenagers think. I raised 4 kids. They think they should get an allowance and there should be no rules. That's not the way life works. So I'll get back on this subject now. I would ask if Senator Bosn would yield for a question?

KELLY: Senator Bosn, would you yield for a question?

BOSN: Yes.

LINEHAN: Senator Bosn, you and I had an exchange earlier this week about the Commerce Clause and why this isn't-- why this is really not something we should be doing because I think-- well, you-- can you re-explain what the situation is with this, please?

BOSN: Sure. So what we talked about earlier was the fact that this is regulated federally versus regulated statewide and the interstate commerce that is affected by this. It was our discussion that this affects interstate commerce and, therefore, should be a federal regulation versus a state regulation. Specifically to that point, I listened to Senator DeBoer speak earlier and talk about, we wouldn't have any conflict here because if the feds rule then our law would either be valid or invalid based on what we decide to do here. So if they tell us that we have to have a 2-man crew and our state law is

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consistent, there's no problem. If they tell us you have to have a 2-man crew and our law says you don't, we now have to have a 2-man crew. There's no inconsistency. The concern that I had when I looked through-- and I was going through things with trains and interstate commerce and, and sort of my background recollection of why I felt--

KELLY: One minute.

BOSN: --that way. Thank you. Can I continue or do you want your time back?

LINEHAN: Yes, please. Please.

BOSN: I go back to some of the case law that deals with trains specifically and why it's an interstate commerce issue. And if you look at Southern Pacific v. Arizona ex rel. Sullivan, it's a 1945 case. It talks about Arizona doing this exact same thing, regulating trains. And the fact is that the federal government came in and said you cannot do that because it affects interstate commerce. They wanted to limit the number of train cars that you could have. And the federal government came in and said you can't do that. It's interstate commerce. We're not going to stop trains at the Arizona state line, take off cars or add cars before they go into New Mexico or wherever, California. And so I, I think that the analogy is it's interstate commerce to regulate trains within states, which is why it should be an interstate commerce issue. And so I hope that answers your question.

KELLY: That's your time. Thank you, Senators Bosn and Linehan. Senator Murman, you're rec-- oh, excuse me. I-- message here. Senator Vargas announces under the north balcony his wife Lauren, his son Luca, and his daughter Ava. Please stand and be recognized by the Nebraska Legislature. Senator Clements, you're recognized for an announcement.

CLEMENTS: Thank you, Mr. President. Shortly, the pages will be handing out a booklet called Appropriations Committee Preliminary Report. It'll show the General Fund and Cash Reserve financial balance as of now. It's a preliminary report we're required to give you after we have done a review of the agency's budget requests and those amounts that we have approved. We also have 60 bills in Appropriations Committee that are not included that have at least \$100 million worth of requests, and there are agency requests we've not approved that are still pending that-- pending approval. So these numbers will change, but we are required to give you an update as to right now where we are. I've also been informed that the TEEOSA formula has been revised

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and that revision of TEEOSA is not included in this book either. But this gives you an update as to where we are currently and we're continuing to work on the budget. And I thank you, Mr. President.

KELLY: Thank you, Senator Clements. Mr. Clerk, for items.

CLERK: Mr. President, quickly. Your Committee on Enrollment and Review reports LB600A as correctly engrossed and placed on Select File. Additionally, committee reports concerning gubernatorial appointments to the Nebraska Environmental Trust Board from the Natural Resources Committee. That's all I have at this time.

KELLY: Thank you, Mr. Clerk. Senator Murman, you're recognized to speak.

MURMAN: Thank you, Mr. Lieutenant Governor. I've got a-- you know, while we're talking about railroads here, I've got a little history of the railroad that happens to go right alongside my home family farm that I thought some might find interesting. The family farm is right along the UP railroad that I think is the main line between Kansas City and Wyoming. And so growing up I was always very interested in looking at the trains going down the railroad and I even-- you know, it's kind of my connection to the outside world so I'd be interested in what the trains were hauling. You know, back then it, it was freight trains so they'd have all kinds of products that they'd be hauling. Then for quite a few years and even up to now, they're mostly coal trains, but there's still some freight trains go by. When the-- this line was built-- I'm not sure when it-- well, would have been back in the 1800s, I think, late 1800s, mid to late-- the towns along the railroad were, were named alphabetically. So Alexandria was the first stop, I think, north of the Kansas border and then Belvidere, Carleton, Edgar, Fairfield, Glenvil, Hastings, Juniata, Inland, Kenesaw. I think I got all the alphabet in there. So these towns are located about, I think, every 10 miles or so down the track to, if I remember correctly, to put the water in the steam engines at that time. So the, the farm where I grew up on was one of the earliest farms that-- or settlements that was made at that time and it was a Baptist minister that settled there. Quite often at that time-- first the, I think, the fur traders came in and then the ministers spreading the, the word to everyone in-- out in the wilderness at that time. So I, I remember hearing early stories from communications with that Baptist minister with his family back in Illinois about buffalo and antelope being around at that time. And, of course, the only buffalo I've ever seen since then has been in, in a fenced enclosure. And no antelope except I think you have to get pretty far west, almost to the

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Colorado line or into the Sandhills to see antelope. And back in the 1920s, I remember the old-timers before I was an old-timer telling stories about a train that was stopped just outside of Glenvil and I'm not sure it was a derailment, I think it was actually snow on the tracks. So the train was stopped there for a few days to get the snow cleared off the tracks. And some-- I don't know if the whiskey car ruptured or maybe it was ruptured on purpose, but anyway Glenvil was a pretty popular place to be for, for a, a few weeks at that time because people were filling up their whiskey jugs off of a, a rail car that was-- had a hole in it. And then in the 1940s--

KELLY: One minute.

MURMAN: --actually, my mother grew up in Louisville, Nebraska, but she got a good job on the railroad. She was a dispatcher. So she moved up the line and ended up in Glenvil. And that's where she met my father. And they got married then, I think, in 1945. And the, the railroad was kind of a-- well, another thing, a story I guess, so when I was growing up there were-- I remember hobos coming off the railroad, and I think it was Red Skelton used to dress up like a hobo. He had a stick and a, a sack on the end of the stick. And actually, I remember a couple of different times, hobos came up to the farmhouse exactly like that, carrying a stick with a sack on the end of it. So that was kind of an interesting memory. And I've got some more stories, I think I'm running out of time, but I can spend quite a bit more time talking about those railroad stories.

KELLY: That's your time.

MURMAN: Thank you very much.

KELLY: Thank you, Senator Murman. Senator Blood, you are recognized to speak.

BLOOD: Thank you, Mr. President. Fellow senators, friends all. Before I start, I want to say that I am definitely opposed to the floor amendment but in full support of the bill. But I want to briefly talk about yesterday's discussion in reference to partisan politics, because that was kind of a slow moving train wreck listening to all that. Right? And I think what-- if you listened yesterday, it also gave us some fodder for Senator Lowe's bill where he wants to turn one of the boards partisan. This discussion we had yesterday was exactly why that bill should never get passed. But that's another discussion. I listened in reference to the PTC system and part of what was said was actually accurate, but part of it was actually incorrect. And I

want to start out by reminding people that the safety of these workers, I feel, has been reduced to nothing more than making them political pawns in this debate. And I think we have to remember that this debate isn't about negotiations. It isn't about trying to push something forward that isn't needed. It's about public safety. And I keep going back to that. And I haven't tried to take up time on the mic. I've really tried to talk about topics that pertain to why I support this bill. So the positive train control, which you heard is a safety overlay system, but it is incapable of performing the cognitive functions and tasks of a conductor or conductors. And this was identified, by the way-- and you can find it online-- by the FRA. And it further noted that it can't provide the benefits of 2 humans working together in collaboration. You'll find it in the FRA final report in both 2020 and, I believe, July of 2021. So I go back every time and I think about Senator von Gillern's comments about planes and how we kind of started out with that. And I don't know if you know this, but unlike aviation that has near-miss reporting systems, the corporate levels within most of our major railroads have always fought that for the railroad community. So we don't have data about near misses. They have fought against the data capture that we should have that shows how the actions of a 2-person crew has made a difference in emergencies. We have that for airlines. So if you look at Title 49, which is the code of the federal regulations part 225, it'll have the whole list of railroad accidents, incidents, and reports and classifications and investigations. And you will see that near misses are not part of that data, because if we had that data, it would clearly show us why we need the 2-man crews. You can say that it's a bargaining point for the-- for labor and everybody knows I don't hide it. I do support labor because I believe in workplace safety and fair wages and benefits, and that if you work hard for 20 years you should be able to retire and not worry about being homeless because you can't pay your bills or having to get a second job. It's about public safety. It's not about labor. It's about making sure that public safety is more important than profits, and that we don't put profits over people. I always think it's interesting when we talk about local control, and I always respect Senator Linehan and even when she and I don't disagree we've always been very respectful of each other. We agree on a lot of things, but there's a few things we don't. So when we hear local control and that we should trust local control, I've always stood for that, especially coming from a municipal background before I was a senator. But yet our body is constantly trying to cap them.

KELLY: One minute.

BLOOD: We passed on unfunded and underfunded mandates. We use eminent domain for a recreational lake. It's funny, we only talk about local control when it benefits our debate, but really local control is something that we should always respect. And then I always remind everybody, which I talked about the first time I was on the mic on this bill, Palestine, Ohio, 1.8 million gallons of liquid waste were collected from that derailment site. 149 car train derailment. Now that community is fighting a future much like Mead, Nebraska, where they don't know if there will be cancer, brain tumors, birth defects, and they get to live with the consequences of that derailment. Anything we can do as a body to help ensure public safety is something that we do to help Nebraskans. Thank you, Mr. President.

KELLY: Thank you, Senator Blood. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Well, it's Groundhog Day again and we're here debating the railroads and up next is the time change bill. So I circulated a little history of time zones, which, if you're familiar, were invented by the railroads. So I thought it was appropriate that we have that as part of the conversation. It says-- this circulated-- the thing I circulated, that before the railroads implemented time zones, there might have been disparities in local times depending on your location. So, for example, while it could be 12:09 p.m. in New York, it can also be 12:17 in Chicago. Think about all the confusion that could cause in today's busy world. I rise in support of LB31 for all of the reasons articulated by my colleagues about safety and I am opposed to FA209. I would reiterate what Senator DeBoer said, which is that until the feds act, we have a right as a state to regulate for safety in the state of Nebraska. And if the federal government takes action and says that we should have a 2-man crew, then our law will be in accordance with that. And if the federal government says that there shouldn't be, then our law would just have no effect. It won't cause problems or confusion. So I'm in support of LB31, but I just wanted to rise in support of that and to remind everybody that today is Groundhog Day and that Punxsutawney Phil did not see a shadow so we will have an early spring and to paraphrase the Chamberlain [SIC] Brothers: The time has come today. Can't put it off for another day. So today we're going to get a vote on a 2-man crew. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Kauth, you're recognized to speak.

