

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4018

2005 SENATE TRANSPORTATION

SCR 4018

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4018

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-11-05

Tape Number	Side A	Side B	Meter #
1	x		25-4765
1	x		5550-5830
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

**Chairman Trenbeath** opened the hearing on SCR 4018 urging the Federal Railroad Administration to establish rules on the implementation of remote control locomotive technology.

**Senator Cook** (District 34) Introduced SCR 4018. There is a major railroad yard in Mandan where remote control locomotive technology has been used for some time. As a legislator he gets calls regarding their safety. They look safe but his concern is that they were being used at one time to move trains back and forth from Mandan to Bismarck. This deals not only with a safety issue that affects the railroad employees in the yard but also a safety issue that affects the citizens of our community. He addressed line 10 of the resolution. The key is to what degree these guidelines are binding or not. (Meter 315) He feels the Federal Railroad Administration is where the expertise lies to address guidelines that will promote usage in a safe manner. This

resolution simply urges that they issue guidelines for the safety of them. He handed out a memo from the Public Service Commission, Bill Binek, to be included in the record. (See attached.)

**Senator O'Connell** (District 6) Appeared in support of SCR 4018.

**Bill Binek** (Council for the Public Service Commission) The PSC is neutral on this bill. See attached memo handed out by Sen. Cook.

**Senator Nething** said that from his last statement Mr. Binek doesn't think the Commission should get involved in rule making. He asked if this was correct.

**Bill Binek** said that was correct. He feels rule making authority rests with the FRA.

**Ron Huff** (Legislative Representative for Division 746 and First Vice-Pres. of the ND Legislative Board for Brotherhood of Locomotive Engineers and Trainmen.) See attached testimony in support of SCR 4018 and a memorandum of understanding the guidelines.

**Mike Muscha** (Brotherhood of Locomotive Engineers and Trainmen in ND) See attached testimony in favor of SCR 4018.

**Brian Sweeney** (BNSF Railway) See attached testimony in opposition to SCR 4018.

**Senator Trenbeath** asked if the operating plan of BNSF includes using the technology on the road rather than just the yard.

**Brian Sweeney** said not for over the road operations. This is primarily for yard operations. The one referred to earlier was taking a train from Mandan to Bismarck, a switch operation.

**Senator Trenbeath** asked if that would have been out of their yard.

**Brian Sweeney** said it would be.

**Senator Trenbeath** asked if this resolution discourages the usage of remote control.

**Brian Sweeney** said that, in a way, it does, if you look at the way it is presented. (Meter 3150)

**Senator Bercier** asked Mr. Sweeney if he had any statistics for his yard with regard to accidents with remote operation versus the manned operation.

**Brian Sweeney** said he did not have it for the Mandan yard. Industry wide, nationally, it is safer.

**Senator Bercier** asked if there was anything going on now where they run on remote control from one town to another.

**Brian Sweeney** said he didn't believe they were. (Meter 3310)

**John Risch** (United Transportation Union, Conductors, Brakemen, Engineers, Switchmen, Yardmasters across the state of ND.) See attached testimony in opposition to SCR 4018 with proposed amendments.

The hearing on SCR 4018 was closed.

(Meter 5550)

**Chairman Trenbeath** opened SCR 4018 for discussion.

**Senator Nething** said there were two strong different views on this and wondered if the committee should give these two opposite views an opportunity to get together and make amendments to this Resolution.

After a short discussion it was decided to take this up at a later time.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4018

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-16-05

Tape Number	Side A	Side B	Meter #
1	x		50-220
1	x		1256-1300
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

**Chairman Trenbeath** opened SCR 4018 for discussion.

There was a short discussion which revealed the two opposing sides had not met and there were no new amendments.

**Senator Mutch** motioned a **Do Not Pass**. Seconded from **Senator Espegard**.

Roll call vote 4-1-1. **Passed**. Floor carrier is **Senator Mutch**

((Meter 1256))

**Senator Espegard** motioned to reconsider the action taken on SCR 4018.

Motion died for lack of a second.