KAUTH: Thank you, Mr. President. Senator John Cavanaugh, thank you for giving us this information on the railroad time. And Senator Steve Erdman, I'd like to point out that eventually this system was signed into U.S. law with the finalization of the Standard Time Act. So in 1918, they decided standard time was the way to go. I'm going to talk a little bit more about how single-person crews have been used around the, the world, actually. Single-person crews are neither novel nor untested. And this is from a report done in 2015, so way before any of the technological advances that we have today. In North America, Amtrak and commuter railroads both make use of a single-person crew in the cab. Regional freight railroads-- Indiana Railroad in the United States and the Quebec North Shore and Labrador in Canada operate a significant number of trains with single-person crews. Internationally, the use of single-person crews for trains is widespread in developed markets similar to the United States in size and complexity. In Europe and Australia, for example, the use of single-person crews is a dominant practice on many freight railroads, including those in Germany, France, Sweden, Australia, the United Kingdom, and Queensland, New South Wales. Oliver Wyman screened public data on safety from the FRA and the European Railway Agency to develop a set of safety statistics that could be used to compare the safety records of single- and multiple-person crews. The statistics were deemed relevant for this analysis where the crew had actually some degree of control over the incident and where the presence of multiple persons versus one person in the cab could arguably make a difference in the outcome of the incident. So for a lot of the things that we're talking about, there, there wouldn't have been a difference no matter how many people you actually had in the cab. For the intra U.S. data, Oliver Wyman compares aggregate statistics on relevant equipment incidents and casualty incidents for 2007 through 2013 for operators using single-person crews like Amtrak, commuter operators, and the INRD versus operators using multiple-person crews, Class Is, and other regional freight railroads. Across equipment incidents like derailments and collisions and casualty incidents, serious injuries and fatalities, the analysis found that single-person train crew operations were as safe as multiple-person train crew operations. This is nothing new. This has been being discussed for a very, very long time. For the U.S. versus Europe, Oliver Wyman developed a comparative data set for 2007 through 2012 for the U.S. Class I rail operators and a selection of major European freight railroads that make use of single-person train crews. Oliver Wyman analyzed safety data for collisions, derailments, serious employee injuries, fatalities, and signals passed at danger. For all of these categories, major European operators using single-person crews appeared to be as safe as Class I

multiple-person crew operations. We can talk a lot about how we feel this might be better, but the data is showing that there is no difference. In addition, it's worth noting that there's been a positive long-term trend of declining rail accident risk within the European Union, despite significant cuts in railroad staff and the expansion of single-person crew operations. In fact, those EU countries with the best safety records, the least fatalities, and weighted serious injuries per million train kilometers are all countries where railroads operate with single-person crews. I took the opportunity to speak with several people who worked for the railroads. One is retired and one left to pursue other opportunities. One had been a conductor for 14 years.

KELLY: One minute.

KAUTH: Thank you, Mr. President. And then he went into management and he said, literally, there is nothing that the conductors do unless there's an incident. And if there's an incident, he couldn't have stopped it. I yield my time to Senator Slama.

KELLY: Thank you, Senator Kauth. Senator Slama, you have 41 seconds.

SLAMA: Thank you, Mr. President, and I'll be brief. Since Senator John Cavanaugh raised Punxsutawney Phil, it is Groundhog Day and we need to remind the good people of Nebraska that we are not beholden to that particular rodent. We do not have Punxsutawney Phil in Nebraska. We have Unadilla Bill who was replaced by Unadilla Billie. Unadilla Billie also did not see her shadow this morning and we will celebrate the forthcoming early spring with a parade in Unadilla-- 2-block long, ends at a bar-- at 2 p.m. tomorrow. So we would invite you all to come as we parade Unadilla Billie throughout the town to celebrate the early spring. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator von Gillern, you're recognized to speak.

VON GILLERN: Thank you, Mr. President. Yeah, the Groundhog Day, I had my, my speech all prepared to talk about Punxsutawney Phil and not seeing his shadow this morning and got robbed of that. But I did not know about Unadilla Billie so I'll, I'll take special note of, of that and the parade opportunity tomorrow. Today is-- and if I missed this, forgive me, today is also National Wear Red Day and I failed on that. Left the house this morning and forgot about that, but that's in recognition of American Heart month where we take special note of the struggles that, that individuals have with heart disease in our nation

and, particularly, I believe heart disease is the number 1 killer of women. So, so we want to make sure that we take special note of that. And I know the Heart Ball is coming up in Omaha in a couple weeks and that's a great fundraiser for everything related with the study of heart disease. So turning back to the topic on 2-person rail crews, I just want to go through a little bit of background. And, again, some of this has probably been said before but that's OK. Today, we're going to continue on this topic. Did a little bit of homework, this is-- 2024 is the 10th year that a bill has been filed on, on this topic. And since that time, to the best of my knowledge, nothing has changed since 2015. The largest Class I railroads operating in Nebraska: Burlington Northern Santa Fe and Union Pacific have collective bargaining, bargaining agreements with their unions requiring them to operate with 2 people in the cab on their tracks already. These evergreen labor contracts never expire. The railroads cannot unilaterally change these contracts and they need the union's consent. And as I mentioned, I think it was yesterday, I talked with Senator Jacobson on the mic and we talked about the fact that recently coming out of the, the pandemic that the-- there was a potential of a national railroad strike and the consideration that that was going to have and disastrous effect on our nation's economy and, and the federal government stepped in and averted that strike. I'm not speaking-- saying that that was the right thing to do but, but at least it kept our nation's commerce moving. Regarding technology, there's been a lot of conversation about different tech-- different means of technology. And Senator Jacobson did a great job the other day talking about what the, the driver of the train, if they don't touch their controls within, I believe it's 45 seconds, there's an alert that is set off. And if they don't take specific actions, there are shutdown mechanisms that, that take control of the train. And he talked about the sterile nature of the cab and it's similar-- I, I fly and that's a similar concept to when you're flying, there's a-- they call it the sterile cabin and it's not being distracted by other influences, such as a cell phone or radio or those kinds of things. So, so keep your focus completely on, on the job of task. So with technology there's now remote monitoring. There are wayside detectors. There's ultrasonic inspections and thermal detectors for hot bearings. Senator Jacobson talked about hot bearings being the number 1 cause of derailment. And there, there is technology to detect those. There's ground penetrating radar that's used, geometry cars, unmanned aerial vehicles or drones using cameras that can take up to 40,000 images per second combined with a strong capital improvement program that's led the way in making the railroad safer. So, so I-- whereas, having 2 people in, in-- on a train might offer some benefits, the railroads

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have obviously taken great strides in their technology and expended terrific amounts of, of money in order to make the operation of their rail cars safer over the years. It makes me wonder if, if they went to 2-person crews, would they or could they--

KELLY: One minute.

von GILLERN: --or should they eliminate some of those safety devices? The rail industry spent more than \$5 billion, billion with a "B" to adopt positive train control. And this goes back to a little bit what I was talking about Senator Jacobson mentioned, the PTC monitors speed restrictions, communications, and track signals. PTC automatically stops trains to prevent certain train-to-train collisions and other accidents caused by human error. And I think that human error is an important part of this conversation trying to do as much as they can to eliminate that. Railroads have PTC on all hazardous materials and passenger routes. BNSF has PTC on the routes where it hauls more than 85% of its freight. So there's only 15% of their lines that do not have that safety equipment. Other railroads have been safely operating with only an engineer in a cab for more than a decade, for 10 years. Again, the same amount of time that even this bill has made its way to the floor of this body.

KELLY: That's your time, Senator.

von GILLERN: Thank you, Mr. President.

KELLY: Thank you, Senator von Gillern. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Thank you, Mr. President. Yesterday, I spoke a lot about the advancements in, in propulsion technology in the Navy from steam to gas turbine and I got a lot of positive feedback of people who were listening in and interested in, you know, how the U.S. Navy is advancing over the years and I thought I would take a little time today to talk about something that's in the news. And that is, of course, the, the U.S. Navy under fire in the-- in the Red Sea and the outstanding performance, really, of, of our ships there. The mainstay of the United States Navy today is the Arleigh Burke-class destroyer. And I talked about classes yesterday. It's called the Arleigh Burke-class destroyer because the first ship in the class, DDG-51 is the USS Arleigh Burke. Arleigh Burke was named after a World War II destroyer squadron commander famous for his use of speed. They called him, I think it was 30-knot Arleigh Burke, because that's what he did all the time with his ships. He moved very fast. And that's kind of,

you know, what, what destroyers are, are famous for. So today's Arleigh Burke-class destroyer, DDG-51, and the designation DD means destroyer, G-- the G at the end means that it carries a guided missile, and designates it as an air defense weapon system or air defense platform. These ships were designed to protect the aircraft carrier. That's their main job is to protect the aircraft carrier. The United States Navy deploys primarily as, as carrier battle groups. They send out the carriers which have these, these great air wings that have long range, but you have to protect them primarily against submarines and against, you know, a missile attack. And so the, the Arleigh Burke-class destroyer was designed to do exactly that, protect the, the carrier and the battle group. It has the Aegis fire control system. Aegis, A-e-g-i-s. And you'd think that's some kind of acronym. It's not. It's actually the mythical shield of Zeus. So Aegis, the mythical shield of Zeus describes essentially the weapon system that is carried on the Arleigh Burke-class destroyer. So the weapon system is composed of sensors, fire control systems, and then, of course, the weapon system. So let me just briefly talk about the capabilities here. The, the Ar-- and first of all, let me-- let me talk about we're-- currently, we have DDG-51 through DDG-125. So since-- Arleigh Burke was, was commissioned in 1991 and we have averaged the commissioning of 2 to 3 of these destroyers every year since then. The latest was commissioned in 2023. It was the USS Jack H. Lucas is DDG-25. And as we heard yesterday, the Navy has commissioned or has named DDG-42-- so still quite a ways in the future-- for, for John-- for-- I'm sorry, for Charles J. French, who was a Nebraskan, grew up in Omaha. We, we heard that story yesterday. But-- so we, we have-- right now we have 74 of these Arleigh Burke-class destroyers in the United States Navy. And, again, their primary mission is to defend against the carrier battle group. But they've also been able-- over the years, the Navy has been able to increase the missions of these very, very capable platforms to not only shoot down incoming missiles, but also shoot down incoming intercontinental ballistic missiles or satellites. They carry a variety of weapon systems. Probably the, the sensor that's most used--

ARCH: One minute.

HOLDCROFT: --thank you, Mr. President-- that's most used, a sensor that it's kind of famous for is called the SPY-1 Radar. It's a phased array radar. It is a-- it doesn't rotate. It has a flat array. And essentially it uses a very concentrated beam-- hundreds per second-- to search out little areas of the, of the atmosphere to try and detect an incoming contact. Once it has determined the contact, it then designates a, a, a, a weapon depending on the range to be launched and

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intercept. It controls the intercept. And the way the, the standard missile works today in the Navy is it illumin-- the, the platform illuminates the target by hitting it with, with radio waves. And, and the reflected-- the missile actually homes in on the reflected radio waves. So the, the--

ARCH: Time, Senator.

HOLDCROFT: Thank you, Mr., Mr. Pre--

ARCH: Senator Albrecht, you're recognized to speak.

ALBRECHT: Thank you, President Arch. Colleagues, I, too, have been looking for some information to share with Nebraskans about what we're talking about today. I still stand in opposition to LB31. I'd like to be able to educate people on what I've, I've learned here. And these are going to be some comments from the Association of American Railroads. It was an exhibit in front of the Federal Railroad Administration on train crew staffing. And the statement is from A. Kenneth Gradia: he's the chairman of the National Carriers' Conference Committee, which represents more than 30 freight railroads, including all Class I carriers in multi-employer collective bargaining with 13 different rail unions that represent the railroad employees. I have served as a chairman on the NCCC since 2008. Before my tenure as a chairman, I was vice chair of the NCCC from 2000 to 2008, and the director of labor relations from 1990 to 2002. Prior to my work in the railroad industry, I was attorney for the Federal Railroad Administration. It says I'm familiar with virtually every aspect of collective bargaining with the various rail unions. I have handled a wide range of labor issues over the years, including various crew sizes-- crew size issues that have risen in negotiations between the rail carriers and the operating craft unions, the Brotherhood of Locomotive Engineers and Trainmen, and the steel-- the Sheet Metal Air Rail and Transportation Workers Transportation Division. I am well acquainted with a long history of bargaining over these matters, extending back for 100 years or more. I make this statement on the basis of personal knowledge and on the basis of documents that the NCCC maintains in their regular course of business. My primary purpose in this statement is to demonstrate that the freight railroad industry and the rail unions have, for many years, consistently handled all of the difficult, interrelated questions of crew size at the bargaining table. Crew size has been raised multiple rounds of bargaining dating back to the early 1900s. It has also been addressed by a variety of neutral fact finders, including presidential commissions, federal courts, arbitrators, emergency board appointed by the President.

Indeed, crew size has historically been one of the most important, if not the most important, issue in bargaining with the operating crafts since at least World War II, with strongly held views on both sides of the issue. The long-standing expectation of both sides, carriers and unions, is that crew-- the crew size is and will remain the subject of collective bargaining. As a result, mandating crew size limits by federal regulation would undercut and disrupt the collective bargaining process in a fundamental way. Agreements on crew size are woven into the very fabric of the industry. The industry's preferential work rules, rates of pay, and benefits for operating crews [SIC] are arbitrar-- arbitra-- oh, that's a good one, "arbitrabutle"-- sorry-- at least in part to the trade-offs made with respect to changes in crew size. More specifically, operating employees have received a substantial part of the savings for the past crew size reductions in the form of increased compensation. If crew size is set by regulation, it will, as a particular matter, limit the ability of the railroads and the unions to freely bargain for changes in staffing. This will not only overturn settled expectations,--

ARCH: One minute.

ALBRECHT: --it will long-- alter the long-term scope, direction, and tenor of bargaining with consequences that cannot be predicted and could be undesirable for carriers or the employees or both. To put it more bluntly, if the railroads are forced to bear unnecessary labor costs attributable to the excessive crew members, then they will have to seek savings through other avenues to remain competitive. And I'll continue next time on the mic. Thank you.

ARCH: Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. Well, I'd like to maybe use my times on the mic to kind of correct some of the testimony that's been heard out here and then try to add a few new things along the way. But before I start, I'd like to have-- in the north balcony, I think there are a number of engineers and conductors if they would stand. I just want people to know that they're up there. If you want to hear the real facts about what happens inside a train cab, I'd encourage you to go up and talk to one of those people and they'd be happy to visit with you. I want to go back a little bit to an issue that was brought up about the technology and the heat detectors. You know, technology's great when it works, but technology's even better when it works and you actually follow-through and take steps as a result of the problem. What do I mean by that? A heat detector detects hot bearing along the rail track. That car or that train ends up, say, Bailey Yard. There

aren't enough crew members there or enough, enough yard workers there to repair all the hot bearings. What do we do? Do we just stop the train, take it down for a day or so to fix the bearings or do we send it on to Denver and hope that it gets to Denver? I would argue that it's more the latter. OK, so this issue really kind of comes down to if you have truly working positive train control where there are no overrides and if there's a problem with the train, the train would be stopped. I would tell you, you'll see a lot of stopped trains. Because the engineers are instructed whether to stop the train or not. Their, their, their responsibility is to run the train, drive the train. It's not their decision whether it should be stopped or not, that's coming from above. I would also tell you that there's been a lot of talk about what's happening overseas and elsewhere around the world. Let me tell you that we used to have trains that were a mile long. Pretty good sized train. Now we have trains that are 3 miles long. There's 150 cars in a standard coal train. But now we've gone to double trains so there's 300 cars, 300 cars. So you generally have 2 locomotives at the front to pull the trains, but the knuckles can't handle all that weight behind. So what do you do? Well, then you got to put locomotives on the back of the train so that they can push the train. And in many of these long trains, you're also putting locomotives in the middle of the train so that they're both pushing the cars in front of them and pulling the cars behind them so that there's enough power to pull it and it takes the pressure off of the knuckles. But the knuckles weren't built-- these cars weren't built for those kind of train lengths. So why are we going with longer train lengths? We're going with longer train lengths because you make more money with fewer crew. If you can run a big train and run two people on it and it's double the size, what have you done? You cut the crew in half. What's the chances of a problem occurring? I would argue astronomically higher. That's why the statistics I read to you before about why are the instances going up? It's because of the length of the train, and it's the fact that we're not getting all the maintenance we need to get done. And so with all the positive train control and all the stuff that's out there, that can all be overridden. As I said from the beginning, I'm not telling you-- and I haven't said from the beginning-- I've not told you that 2 people on the crew are necessarily going to stop the derailments. That's more of a maintenance issue and a technology issue. But there will be somebody there to deal with, with the derailment when it happens.

ARCH: One minute.

JACOBSON: Thank you, Mr. President. I also want to mention Amtrak. Amtrak-- when I talk 300 car length on a coal train, you know, what

the car length is on Amtrak in Nebraska? Three. Three cars. And there is a conductor on board at all times who is in contact with the engineer. So there are 2 crew members that are in contact, and there are 3 cars. Though-- and if you go longer up to 8 cars, it requires more crew members. So the Amtrak argument is a false argument. OK? I would also argue that when you go overseas, you're not going to see 3-mile trains. You're just not going to see them. So therein is again a difference. We, we can read all the statistics we want, read all the talking points we want, but at the end of the day, I like to stick to the facts. I like to listen to the people that are actually running the trains that are telling me exactly what's happening on the ground. This ultimately becomes a public--

ARCH: Time, Senator.

JACOBSON: --safety issue. Thank you.

ARCH: Colleagues, just as a reminder that according to our rules we are not to address the galleries by individual senators on the floor. A request to introduce guests can be made to the presiding officer who can announce at his or her discretion. Senator Dungan, you are recognized to speak.

DUNGAN: Thank you, Mr. President and good morning, colleagues. I do rise today opposed to FA209 and in favor of LB31. Senator Jacobson actually took a little bit of what I was planning on talking about here today. So I apologize if I'm repeating myself, but it is Groundhog's Day after all, so. One of the things that I think is important in this job is to listen to experts. And I talked about that quite a bit earlier on this bill on LB31. But one of the things that I say frequently to folks when I'm talking in the community is that we as legislators are not experts on everything. Right? We have to talk about a lot of different subject matters. We have to learn a lot. And if you're doing your job correctly, I think you do learn a lot about a number of different subjects. But we are not experts on the vast majority of things that we're talking about. We each bring to the table our own experiences and our own niche backgrounds. But when we're talking about an issue that I think is as complicated as LB31, I think it's beneficial to listen to the experts who actually know what they're talking about. And as we are down here on the floor, a number of senators are talking about the, the trains and, and how they work in the various technologies and the things we shouldn't be worried about. And sometimes I tend to look up in the balcony to see the folks who this actually affects just to see whether or not they're shaking their heads yes or no. And when somebody is talking about how trains

operate and everyone in the balcony is shaking their head no-- and I'm looking at the experts, it seems to me that we should be listening to them. And so when we're actually talking about issues like LB31, I oftentimes defer to the people in the trains, to the people who do the hard work, to the boots on the ground. And I've talked to a number of engineers and folks who work actually in the train yards and on the trains during the, the pendency of this entire issue and time and time and time I hear, again, that this is important to them and that this is not just something they would like, but it's something that is necessary. And whether or not we're talking about safety with regards to derailments or safety with regards to intersection crossings or safety with regard to the actual engineer themselves, it is reiterated to me that this is a necessary component of ensuring safety for both the public, but also the people on the train. And so when the people on the train are saying we need this, I think we should be listening to them. And so I guess I, I rise today in solidarity with the people who actually are the boots on the ground who do this work who have asked us to act and to do something about this time and time and time again. And the fact that this has actually gotten to the floor this session, and we're having a debate about it I think is good. Because at the end of the day, we're going to be able to see who stands with those people. And I, I absolutely want to be on the record saying I stand with my friends who work in the train industry, who are the ones in those trains, who are the ones making sure that our communities are safe. And so I appreciate the conversation we've had about this and I would ask my colleagues to vote yes on LB31. Thank you, Mr. President.

ARCH: Senator Hansen, you're recognized to speak. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good morning, colleagues. I wanted to rise again in support of my friend Senator Jacobson's priority bill, LB31, and in opposition to the floor amendment. I'm hoping that we can work through these quickly so that we have an opportunity to take up Senator Jacobson's amendment, which I think would bring a, a fair amount of hopefully consensus to some of these complex and contentious issues in regards to this workers' right, health, and safety bill that is also, of course, about protecting the public safety that can meet the consumer interest of Nebraskans who, who live in our communities and are negatively impacted when there is a train safety issue. In regards to-- one thing I, I just want to clarify the record. I think perhaps there was a misstatement by my friend Senator Slama in regards to how things work when there is a rail safety issue and what the duties of care are and are not. And in visiting with the folks who are working on the front lines, our railroad workers, they

shared with me a section from the federal rules and regs that literally detail the standard of care that railroad workers have to utilize when there's a rail safety issue. It starts off by directing them to call 911 or emergency medical services. It requires them to ensure that medical personnel are aware of the materials involved and take precautions to protect themselves. They're directed to move victims to fresh air if can be done safely. They are directed to give artificial respiration if the victim is not breathing. They have additional information about suggesting they not perform mouth-to-mouth resuscitation if a victim has ingested or inhaled a toxic substance. And they go on to detail how to provide that kind of quick care by washing the face and mouth before giving artificial respiration. They go down to detail, and not only are these the federal regs, but the folks on the front lines are, are trained on these protocols to administer oxygen if breathing is difficult, to remove and isolate contaminated clothing or shoes, and keep the victim calm and warm, keep victim under observation, and document the effects of contact or, or inhalation. So not only are these folks trained to do their job as frontline workers on our railroad, but they also are trained and under federal regulation to also act in many instances as first responders. And so I, I want to be clear about their duties, their training, and the complexity that we're asking folks in these really important positions to take up not only in terms of facilitating the, the train, but what to do when and if there is a rail safety issue that pops up. Additionally, I want to point out that when there are dangerous or hazardous materials that are moving on the rails, and I think we're all aware of the necessity of that for, for happening from time to time, it's, it's not the union or the individual rail worker that selects what's in that train car.

ARCH: One minute.

CONRAD: Thank you, Mr. President. And in an ideal world, hopefully they would have some information about what the transport is so that they can be prepared on all angles. But every now and again the technology fails, that information is incomplete. And I know one high-profile example that we've been talking about in the context of this debate is in regards to a really tragic accident that happened in North Platte and talking to the frontline workers we're still almost six months in and they're trying to figure out what happened to the technology and they're trying to figure out what those substances actually were. So to pretend otherwise just is not reflected in the record in terms of this experience out of North Platte and in terms of the federal rules that require a rendering of first aid when there is a rail safety issue. So, again, we can have--

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ARCH: Time, Senator.

CONRAD: Thank you, Mr. President.

ARCH: Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Well, it's Groundhog Day again and we're here on the same bill we've been on for 3 days. And, again, on the agenda is the time change bill. So you'll see on your desk, I circulated this handout about "Surprising Railroad Inventions: U.S. Time Zones," which specifies that the disparity in local time from your location could be-- so, so, for example, while it could be 12:09 in New York, it might also be 12:17 in Chicago. I think that's a relevant part of this conversation about innovations the railroads have brought to us and the responsibility of government to enact some regulation of those railroads. So I'd encourage you to take a look at that. I rise in support of LB31 and opposed to FA209. I, again, agree with my colleagues Senator Jacobson and Senator Conrad and Senator DeBoer and Senator Dungan, who have all articulated how important an issue this is to support workers who are in a dangerous field, who often have to respond to dangerous situations. And we're trying to put them in the best position they can when they do that. And I would, again, reiterate the fact that when it comes to federal action, when the feds have taken no action, they-- that leaves it to the states to allow the states to enact a regulation. So being that it's Groundhog Day, I wanted to point out that Punxsutawney Phil did not see a shadow today for the first time in 2 years which heralds an early spring. And so with early spring coming, I paraphrase the Chamber Brothers [SIC]: Time has come today. Can't be put off for another day. So we'll get to a vote on LB31, and I encourage your green vote on LB31 when we get there. Thank you, Mr. President.

ARCH: Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I rise in support of LB31, and I'd like to yield the remainder of my time to Senator John Cavanaugh.

ARCH: Senator John Cavanaugh, 4 minutes, 40 seconds.