Date: 2-16-05  
Roll Call Vote #: \_\_\_\_\_

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO 4018**

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Sen. Mutch Seconded By Sen. Espgaard

Senators	Yes	No	Senators	Yes	No
Senator Espgaard	✓		Senator Bercier		
Senator Mutch	✓		Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman		✓			

Total (Yes) 4 No 1

Absent 1

Floor Assignment Senator Mutch

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 16, 2005 3:40 p.m.

**Module No: SR-31-3209**  
**Carrier: Mutch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4018: Transportation Committee (Sen. Trenbeath, Chairman) recommends DO NOT PASS (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SCR 4018 was placed on the Eleventh order on the calendar.**

2005 TESTIMONY

SCR 4018

## MEMORANDUM

TO: Commissioners Clark, Wefald and Cramer

FROM: Bill Binek

DATE: February 9, 2005

RE: Railroad Safety-Remote Control Locomotive Operations

Commissioner Cramer and I have both been contacted by railroad union personnel about the Commission's authority over remote control locomotive (RCL) operations by railroads (specifically BNSF) in North Dakota. Commissioner Cramer has also been contacted by Senator Dwight Cook concerning the matter.

BNSF has been using RCLs to conduct switching operations in the Mandan rail yard. According to rail union personnel, BNSF has also utilized RCL's for some operations outside of the yard where the RCLs have been sent to the refinery north of Mandan and also to Bismarck.

Railroad safety is generally under the jurisdiction of the Federal Railroad Administration (FRA). The Commission does have some limited safety jurisdiction under N.D.C.C. § 49-01.1-13 to allow structures to be constructed with lesser clearances from the track than generally permitted by law when the Commission determines that the condition would not be unduly hazardous to railroad employees or other persons. In addition, N.D.C.C. § 49-10.1-14 provides that the Commission may adopt and enforce safety rules "not inconsistent with any federal agency having jurisdiction over railroads." That law goes on to state that the Commission may adopt rules more stringent than federal rules "when necessary to eliminate an essentially state or local safety hazard" if those rules are not incompatible with any federal law or rule "and do not create an undue burden on interstate commerce."

Senator Cook and others have introduced Senate Concurrent Resolution No. 4018 which urges the Federal Railroad Administration to establish rules on the implementation of remote control locomotive technology.

John Risch and another railroad union lobbyist visited with me about the possibility of getting the Commission promulgate safety rules under N.D.C.C. § 49-10.1-14. I explained the rulemaking process to them, and I think it is possible that they may send a letter to the Commission requesting that rules be promulgated to govern the use of RCLs in North Dakota.

The first obvious concern with state rulemaking is interference with interstate commerce. N.D.C.C. § 49-10.1-14 clearly limits state rulemaking to only those situations where the rules are not incompatible with any federal law or rule and where the rules do not create an undue burden on interstate commerce.

I have reviewed the FRA's website and have spoken to John Conklin, the individual who has primary responsibility over RCL issues at the FRA. The FRA began investigating RCL operations in 1994 and proposed to conduct a national test program of such operations. A hearing was held on February 23, 1995 to gather testimony on proposed RCL operating conditions. Interest in RCLs and the use of RCLs by the railroad industry expanded after that time, and on July 19, 2000, the FRA held a technical conference to allow interested parties the opportunity to state concerns and opinions on RCL operations, including (1) design standards, (2) employee training, (3) operating practices and procedures, (4) test and inspection procedures, and (5) security and accident/incident reporting procedures. On February 14, 2001, the FRA published its Notice of Safety Advisory 2001-01 (Safety Advisory) in which it recommended minimal guidelines for the operation of RCLs.

It should be noted that the design criteria and operating procedures contained in the Notice of Safety Advisory 2001-01 **are recommendations only, and compliance by the railroad industry is voluntary.** John Conklin told me that while compliance with the guidelines in the Safety Advisory is voluntary, procedures that are required by regulation that are cited in the Safety Advisory are mandatory. Conklin stated that the railroad companies have adopted all but one of the provisions in the Safety Advisory. The only provision not adopted is an operating practice that would prohibit a remote control operator (RCO) from riding on rail cars.