J. CAVANAUGH: Thank you, Mr. President. Well, colleagues, it's Groundhog Day again. And the fact that this LB31 is on the agenda for the third day in a row and immediately followed by the time change bill, I think is relevant conversation, and I circulated this description of how railroads invented time zones, and that before we had time zones that you could have had a dangerous situation created

as a result of Chicago being later than New York and potentially causing accidents which cause a need for regulation. So I think the fact that we've been talking about time and railroads for so long, I think it is a relevant document to read for folks. I rise in support of LB31 and opposed to FA209 and I agree with my colleagues who have said that this is a safety issue, and I see where people are coming from when they say it's not going to-- putting 2 men on a train is not going to prevent derailments, but it will affect how people are able to, to respond when a crisis does happen. I think Senator Conrad very well stated in her last time on the microphone some of those situations. So being that it's Groundhog Day, I did want to point out that Punxsutawney Phil did see his-- did not see his shadow today, heralding an early spring. And in light of that early thaw, I think it's clear that we will get to a vote on this bill today. And to paraphrase the Chamber Brothers [SIC]: Time has come today. Can't be put off to another day. So we'll get to a vote here soon on LB31, I would encourage your green vote on LB31, and thank you, Mr. President.

ARCH: Senator Linehan, you are recognized to speak.

LINEHAN: Thank you, Mr. President. OK. I wasn't paying attention so I think I will yield this time back. Thank you. Sorry.

ARCH: Senator Murman, you are recognized to speak. Senator Kauth, you are recognized to speak.

KAUTH: Thank you, Mr. President. One of the things that I'd like to point out, as we've been talking about this, one of my concerns with government overreach, which I view the state getting involved with private business and their labor negotiations as government overreach. In a bill that we're going to hear later on in the session, LB1212, it's also about railway safety, but there are-- there's actually a provision in there that says the Railroad Safety Act shall not be construed as giving the Commission jurisdiction or control over the relations between any railroad and its employees or its employees' order, union or other bargaining agent, either contractual or otherwise. So they're very well aware that this sort of overreach could have some pretty negative implications for the unions and for employee relations that they put it in another bill. I'm kind of surprised that they didn't put it in this current bill. But this-- it's a concern-- anytime we start talking about the state making decisions for a company, it is a very big concern that it's overreach. So talking about existing North American single-person operations, single-person crew operations currently do exist in North America. Labor agreements, technology issues generally have precluded the use

of single-person crews on Class I railroads. Single-person crews are in use by other types of rail operators like Amtrak and commuter operations. And I believe Senator Armendariz brought up Amtrak the other day. Amtrak often operates trains with a single person in the cab controlling train movements. The rest of the crew is entrained with the passengers. As the locomotive is usually isolated from the rest of the train, the locomotive engineer is physically isolated from the rest of the crew. Amtrak has operated single-person crews on the Northeast and Keystone Corridors for more than 20 years. Safety backup for the engineer on the Northeast Corridor and Keystone Lines is provided through the Advanced Civil Speed Enforcement Systems, which can ensure compliance with speed restrictions or signal indications in the event of loss of engineer attentiveness. The system also includes cab signals, which allow the operator to be aware of the signal ahead and permitted approach speed, even in adverse weather conditions or on curves that may block the road signal view. In addition, on Amtrak's Michigan Corridor an ITCS, which is incremental train control system, is used, which enforces signal compliance and conformance to temporary speed limits. Amtrak also uses single-person crews on their long distance trains where the planned duration of the engine crews run is less than 6 hours. On these routes, the safety system is the same for the Amtrak trains and the freight trains operated by the host railroad. Amtrak estimates that 95% of its engine crews called to work comprise only 1 person. Overall safety of single-person crew operation on Amtrak is also supported by maintaining equipment in good condition and responsible scheduling of engineer shifts. We talked about this yesterday, too, as far as do we want to start telling them when they should sleep, when they can be in the cab? Do we force them to stop the train and pull people off to switch engineers? There's, there's just a lot of potential--

ARCH: One minute.

KAUTH: --for overreach-- thank you, Mr. President-- once we start doing this. Locomotive engineers operating trains from either locomotives or cab cars on commuter lines are also physically isolated. Metrolink in California operates commuter trains with single-person crews over an automatic train stop, which provides control of signal violation and overspeed. In a dedicated 16-month pilot project following the fatal Chatsworth, California accident in 2008, Metrolink converted 13% of its train operations to 2-person crews. In reports to the California Public Utilities Commission in 2010, they found no evidence of increased safety of operations with the 2-person crews versus single-person crew operations. So they've studied this, they made changes and they studied it some more. And

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what they saw was there was no difference. Other commuter railroads that operate--

ARCH: Time, Senator.

KAUTH: Thank you, Mr. Pre--

ARCH: Senator Holdcroft, you are recognized to speak. Senator Albrecht, you are recognized to speak.

ALBRECHT: Thank you, Mr. President. Sorry for the delay. Must be break time. OK. So I'm going to continue where I left off. Again, this is a-- comments from the Association of American Railroads. And the gentleman's name again was A. Kenneth Gradia. I will also show that the questions of safety, including the issues raised in the notice of proposed rulemaking, have always been an intrinsic part of the bargaining over crew size. More specifically, the rail unions have repeatedly resisted changes in crew size by citing concerns about safety. The union standards argument during every phase of reductions in crew size has been that the railroads cannot operate safely with reduced crews. The railroads have typically countered by demonstrating there is no empirical support of such claims. The safety aspects of a crew size have also been examined and considered by various presidential commissions and emergency boards referenced above. For the most part, the railroad's position on safety questions has prevailed. Over the long history of this issue, most neutral fact finders have concluded that there is no evidence that large-- larger crews are necessary for safety, especially during periods marked by the introduction and the maturation of the new technology. In short, the historical experience of collective bargaining over crew size strongly suggest that the FRA should not try to prescribe a rule on this subject. As described in greater detail below, the unions have objected whenever Congress tried to legislate solutions or arbitrators imposed agreement terms for crew size. The unions have until now argued strenuously that questions of crew size should always be decided at the bargaining table and never imposed by third parties. And to that extent, they are correct. Voluntary negotiated solutions are invariably the best answers to the industry's labor issues. And nor should there be any doubt that crew size is, in fact, a labor issue. Congress recognized the fact that when it sets limits on the power of the Secretary of Transportation to regulate the qualifications of employees, 49 U.S.C. 20110, the legislative history of that statutory provision shows that it was intended to preclude unwarranted interference by the Secretary with any matters which traditionally have been, or would have been, subject to settlement

through collective bargaining agreements. The committee determined that this sentence was necessary to ensure that the Department of Transportation under the "gees"-- "agreeze"-- of the authority over the railroad safety would not become embroiled in what could be classified as an economic issue. An example of the problem is that is intended to be avoided here is found in the well-known 'fireman' issue. While the question of safety may very well be involved in the issue of whether a fireman is needed in the cab of a locomotive, the economic aspect of the issue is at least a great-- is at least great in the eyes of the labor and management. But without the provision under discussion, the discussion is-- or nondecision by the Secretary might be interpreted as deciding the issue even though the agreement reached or which might have been reached should have been inconsistent with rules issued by the Secretary. The Secretary of Transportation's authority--

ARCH: One minute.

ALBRECHT: --is over-- thank you-- is over railroad safety, not labor management disputes. By using fireman issues as an example, Congress clearly indicated that it wanted FRA to stay out of the business of crew size regulation as a subject that has traditionally been subject to settlement through collective bargaining agreements. And the background. During their long history, the railroads have undergone many dramatic alterations due to the advances, advances in technology, increasing competition, government regulation, and the tides of economic change. The industry started prior to the Civil War with steam engines fired by wood and using the hand brake that had to be operated separately on every car. As operations expanded, coal-fire broilers [SIC] replaced wood and the engines gradually became larger and more powerful. Steam power remained the order of the day, however, well into the 20th century--

ARCH: Time, Senator.

ALBRECHT: Thank you, Mr. Pre--

ARCH: Senator Lowe, you're recognized to speak.

LOWE: Thank you, Mr. Speaker. I guess I owe some people an apology for my reading of "The Little Engine That Could" yesterday. They, they didn't think that was proper so to all the conductors and the people that work on the trains I'm, I'm sorry for my inappropriateness of reading the book. I just thought it was a little more entertaining than the legal language I'm going to read now and so I'll try to put

everybody back to sleep. Although the states have repeatedly attempted to justify minimum crew size laws as connected to safety, those arguments have been consistently rejected with courts concluding that such laws are connected to labor and economic issues, not safety. The prohibition on certain states passing laws related to crew size doubtless has some implications for safety, but can be said of many economically motivated rules in Norfolk and Wayne. Like those laws, the proposed Nebraska crew size law is a blanket prohibition to 1-person-crewed locomotives regardless of safety and circumstances. Nebraska, therefore, cannot evade ICCTA preempted merely by claiming that the proposed crew size law relates to safety. In FRSA, Congress directed that laws, regulations, and orders related to the railroad safety must be nationally uniform to the extent practicable. To ensure national uniformity, FRSA generally involves that a state law is preempted when FRA prescribes a regulation or issues an order covering subject matter of the state requirement. The federal regulation or order covers the subject matter of the state law when federal regulations subsequently subsume the subject matter of the relevant state law as in *CSX Transportation, Inc. v. Easterwood*. When FRA regulates in an-- in a-- related to railroad safety, states may not also regulate in that area. Likewise, the Sixth Circuit Court has explained FRA's explicit refusal to adopt a regulation regarding a particular subject matter amounts to a determination that no such regulation is appropriate, and thus amount to negative preemption of any such state regulation. In other words, when FRA examines a safety concern regarding an activity and affirmatively decides that no regulation is needed, this has the effect of being an order that is-- actively is permitted. In that circumstance, states are not permitted to use their police power to enact such regulation. *Marshall v. Burlington Northern, Inc.* Stated plainly, a federal determination not to regulate can take on the character of ruling that no such regulation is appropriate or approved pursuant to the policy of the statute, and thus any state law enacting such regulation is preempted. *Ray v. Atlantic Richfield Co.* That is what FRA did with respect to remote control operations in yards in 2001. FRA issued a safety advisory to provide guidance for the conducting of such operations while expressly-- expressly declined--

ARCH: One minute.

LOWE: --to prohibit them. Thank you, Mr. Speaker. FRA denied a petition from a labor union to prohibit 1-person operating crews, including remote control locomotive operations. FRA has since promulgated extensive regulations covering remote control operations without prohibiting 1-person crews. Those orders constantly--

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constitute precisely the sort of affirmative decision that preempts state requirements. And although FRA is currently on the cusp of adopting a nationwide crew size rule, its proposed rule categorically exempts remote control operations, thus preserving the status quo: No minimum crew size regulation is necessary or appropriate. Thank you, Mr. Speaker.

ARCH: Mr. Clerk, for some items.

CLERK: Thank you, Mr. President. Your Committee on Government, Military and Veterans Affairs, chaired by Senator Brewer, reports LB938 to General File with committee amendments. Additionally, amendments to be printed from Senator Erdman to LB939; Senator Hansen to LB1174. Motions to be printed from Senator Erdman to LB1317. New LR, LR292, LR293 and LR294, all from Senator Ibach. Those will all be laid over. The Revenue Committee reports on the gubernatorial appointment to the Department of Revenue. That's all I have at this time, Mr. President.

ARCH: Senator Jacobson, you're recognized to speak.

JACOBSON: Question.

ARCH: The question has been called. Do I see 5 hands? I do. The question before the body is shall debate cease? All those in favor vote aye; all those opposed vote nay. There has been a request to place the house under call. Question before the body is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk.

CLERK: 20 ayes, 1 nay to call the house, Mr. President.

ARCH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Slama, we are missing Senator Erdman, Senator Day, and Senator Brewer, would you like to wait or proceed? Senator Jacobson, we have a, a vote that is open on cease debate. Will you accept call-ins? We are accepting call-ins.

CLERK: Senator Hunt voting no. Senator Wishart voting yes. Senator DeBoer voting yes. Senator Armendariz voting no. Senator Brandt voting yes. Senator von Gillern voting no. Senator Dover voting no. Senator McDonnell voting yes. Senator Hughes voting yes. Senator Halloran voting yes. Senator Bostelman voting yes. Senator Day voting yes.

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Senator Hardin voting yes. Senator Lippincott voting no. Senator Cavanaugh-- Machaela Cavanaugh voting yes. Senator Kauth voting no. Senator Murman voting no. Senator Moser voting no. Senator Ibach voting yes. Senator Fredrickson voting yes. Senator Clements voting no. Senator DeKay voting yes. Senator Hansen voting no. Senator Linehan voting yes.

ARCH: Mr. Clerk, please record.

CLERK: 22 ayes, 15 nays, Mr. President, to cease debate.

ARCH: Debate does not cease. Returning to the queue. Senator Slama, you are recognized to speak.

SLAMA: Thank you, Mr.--

ARCH: I raise the call.

SLAMA: Thank you, Mr. President. Good morning, colleagues. Senator Jacobson and I have reached an agreement out of collegiality. I will allow his amendment that he perceives as a compromise to come up. I don't believe it will change the outcome of the vote. And just from a philosophical perspective, I don't agree with sunsets, especially with something as important as employment terms for railroad employees. So I will be voting against Senator Jacobson's amendment. I would encourage everyone to red light vote the amendment. But I will allow it to come up for discussion. I think it's worthy of having the discussion and I'm grateful to Senator Jacobson for chatting with me about it. And with that, I withdraw FA209 and I'm assuming FA210.

KELLY: Without objection, they are withdrawn.

CLERK: Mr. President, next on the bill, Senator Jacobson would offer AM2305.

KELLY: Senator Jacobson, you're recognized to open on the amendment.

JACOBSON: Thank you, Mr. President. AM2305 is an attempt to provide an additional compromise. As you know, when the bill, LB31, was offered-- issued last-- or offered last year, that included all railroads. There is a difference in the railroads. There are the Class IIIs, Class IIs, and the Class Is. They're all based upon revenue size. By and large, we have no Class IIs operating in Nebraska but we do have Class IIIs operating in Nebraska. So that amendment was voted on earlier and has been attached to LB31 already. And what-- basically, what that did was the, the amendment exempted Class IIIs from having to comply with the

2-person crew rule because they are much shorter railroads. They are-- they carry-- they're intrastate, they're shorter, they run at slower speeds, and they have a vehicle alongside the road that runs with the train. So there is a person right there monitoring the train as well. That's why that-- the Class IIIs were exempted. The amendment AM2305 is addressing the issue that was raised earlier about, gee, we're waiting. We're just right on the cusp of the FRA making a ruling. And so as a-- as a point of compromise, this bill-- the amendment would set a sunset on LB31, 2 years from the date of enactment. So that would mean that 2 years from now, if, if action has been taken or other things or technology is improved, and there's evidence that it's not necessary, this body would have to again agree to, to vote on such a bill. That would seem to me-- does 2 things: number 1, let's keep in mind that there is an agreement with-- that UP has entered into with the labor unions. And that agreement runs through November of 2024. And then they-- and as of January of 2025, they could move into negotiations and mediation to, to eliminate that second crew member. So if you look at the time frame it would take, this sunset would end about the same time as those negotiations would end. So-- but what it would do is the Burlington Northern has no such agreement right now. There are no agreements that they would run, need to maintain two crew members. So then the UP right now is operating with 2, the Burlington Northern would-- is not. This amendment would then require that Burlington would also have to have 2 crew members during the same expiration time as the Union Pacific. So, therefore, it'd put the Union Pacific and the Burlington Northern on the same plane during that 2-year period of time. For that reason, that's why I've offered the amendment. And now we'll start debating that amendment itself. And I'm going to stop at this point and let everybody load up the queue again and start talking about what they want to talk about. Thank you, Mr. President.

KELLY: Thank you, Senator Jacobson. Senator Linehan, you're recognized to speak.

LINEHAN: Thank you, Mr. President. I appreciate Senator Jacobson trying to make his-- improve his bill and that is what we're supposed to do here on the floor. So it's good and I appreciate very much that Senator Slama agreed to give him time to introduce his bill and get it on the board, because that's what we do when we're all being reasonable and we haven't got to the point of the year where we're not reasonable. But it is the last day of the week, and it's been a long week, and this is the kind of day when things might go off the rails so I'd encourage everybody not to get up because they're-- if you're mad, just don't get up. So, see, I'm still following my own advice, of

which in any time this session I am most likely to break. So, again, the reason I don't support this is because it's private industry, a very-- not in the case-- and I, I am not-- I know this will shock a lot of people. I actually support unions. If you look back, I'll use the teachers union. Now, do I agree with them? Hardly ever. Mostly I'm angry with them. But should they have a union? Yes. Because when I was a kid, so very long ago, in the '60s, almost all our teachers were women except for the coach who was a history teacher and the superintendent. That was 50 years ago. And if you think about that, 90% of the workforce at that time, if not higher, is female, but all the management is male, all the school board members are male. And it was a time-- and I'm lucky enough we had a great superintendent, Glenn Heideman, he came when I was probably in the fifth, fifth grade, maybe. He went to our church. Every kid in that school was scared to death of him and he never raised his voice. But he would also tell you-- or he didn't tell me, he told my younger brother, who still lives in Beatrice and so does Glenn Heideman, that when they sat down with the school board in those days, they looked at how much money people needed to make to support their families. And guess what? If a woman was married to a husband who had a pretty good living, she didn't make as much as the coach and history teacher because he was a man and he had to support a family. So should there be a teacher's union? There most definitely should be. And should-- and should unions work to make sure that people are being treated fairly? They most certainly should. But in this situation, we are not dealing-- well, I actually was at the dinner last night, the chamber "dimber," and I went by UP's table and they had their execs there and there was only one male. So times have changed for much, much the better and much as that is due to unions' work. But this particular union, just like the teachers union, has come a long way. I mean, if you read the history of railroads, when you got hurt on a railroad in early 1900s, there was no workers' comp. You were just out of luck. But we're, we're not there and thank goodness. We've improved-- unions have improved workers' rights, pay, healthcare, families' lives. They, they serve a very important service in our country. But they can also break companies. Detroit used to be this marvelous shining city on the hill and they built cars that Americans--

KELLY: One minute.

LINEHAN: --loved to have. But then the unions, they got too successful and almost broke the car companies. And look at Detroit today. So I don't-- I don't know about other members, I can't speak for them, but I think we all understand we need unions. We just need to only interfere if they're not taking care of themselves. And I think the

railroad union does a pretty good job at taking care of their employees and good for them. Thank you, Mr. President.

KELLY: Thank you, Senator Linehan. Senator Kauth, you're recognized to speak.

KAUTH: Thank you, Mr. President. I'd like to say something for people who are watching this that sometimes we come rushing over to the microphone from far away. We're all talking about other bills at the same time as we're listening to information about this and we're working. So you'll see people in, in corners and in clusters. There's a lot of work that's being done on the floor right now as we're working on this bill as well. I want to talk about some of the-- some case studies from the European Union. Again, the European Union has been doing single-person crews for quite a long time. They have 2 preconditions: The presence of a working deadman control system on the locomotive. This system involves a pedal or a button that must be periodically pressed, thereby signaling that the train engineer is active and alert. If the device is not pressed when required, the train will come to a stop. And the second condition is the locomotive is equipped with working automatic train control and automatic train protection, which is similar to CTC in the U.S. This enables dispatchers to remotely operate signals and switches to ensure trains do not make conflicting movements. If you've ever been down to the Union Pacific to see their, their museum, they have got so much history in there showing how all of this stuff is controlled from far, far away. As noted above, single-person crews in Europe operated in a somewhat different operating environment from North America. Specifically, the population density and network density and train density on the network is higher in most EU countries than for much of North America, outside of urban centers. European rail lines are traditionally equipped with lineside signaling and interlocking facilities, which have recently been centralized into larger control centers similar to North American CTC. In most countries, these systems have been installed for a very long time. Temporary slow orders and other exceptional circumstances along the train run are typically communicated to train crews in written or electronic form before departure. Their transmission via radio is possible, but confined to exceptional situations such as line-to-line signal failures. Dark territory and operating regimes in which safety depends on radio communication and/or track warrants exchanged between the train crew and a central dispatcher are limited to low-density lines with low speeds and limited traffic. Such lines are often operated with single-person train crews, but supported as necessary by ground personnel. Again, those are decisions that the train companies need to

make based on their operations on the ground. Consequently, in most European countries, a second crew member is required by regulations only in exceptional cases such as equipment failures. There are 3 case studies that I want to discuss. They'll prevent-- present more detail on the specific operating characteristics of Germany, Italy, and Sweden. Germany has one of the largest and densest rail networks in Western Europe and carries significant freight volumes compared to many other EU countries. With the exception of 2 dedicated high-speed lines, the entire network runs mixed freight and passenger traffic. On some of the more heavily traveled double-track lines, train volume can exceed 200 trains per day in both directions. That is incredible. Germany was one of the first countries to implement an ATP system. The Indusi, which is short for Induktive Zugsicherung, a German word that I can't pronounce, was introduced in the 1920s and subsequently spread across nearly the entire network. It is based on trackside magnets that emit various frequencies which stand for stopping signal, proceed with limited signal, and a warning to expect a stopping or speed limiting signal. While the lineside equipment has remained largely unchanged,--

KELLY: One minute.

KAUTH: --thank you, Mr. President-- the Indusi devices mounted on locomotives have seen steady improvement to reflect higher speeds and increased safety standards. Since 1972, the system has also been able to monitor train speed ahead of critical speed restrictions that are not protected by signals. This function is achieved by placing a sequence of these magnets in a segment of track ahead of the speed restriction. For about the same period of time, dead man devices have been in use on German railroads to ensure the engineer's attention and ability to work. Single-person crews were introduced with the abolishment of steam traction in the 1950s and 1960s. With the introduction of electric and diesel engines and the essential safety systems of Indusi and SIFA already in place, eliminating the second crew member on the locomotive was widely seen as a natural productivity gain. A second crew member was still required for speeds above 140 kilometers.

KELLY: That's your time, Senator.

KAUTH: Thank you.

KELLY: Thank you, Senator Kauth. Senator Murman, you're recognized to speak.

MURMAN: Thank you, Mr. Lieutenant Governor. I just want to tell a little more history about the railroad that goes right adjacent to the family farm. I told about the history up to about 1945 when-- now, now we're way beyond 1945, by the way, when I was a youngster. I did get a model train for Christmas. And at that time, we, we didn't have a lot of money so, if I remember right, my brother and I shared that electric train. And that was one of the biggest, best gifts that I can remember other than the BB gun, by the way, when I was young. And, actually, I had that model train, or at least part of it, on a shelf in the house until last summer when I moved off the family farm. We-- my wife and I and family moved off the family farm and I don't know what happened to that train. I usually checked the dumpsters every weekend when I was home to make sure nothing of value was thrown away but I got a feeling that electric-- [RECORDER MALFUNCTION] sometime in the last year. So then it was always a mystery when I was young, the other side of the railroad tracks was the Navy Ammunition Depot. And, of course, no one could go out there in the Navy Ammunition Depot unless you were in the military. They actually had only about 4 gates all the way around it. It's about a 10 mile by 10 mile by-- rectangle. And there was a gate to Glenvil and then one up by Senator Halloran's house on the north side, I think one closer to Hastings, one, I believe, at Fairfield. But the only time I can remember going out there was-- there was a lot of alfalfa growing out there so there was hay in small bales and we'd take the sides off the truck and go out there and get hay. I call them small bales, they're about 80-pound bales, and we'd load up the truck. We'd have to get a special pass. The guard would let us in and dad and my brother and I'd go out there and get some hay. And, of course, there was a lot of rumors about what was out in the Navy Depot. There was rumors-- I don't know if this is true or not, that there were packs of wild dogs out there so it was kind of dangerous to be out there. Also deer with-- too bad Senator Brewer isn't here-- with like, I don't know, at least 10 points. I'm not a deer hunter, so I don't know exactly how many points deer usually have but big, big racks on the deer anyway. And then in the late '60s, there was a road opened up between Glenvil and Clay Center so when we went to the county seat in Clay Center, we'd drive through there and pheasants were like chickens out there. They were all over the place. And, of course, legally, you couldn't hunt anything out there. But I won't dive into that too much. So then when I was in college-- just out of college, I think in the 1970s, there was a big derailment on our farm and I think the train was going 60 or 70 mile an hour. And, if I remember correctly, there was 50, at least 50 rail cars were just piled up on top of each other right on our farm or next to the farm. And so that summer a lot of the neighbors got-- that had

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trucks were able to-- trucks-- get a good contract to truck things out of there.

KELLY: One minute.

MURMAN: So then in the 1980s, the train was going through Glenvil about 2:30 in the morning. We'd had a grand opening-- grand reopening of one of the bars in Glenvil at that time or that night and, I think, the-- what happened was someone left a cigarette butt in trash and about a fourth of the business district of Glenvil burned down. And I think the train was going through and saw the fire-- of course, everyone else was asleep, and called the county sheriff and reported the fire. I, I was living in Glenvil at time, looked out the window; I thought the whole town was on fire. All you could see was yellow and red really high in the sky. It was about 20 below. And a shout out to the first responders, they did get the fire put out eventually. I think it burned-- you know, they were there for several days.

KELLY: That's your time, Senator.

MURMAN: Thank you.

KELLY: Thank you, Senator Murman. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Thank you, Mr. President. And, again, we're going to go back to the Arleigh Burke-class destroyer, which has been in the news of late in the Red Sea taking down Houthi ballistic missiles fired at freighters that are moving up and down the Red Sea. The Red Sea, of course, is a-- is a connection between the Mediterranean and the Indian Ocean. Come through the Suez Canal there in Egypt. It's about a-- I've done it twice. I mean, you go south and then you go north. But, it's, it's about a day transit to get through it. It is one of the most populous waterways in the nation. I mean, if, if you can't go through the Suez Canal between the Indian Ocean and the Mediterranean, you got to go all the way around south of, of Africa to, to, to get to the-- to the Mediterranean, essentially. So it's, it's a critical waterway. And the United States Navy prides itself on, on the-- well, let's not use the word police, but the global presence to make sure that we have freedom of the seas. And, in fact, we conduct freedom of the sea exercises often to ensure that no one is claiming excessive territorial waters and that the-- that the straits that connect our country's commerce is kept open. But we-- back to the Arleigh Burke-class destroyer, we were talking about the Aegis weapon system. Aegis being the mythical shield of Zeus. The, the main mission of the

Arleigh Burke-class destroyer initially was to protect the carrier from, from, from air attack, from subsurface attack, from surface attack. Very capable of doing that. But it is, of late, taking on more missions. An interesting mission that has been developed for it is it's ability to shoot down satellites and intercontinental ballistic missiles. Back in 19-- in 2008, the National Reconnaissance Office launched a, a satellite that kind of went out of control and they didn't know where it was going to come down. They were concerned about it. So it, it took some months of planning. This is not something they did an on the spur of the moment, but that satellite was shot down by the USS Lake Erie, which is-- Lake Erie is actually a, a cruiser, but it has the same weapon system as the "oily back"-- Arleigh Burke-class destroyer. I would talk about the Ticonderoga-class cruisers, except they're going out. The Navy has decided to phase them out and, and to be replaced essentially by the Arleigh Burke-class destroyer. It essentially has the same capability-- the, the cruiser is a little bit bigger. It can carry more weapons. But the Arleigh Burke-class destroyer has the same technology. So back to the Arleigh Burke-class destroyer, we talked about the SPY-1 Radar, which is going to be replaced here shortly, but, it, it essentially has what's called the vertical launch system to, to house its weapons. And the vertical launch system is like it-- like it says; it-- the missiles in it are launched vertically so they're stored vertically. The-- I think the longest one is the Tomahawk, which is about 21 feet. The vertical launch system itself goes down about 27 feet from the main deck. About 3-- about 3 decks below the main deck and it carries a variety of different weapons, but they all launch vertically and they launch hot, which means you push the button and the missile goes off and it-- and it shoots itself up vertically out of the launch system. And there's a, a plenum system within the-- that allows the exhaust gases to be-- to vent-- to be vented out to atmosphere. It's really--

KELLY: One minute.

HOLDCROFT: --thank you, Mr. President-- it's really quite, quite the capability. And the vertical launch system can, can fire a number of, of weapons based on-- it's the mission that you're going against. So if it's against an air missile, that's typically the standard missile. If it's against a submarine, it's an anti-sub-- submarine rocket. If it's a-- if you're going against a land missile, that's going to be your Tomahawk land attack missile. So let me just talk about those a little bit. The standard missile, which is not standard because it's got several variants is-- got a short range, a long range, and then it's got a super long range with a kinetic kill vehicle that will actually intercept something in outer space and, and take it out. So,

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again, I think I mentioned these are what they're called semi-active homing missiles, the standard missile. So you launch it, you give it some initial guidance, but its terminal guidance is actually provided--

KELLY: That's your time, Senator.

HOLDCROFT: Thank you, Mr. President.

KELLY: Thank you, Senator Holdcroft. Senator Albrecht, you're recognized to speak.

ALBRECHT: Thank you, Mr. President. And thank you, Senator Holdcroft, for entertaining us this morning with all that-- we have so much to be proud of with our armed forces. I'm going to go back to the background again. This is coming from comments from the Association of American Railroads and it was before the Federal Railroad Administration. The statement is from A. Kenneth Gradia. So the gradual introduction of the diesel and diesel-electric locomotives and the modern air brake systems between the 1920s and the 1950s had profound ramifications for the industry and its labor force. At around the same time, the expansion of the, the National Highway System, a de facto subsidiary for trucks, introduced new levels of competitive pressures for the railroads. In order to keep pace with techno-- technological change and the consistently evolving competitive environment, the railroads must regularly update their operating practices as a result of their collective bargaining agreements. At many points in the railroad's history, the inability to make sufficiently rapid changes in labor practices due to resistance at the collective bargaining table, overly burdensome regulation and other factors has caused serious financial problems, most notably during the period of swift and severe economic decline in the '60s and the '70s. Crew size. The number of workers required on a train is one of the most obvious examples of this pattern. Questions relating to the number of crew members on a train have historically included 2 major issues. First, in the world of railroad labor relations, the term manning historically referred to issues concerning engineers and firemen. Firemen were a vestige of the steam era and they were originally responsible for maintaining the fire in the coal burning boilers on the steam engines. When the steam locomotive gave way to diesel-electric power, however, the fireman's principal function disappeared. Nevertheless, the railroads continued to run trains with firemen or firemen helpers on the crew. The second major issue concern brakemen and conductors. Brakemen were originally responsible for setting and releasing the hand brakes on the rail cars, while conductors threw switches, coupled and uncoupled cars, and

directed the movement of the locomotives through the signals to the engineer. The brakeman's job was made essentially meaningless with the event of the automatic air brake, but as with the firemen, trains continued to operate with brakemen on the crew for many years thereafter. The term crew consists historically refers to the number of conductors and brakemen on the train crew. Crew size in the early years. Train crews originally consisted of an engineer, a fireman, and one brakeman for every 10 cars, meaning that there were some cases 10 or more employees on one single train. By the 1900s, early air brake systems were increasingly common, but employees still had to manually set hand brakes to supplement the air brakes. The typical crew complement around the turn of the century was 5 on through-freight service: 1 engineer, 1 fireman, 1 conductor, and 2 brakemen. On local service, the typical crew was 6 or 7, including 1 or 2 extra brakemen to assist with less-than-carload small package service. From the very onset, the unions that represented these employees consistently argued that every member of the crew was necessary for safety reasons and sought to require railroads to maintain or increase crew size--

KELLY: One minute.

ALBRECHT: --through collective bargaining. Thank you, Mr. President. The records of that era are fragmentary but the 1900s, the Brotherhood of Railroad Trainmen and the Order of Railway Conductors jointly collected and published the agreements and rules entitled "The Rules of Rate of Pay in the Train and the Yard Service on the Principal Railroads of the United States" [SIC]. It shows that at least 31 railroads had crew rules applicable to one or more classes of operating service, the earliest being November 7, 1889. An agreement between those 2 unions and the Evansville and Terre Haute and the Evansville and Indianapolis Railroads for 3 brakemen on all local freight trains. By 1910, most of the railroads had crews-- crew consistent agreements, particularly governing local freight service requiring up to 4 brakemen. And I'll stop there and continue. Thank you.

KELLY: That's your time, Senator. Thank you, Senator Albrecht. Senator Lowe, you're recognized to speak.

LOWE: Thank you, Lieutenant Governor. This has been a great 3 days for the Nebraska Legislature, I believe. We've talked calmly and quietly and we've discussed things, whether it's about the trains or it's about ships or about other things, but. And I'm glad to see AM2305 by Senator Jacobson come up on the board. Senator Jacobson, if we get there, I'll probably vote for that amendment for you to put it on the

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bill. I still struggle with LB31, but if it goes through I'd like a sunset on it. I've, I've had a, a great couple of days talking with engineers and conductors. I, I talked with Pat [PHONETIC] this morning, and we had a good dialogue on, on how important it is. And he, he brought up a, a friend of mine that was killed by a train, Francine [PHONETIC], and she was killed during the middle of the night as she tried to walk across the tracks. Not at a train crossing, but she tried to take a shortcut, and she wasn't found for 5 hours. I talked with Amanda [PHONETIC] last night during the Nebraska-Wisconsin basketball game and we had a great conversation and, and she was twisting my arm a bit and, and yet saving me from other people who were wanting to talk to me. So I've had a great day speaking with the people from the railroad. They're wonderful people. They, they really are. And, and I still salute that train as it goes by every day because of what you do bring into our communities and into our state and, and take out of our state so it can be sold to countries around the world, the crops and the grain and everything. So thank you very much for what you do and thank you for what you do for Nebraska. The proposed Nebraska crew size law conflicts with and is preempted by the ICCTA. The ICCTA provides that the jurisdiction of the Surface Transportation Board over transportation by rail carriers and the remedies provided in this part with respect to rates, classifications, rules including car service, interchange, and other operating rules, practices, services and facilities of such carriers. They preempt the remedies provided under the federal and state law. Congress' intent in ICCTA to preempt state and local regulations of railroad transportation has been recognized as broad and sweeping, as in *Union Pacific Railroad Company v. (Chicago) Transit Authority*. Congress emphasized that state regulation would undermine the uniform-- uniformity of federal standards and risk the balkanization and subversion of federal scheme of minimal regulation for this inter-- intranse-- intrinsi-- instrinsi-- it's easy for me to say, intrinsically interstate form of transportation. The ICCTA preempts all state laws that may reasonably be said to have the effect of managing or governing rail transportation while permitting the continued application of laws having more remote or incidental effect on rail transportation. State and local statutes or--

KELLY: One minute.

LOWE: --thank you, Lieutenant Governor-- or regulations are preempted categorically if they have the effect of managing or governing rail transportation. Even states' laws that are not categorically preempted may still be impermissible if, as applied, they would have the effect of unreasonably burdening or interfering with rail transportation. The

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proposed Nebraska crew size law conflicts with this preemptive ICCTA because it will manage and govern all rail transportation. If enforced, it would forbid freight railroads in Nebraska from operating with a single crew member. Thank you, Lieutenant Governor.

KELLY: Thank you, Senator Lowe. Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. And thank you, Senator Lowe, for your comments. I want to kind of double back again, as I promised from the beginning. I stated the case as to why this is necessary and let me just refresh everyone again. This is a rule that's in place today. Railroads are highly profitable with this rule in place today, not going broke anytime soon. I always look at the fact that people talk about the railroad and who-- what is the railroad? Is it the tracks? Is it the locomotives? Is it the car? Is it the ownership or is it thousands of people that are employed to be there to run these trains every day through holidays, through snowstorms to move the freight and the people that work in the yard in all kinds of conditions to make certain that they can get these cars in condition to run down the track safely? The engineers and conductors that sit in a sterile cabin for 12 hours and during this last storm up to 30 hours because they couldn't get crews to replace them, that's commitment. Are they well compensated? Yes, I believe they are. I think UP and Burlington have, have paid very well. Do they have strict standards? You bet they do. I wouldn't trade my job for theirs no matter what I'm doing because I look at the fact that the sacrifices that they make with their families, where they're on-call almost constantly; miss-- miss weddings, miss holidays, miss birthdays, miss anniversaries because they need to be on-call for that job. The railroad workers also are not allowed to strike. So that's why in this last labor dispute, the federal government ordered them back to work. The railway administration is the regulator. They regulate the safety. But I can tell you that when it comes to issues of state laws-- many of you may remember that we used to have a helmet law. Said if you're going to rode-- if you're gonna ride a motorcycle across the state of Nebraska, I'd wear a helmet. We changed that law for people that were coming from other parts of the country going up to South Dakota and they bypass Nebraska because we didn't allow them to come down our interstates with a helmet on. Nobody had a problem with that. What this bill is about is asking for the railroads to maintain a minimum safety standard for crew members and for the public. Let me tell you a little bit about the issues that are still out there. Many of you remember the train derailment that occurred a year ago this month in Gothenburg. It may surprise you to know that there still has been no

official report issued by the railroad explaining what caused that collision. We hear about technology, but shouldn't that technology tell us immediately what happened? Shouldn't we already know it was a brake failure? It was a broken wheel? We don't know. A year has passed. Still no answer. Still no answer. I told you before that hot bearings are a big part of the derailment problems. Along with hot bearings are flat wheels. OK? What's a flat wheel? Well, you know, they're obviously-- they're made of steel, they can't be like a flat tire, can they?

KELLY: One minute.

JACOBSON: They get a flat spot in them. What causes the flat spots? That usually comes from braking or from brakes accidentally engaging, stops the wheel, grinds on the track, creates the flat spot. Imagine taking a 300-car train using positive train control to stop it if there's an emergency. Can you imagine the pileup you'd have? Can you imagine all the flat wheels you'd have as a result of that? That's why you have crew members feathering that back. So I'll get back on the mic again. But, again, I think there have been compromises offered. I would encourage your positive vote on AM2305 and on LB31. Thank you, Mr. President.

KELLY: Thank you, Senator Jacobson. Senator Linehan, you're recognized to speak.

LINEHAN: Thank you, Mr. President. I'm going to actually give-- not actually, why wouldn't I-- Senator Jacobson a lot of credit for working so hard on this bill because I do under-- I don't know his district that well, but I know it a little bit. I know that he's worked really hard to help his community. I know that part of Union Pacific and all-- many, many companies for the last couple of decades, probably especially since 2009 and the recession, they've tried to do more with fewer people. And it's hit North Platte particularly hard, more difficult than-- it's a community that's built around the railroad. And so he, he is doing his job here helping his community. But I also know-- I think-- and if I am incorrect, you just nod at me and I'll let you correct me. OK? I think part of the Inland Port-- part of the problem they had in North Platte with getting the Beef-- Sustainable Beef up in the Inland Port was they needed a rail spur. And I don't know that Union Pacific thought it was financially in their interest to have a rail spur, but I think they worked with the community and there is now going to be a rail spur. So I say that in the fact that, like everything we do here-- well, I know we do some things that are easy, but that's usually a consent bill or a Speaker's

priority. Almost everything that we spend any time on is complicated, emotional, and difficult. And I will tell you, just-- I've had some help on the side with trying-- filibustering this bill, I've had a lot of help. Thank you all. I've noticed that Senator Jacobson hasn't had a lot of help. So if I'm getting worn down from getting up maybe once to his 2 or 3 times, I think, I just want to acknowledge how hard you've worked on this and what a great job you've done. I'm getting hungry. It must be time. Yes, we're almost close. We'll be out of here and it's the last day of the week, thank goodness. And mostly what's on my mind is I can get through next week and then we have 4 days, which we will all need. So with that, I'll yield the rest of my time. Thank you.

KELLY: Thank you, Senator Linehan. Senator Kauth, you're recognized to speak.

KAUTH: Thank you, Mr. President. We're going to go back and talk more about European cars. We were on Germany. In Germany, a second crew member was still required for speeds above 87mph. But by the end of the 1980s, a new generation of the devices had been introduced that could automatically adjust for high-speed braking on curves. Following this modification and after field testing, the requirement of having a second crew member for speeds above 87mph was abandoned with a third revision of the EBO in 1991. As a result of this development, a second crew member in Germany is required only in exceptional circumstances. In case of the failure of the deadman device, train speed is limited to 31mph, unless a second crew member is present in the cabin. The second crew member needs to be able to stop the train in case of the inability of the engineer to work and call for help over the radio. To perform these tasks, the second crew member does not need to be a qualified engineer. This task can be performed by other employees such as conductors, switchers, or car inspectors. So they have some guidelines for it, and they've done the research and put those small changes in place. There are no limitations in Germany on freight train size, train weight, or carriage of hazardous materials when trains are operated by single-person crews. In passenger service, single-person operations of trains is widespread on regional low-density lines, on suburban networks, and more recently on bigger regional trains. In some of these cases, there may be a second employee on board the train who is not trained in operations and who only performs commercial tasks such as ticket inspection. The next country in this study was Sweden. Sweden's rail system is in some respects more similar to North American freight rail operations than those of other European countries. Specifically, train densities are lower than in Central and Western Europe. There's a higher proportion of single-track lines, and

climate conditions are similar to the north and central portions of the U.S. and Canada. In addition, lines in northern Sweden are in remote areas with no road access for long stretches of the network. The entire Swedish rail network operates mixed passenger and freight services, although passenger train density in the upper north is low by European standards; only 2 to 4 trains per day in each direction. All passenger and freight trains in Sweden operate with single-person crews. The Swedish ATC ATP system uses trackside bases to transmit signaling information to onboard devices mounted on locomotive and multiple units. It was rolled out originally in 1979. In addition to this, all locomotives are equipped with a deadman device. In Sweden, there are no limitations on train size, train weight, or carriage of hazardous materials when trains are operated by single-person crews. In addition, there's extensive use of remote-controlled locomotives, both for switching as well as for line-haul. Single-crew operation notably also extends to iron ore trains operated by the mining company LKAB in northern Sweden, which run from mines in remote areas to ports and steelworks on the coast. These trains are over 9,500 U.S. tons with 264,000-pound carload limits. Now I want to talk about Italy. In Italy, they only recently made the transition from 2-person to 1-person crews. Similar to other European countries, most of the network is electrified and has mixed passenger and freight operations. A few recently built high-speed lines are the exception to this rule.

KELLY: One minute.

KAUTH: Thank you, Mr. President. Until recently, Italy did not have an ATC ATP system covering the most important lines on the network. There's a cab signaling system similar to the American pulse code cab signaling in place, which only covered high speed and some of the more important main lines. It systematically excluded bigger stations and many passing tracks. Also, there were no deadman devices mounted on locomotives. Starting in 2003, a new state-of-the-art ATC system was introduced and installed on the entire core network, as well as parts of the secondary network. The system is a national implementation of the ETCS concept. It transmits infrastructure data, most importantly, permitted speed to the locomotive at fixed locations along the track, typically at signals. Speed and speed reductions are then monitored by the locomotive device, which also includes a deadman function and the SCMT.

KELLY: That's your time, Senator.

KAUTH: Thank you, Mr. President.

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KELLY: Thank you, Senator Kauth. Senator Blood, you're recognized to speak.

BLOOD: Thank you, Mr. President, fellow senators, friends all. I stand indifferent to the amendment because I think the underlying bill is perfectly fine and I do support that. But if that's what it takes to help Senator Jacobson get his bill to the finish line, I am happy to support it. With that said, I once again bring you back to why I stand today. Which let's talk about the people and let's talk about public safety, because we certainly have talked about those who are making profits. You know, yesterday in a hearing we were given some information on kratom. And one of the first questions I always hear when people talk about research is who paid for that research? You know, they might tell you that a glass of milk will make you live 10 years longer than somebody who doesn't drink a glass of milk when you turn on the morning news. And then the first thing I do is I'll Google and it's, like, who paid for this study? And it would probably be the American Milk Association. We stand and talk about a lot of things and put a lot of data out without really looking about who paid for that data. Here's what I know to be fact. The workers-- and I don't know if they're still up there because I can't see. Their job-- their only job-- and they will tell you this-- is to enable the safe, reliable, and efficient movement of people and goods in the United States. Not in Germany, not in Italy, not in Sweden. I'm pretty sure I live in America, but maybe something has changed. What you may not remember, is that we were really close to having a crisis here in America. Do you remember the potential rail strike that we had or could have had? It would have devastated our economy. I don't think you understand how important rail workers are to our economy. Just by the way, as our truck drivers. If they had gone on a full strike, 765,000 Americans would have been put out of work the first 2 weeks of that strike. And I don't know if you remember this, but they were considered essential workers. And I encourage you to talk to them about some of the stories from that time, because they lost a lot of coworkers during that time. Some were sent home for quarantine, quarantine, and they lost thousands in compensation because they had no paid sick time. You talk about how great they're paid and the benefits; I, I think you're overestimating what they get. And when they are in these trains, these very long and dangerous trains, by the way-- and I would like to put out there that my mom was actually hit by a train in the '70s at a railroad track that had no crossing guard, that had no lights, that had not been maintained by the railroad and did not use their horn at the track. And so my mom and her opal got to meet a train. And she had nightmares for years because it was a horrendous accident. So I talk

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from a lot of different views here when I talk about the railroads, but for me my passion is for the workers. You can say they get good pay and good benefits, but would you work those hours? Would you be on-call like that all the time for the amount of pay that they get? It's a dangerous job, and we've become a legislative body who forgets to listen to the experts. We're so busy passing legislation that makes us look like a nanny government and participating in government overreach to listen to the minority voices, the loud minority voices and special interests that we forget to listen to the actual people that these bills affect. This is about the worker-- the working man.

KELLY: One minute.

BLOOD: And real quickly to Senator Moser. My-- both my uncle and my grandpa worked at that Munitions Depot. And I don't know if you knew this-- Senator Halloran may know this-- but we got a 40% increase in Hastings during that time, and you could make a whole 74 cents an hour on the Munitions Depot. Where in town you only got paid, like, 40 cents an hour according to my Uncle Russell [PHONETIC]. And they made bombs, mines, rockets, 40mm shells, and 16-inch projectiles. And it was the largest World War II naval munitions plant in the United States during that time. So I just thought I'd close up what Senator Murman said about the Munitions Depot because we have a family history there. Thank you, Mr. President.

KELLY: Thank you, Senator Blood. Senator Hughes announces 2 guests under the south balcony, Jill Eberspacher and Jill Beisel from Seward. Please stand and be recognized by your Nebraska Legislature. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Thank you, Mr. President. And, again, I rise in support of AM2305, but opposed to LB31. We-- I just wanted to wrap up with the Arleigh Burke-class destroyer. We've, we've talked at, at great length about the anti-air defense capability it was really designed for, but it also has an excellent anti-submarine warfare capability. It's more of a challenge for surface ships, anti-submarine. The best way to, to defeat an enemy submarine is with a friendly submarine. And our-- we have the best in the, in the world as far as U.S. Navy submarines go, second-to-none by far. And so that's really the best way to take out an enemy submarine. But if, if the-- if that doesn't work, then the next best thing is really your P-8 Poseidon maritime patrol aircraft, which is, which is shore-based so it flies out from, from shore. It has thousands of miles capability and it can, it can drop a torpedo or some sonobuoys and, and localize enemy submarines. And then the next best is your, your helicopter, which is carried by the Arleigh

Burke-class destroyer. So the SH-60, I think it's Romeo now, has its own dipping sonar, can carry a torpedo and can, obviously, engage a submarine hundreds-- if, if 10-- dozens-- if not hundreds of miles from the ship. And that's really where you want to engage a submarine, not up close. The ship itself has the anti-submarine rocket, which has about a 5-mile range launch from a vertical launch system. And then it has-- no kidding-- torpedo tubes on the, on the deck that can launch a torpedo right over the side. Now these torpedoes-- I think we're up to Mark 54 Torpedo. When I was in the Navy, it was the Mark 46; now we're up to Mark 54. It's self-contained, fire-and-forget kind of weapon. You give it an initial steer. It has a saltwater activated internal combustion engine, which is interesting because it's underwater, but it's fuel has its own oxygen. It lights off. It has its own sonar capability so it will ping, get a return on the enemy submarine, and will adjust its course then to, to intercept a, a submarine. The U.S. Navy submarines have much larger torpedoes. The Mark 54 is considered to be a lightweight. But when you hit a submarine at, at, at its depth, it doesn't really take a lot to cause it to have significant damage. So that's-- the, the ship itself has a, a hull-mounted sonar-- bow-mounted, very large, powerful sonar that it can actively ping and get a return and, and locate a submarine. But it-- probably its best sensor is a towed array. So this is an array of hydrophones that you tow on a cable behind the ship and, I mean, thousands of yards behind the ship to get it away from the ship noise and you try to listen for the submarine. And depending on the type of submarine, it, it can be very quiet or it can put off some noise that you can home in on. So that's essentially the submarine-- the anti-submarine capability of the Arleigh Burke-class destroyer. Let me just kind of wrap up with manning, what, what kind of people we have on these ships. It has a crew of about 350, about 40 of those are officers, the rest are enlisted men. It is a-- it has the women at sea mods. Back in my day, my, my destroyer did not have women at sea mods so I had a crew of all men, but today we have quite a mix. I mean, we're, we're able to accommodate both men and women and both serve equally well aboard these ships.

KELLY: One minute.

HOLDCROFT: Thank you, Mr. President. We can talk about how much experience these people have. The commanding officer is typically an O-5: a commander. Same as a lieutenant colonel in the Army, Air Force, and Marines. But a commander in the Navy typically has about 20 years of experience in the United States Navy and about 10 years assigned to ships-- to ships at sea. So very capable individuals, only about 5% of a year group will rise to command-- what we call "command at sea." So

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it's a very select group, a very experienced, competent group and they typically perform very, very well. Although a, a collision at sea can ruin your whole day. Just ruin your whole day. So I think-- I think, I'll wrap it up with that. We have very, very capable men and women aboard the Arleigh Burke-class destroyers, and we'll see them for many, many years to come in the United States Navy. Thank you very much, Mr. President.

KELLY: Thank you, Senator Holdcroft. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Well, it's Groundhog Day again and I rise in support of AM2305 and LB31. And for many reasons as I stated about safety and security and respecting the folks who do these hard jobs and ensuring that when something bad and tragic does happen that we have adequately staffed trains to make sure that we can respond appropriately. And I would just, again, point out that when the federal government hasn't taken any action, that the states are free to act in a space, it's called preemption, the state-- the feds have not preempted the state. I did want to point out, I did hand out this handout called "Surprising Railroad Inventions: U.S. Time Zones." And I handed that out because we've been talking about the railroad for the last 3 days. And every day the next item on the agenda has been the daylight saving time bill. And in that conversation about the daylight saving time bill, Senator Erdman pointed out that standard time is God's time. It's the time God invented. And I thought it was pretty apt, as part of this conversation of the railroads, to point out that the railroads invented time. And so if Senator Erdman were here, I'd ask him to yield for a question and ask him if he was equating the railroads to God. I know how Senator Erdman feels about the railroads, but the fact that he gives them credit for a godly act, I think is an interesting one. So in light of it's Groundhog Day, I did want to point out that Punxsutawney Phil did not see his shadow which means we'll have an early spring. And in light that it's 11:44 and I believe cloture on this bill is at 11:51, I would just, again, quote the Chamber [SIC] Brothers: The time has come today. Can't be put off for another day. We will be getting to a vote here in about 7 minutes on the 2-man crew bill and I would encourage your green vote on AM230-- AM2305 and LB31. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Albrecht, you're recognized to speak.

ALBRECHT: Thank you, Mr. President. And, again, I still rise in opposition to LB31 and AM2305, but certainly do understand Senator

Jacobson and his quest to get this through. And I also appreciate all that the railroads do for the state of Nebraska and for our nation. So I'd like to continue reading some of the history. The United States Railroad Administration, which operated the railroads during World War I did not establish any consistent or manning rules. After the war, the United States labor was likewise silent on the subject. Moreover, no national agreements between 1917 and 1959 made pursuant to the Presidential Emergency Boards and awards of arbitration boards contained crew consistent or manning provisions. Crew size remained a subject of local bargaining and practice until 1937, the first national agreements between 1937 and 1959. During the '20s, some carriers began to use diesel locomotives in yard service without assigning firemen. The uses-- the usage of diesel locomotives expanded to passenger service in the early 1930s. Some railroads assigned firemen to this service, while others did not. October of 1936, the Brotherhood of Locomotive Firemen and Enginemen proposed adoption of a national rule providing that firemen be assigned to all types of locomotives in all classes of service. In, in February of 1937, a group of 9 carriers, 6 of which did not own any diesel locomotives at the time reached an agreement known as the 1937 National Diesel Agreement. It provided that firemen would be assigned to all locomotives, including diesel-electric locomotives, with the exceptions of single and multiple unit electric trains in commuter services and certain smaller locomotives. At the time, few railroads expected that the diesel power would become prevalent and were only 218 diesels in service as compared to the 43,624 steam locomotives. But by 1948, diesel locomotives were moving more than 50% of the freight, and by 1960 it was more than 97%. Thus, less than 20 years after the National Diesel Agreement, technological change had eliminated almost all of the work of previously performed firemen. Nevertheless, in the-- in 1950 the BLF&E fought to add a second fireman to road diesels, claiming that the additional employee was needed for safety reasons. And particularly-- in particular, the union argued that diesel operation creates a particular safety factor that requires individual attention. It maintains that the safe operation of diesels is seriously jeopardized during the absence of the fireman or the helper from the cab incident to the attendants upon the engine room machinery. A competent person, in addition to the engineer, should be available at all times in cabs of diesels. The organization insists primarily to act as a lookout, but also to take over immediately in case of any emergency arising out of a sudden incapacity of an engineer. The report of the Emergency Board number 70 in 1949, at 19, the Emergency Board rejected that argument noting, among other things, that diesel locomotives included new safety

technology such as automatic braking in the event of the incapacity of the engineer, which undercut the safety claims of the unions. In subsequent bargaining, the carriers ultimately prevailed on this issue. The new agreement did, however, preserve the requirement to staff a single fireman on all locomotives, again with certain--

KELLY: One minute.

ALBRECHT: --exceptions. Thank you, Mr. President. In 1956, some railroads made their first concerted attempt to remove firemen from diesel locomotives. The firemen's unions resisted arguing, among other things, that a fireman was still needed in the locomotive cab for safety reasons, i.e., as a lookout and a backup to the engineer in case of an unexpected incapacity. The carrier's proposal to eliminate firemen was later withdrawn as part of a broader settlement on wage and work rule disputes. During this time, there was little change in the number of train service employees-- conductors and brakemen-- on train crews. Carriers and the unions both sought changes in crew consistent in multiple bargaining rounds, but never was able to secure a recommendation from the Emergency Board to this point. In these cases, as with the fireman issue, the union relied heavily on safety agreements.

KELLY: That's your time, Senator.

ALBRECHT: Thank you.

KELLY: Thank you, Senator Albrecht. Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. We're getting very close to the cloture vote. I do want to couple of-- take care of a couple of issues that I probably should have said earlier. I-- first of all, I want to thank all my colleagues for their collegiality through this. I hope those that are listening at home understand this is how filibusters work. This isn't any different than a court of law when you've got a defense attorney and a prosecutor and we're going to make our cases and, and I don't begrudge anyone who is opposing the bill for doing that. I-- they can be wrong on this one is kind of my view. The-- I would also be remiss if I didn't note what Senator Linehan had mentioned with the work that the-- that UP did in North Platte in working with us on being able to now have a rail siding so that it all-- enabled our, our rail park to be built and the Inland Port Authority to be there. And so with that said, I also want to mention that Lance Fritz, who was the previous chairman and president of the

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Union Pacific, was instrumental in that. And I worked personally with him when we were working through the details after they had done the major layoffs to be able to create some additional activity and try to keep as many jobs as we could. And Lance was great to work with. He was honored last night by the Nebraska State Chamber. And so I do want to do a shout-out for Lance Fritz, I appreciated the work he did along the way when he was leading the charge. With that, I'm going to stop because we are at a point-- we're 11:51, I believe that's the bewitching hour. So with that, I would like, Mr. President, to have a call of the house.

KELLY: Thank you, Senator Jacobson. Mr. Clerk, you have a motion on your desk.

CLERK: I do, Mr. President. Senator Jacobson would move to invoke cloture pursuant to Rule 7, Section 10.

KELLY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 23 ayes, 3 nays to place the house under call.

KELLY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Day, Wishart, Dover, Hughes, please return to the Chamber and record your presence. Senator Day, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. The vote is on the motion to invoke cloture. There's been a request for a roll call vote. Mr. Clerk.

CLERK: Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting no. Senator Armendariz voting no. Senator Ballard voting no. Senator Blood voting yes. Senator Bosn voting no. Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting no. Senator Dungan voting yes. Senator Erdman. Senator Fredrickson voting yes. Senator Halloran voting yes. Senator Hansen voting no. Senator Hardin voting yes. Senator Holdcroft voting no. Senator Hughes voting yes. Senator Hunt voting yes. Senator Ibach voting yes. Senator

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Jacobson voting yes. Senator Kauth voting no. Senator Linehan voting no. Senator Lippincott voting no. Senator Lowe voting no. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Meyer voting no. Senator Moser voting no. Senator Murman voting no. Senator Raybould. Senator Riepe voting no. Senator Slama-- excuse me, Senator Sanders. Senator Slama voting no. Senator Vargas voting yes. Senator von Gillern voting no. Senator Walz. Senator Wayne. Senator Wishart voting yes. Vote is 24 ayes, 19 nays, Mr. President, to invoke cloture.

KELLY: The motion fails. I raise the call. Mr. Clerk, for items.

CLERK: Mr. President, some items. Your Committee on Enrollment Review reports LB16, LB51, LB78, LB140, LB140A, LB146, LB247, LB252, LB9-- LB299, LB308, LB600, LB664 as correctly engrossed and placed on Final Reading. Amendments to be printed: Senator DeBoer to LB902, as well as LB83, LB1133, LB1256. New LR, LR295 and LR296. LR295 from Senator McDonnell; that'll be laid over. LR296 from the Nebraska-- Nebraska Retirement Systems Committee; that will also be laid over. Name adds: Senator Jacobson to LB126; Senator Hunt, LB199; Senator Linehan, LB844; Senator Ballard, LB877; Senator Hughes, LB1037; Senator Brewer name added to LB1131. Finally, Mr. President, a priority motion. Senator Bostelman would move to adjourn the body until Monday, February 5, 2024 at 10:00 a.m.

KELLY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.