By letter dated September 2, 2003, the United States Senate Committee on Commerce, Science and Transportation (Committee) requested that the FRA conduct an assessment of the impact of RCL operations on safety, including a comparison of the rate of accidents, injuries and fatalities involving RCLs with similar operations involving manned locomotives. The Committee also requested that the audit assess the effects of RCL operations on the safety of highway rail grade crossings, hazardous materials transportation, safety of RCLs operated in urban areas, unique operating characteristics presented by RCLs, and an assessment of the safety benefits of such operations. The Committee then requested that the report include any recommendations for legislative or regulatory changes. The FRA was required to report back to the Committee with preliminary findings and initial accident statistics within 6 months and that a detailed report be submitted within 18 months.

On May 13, 2004, the FRA filed with the Committee its Interim Report on the Safety of Remote Control Locomotive Operations (Interim Report). Effective May 1, 2003, RCL accident/reporting codes were put into effect. The initial accident report (May 1, 2003 through November 30, 2003) indicated that the RCL ratio of accidents per one million yard switching miles was 13.5% less than the conventional ratio of accidents per one million yard switching miles. The RCL ratio of employee injuries per one million yard miles was 57.1% less than the conventional ratio of accidents per one million yard switching miles.

The FRA noted in the Interim Report that, at the request of the FRA, the Association of American Railroads (AAR) convened a task force composed of representatives of railroads that conduct RCL activities to facilitate the identification and resolution of safety issues associated with RCL operations. The FRA has also done outreach to rail labor organizations that represent RCOs to learn about safety concerns of operators.

An AAR task force has been established to work with the FRA on issues that arise during implementation of RCL operations. The FRA has raised several issues with the AAR task force including: (1) RCL operations outside of yard switching operations; (2) RCOs riding freight cars while actively engaged in operating the RCL; (3) hours of service requirements for RCL supervisors/instructors; (4) application of federal safety regulations regarding unattended locomotives; (5) Point protection and remote control zones; (6) Distinct and unambiguous RCL warning devices; and (7) remote operation of RCLs over highway-rail crossings. (The FRA's Interim Report notes that issues 3, 4, and 6 have been resolved). The FRA also listed some additional areas of inquiry that it is examining. The first is to conduct a root cause analysis of RCL accidents and injuries and to conduct a safety risk assessment of RCL operations. The second is to conduct an investigation of electromagnetic fields levels generated by RCL transmitters to verify that the transmissions remain at safe levels. Finally, the FRA intends to review RCL signal system integrity and security to verify industry claims that the technology does not pose a safety and security risk.

I noted previously that the concern expressed to me by the railroad union personnel related to BNSF's use of RCLs outside of the switching yard. They told me that there is currently a "gentlemen's agreement" between BNSF and the union that BNSF will restrict RCL use to yard operations. I mention that to John Conklin, and he informed me that that the Safety Advisory was written for RCL use in rail yards and it was not intended that railroads use RCLs on the main track. He said that when the FRA was advised that RCLs were being used on the main track, the FRA met with the railroad industry and the railroad industry agreed to limit use of RCLs to yard operations. The Interim Report makes clear that FRA's Safety Advisory 2001-01 was intended to address RCL use in yard switching operations by pointing out that nowhere in the guidelines did the FRA ever address the many obvious safety concerns associated with RCL operations outside of switching operations.

The FRA's final report to the Committee is due in May, 2005. That report should have considerable detail about the progress made to address the issues raised by the FRA. The final report will report on the resolution of open issues discussed previously. It will also provide more accident/incident data concerning RCL switching yard operations and comparisons to conventional switching yard operations based on 18 months of RCL operations. The final report will contain findings and recommendations regarding any additional activities that the FRA deems necessary to ensure continued safety of RCL operations which could include further guidance based on the identification of additional best practices or recommendations concerning possible regulatory action if deemed necessary.

Railroad safety is generally under the jurisdiction of the FRA. Federal preemption prohibits a piecemeal process by the states that could result in numerous different regulations being imposed on an entity engaged in interstate commerce. The FRA has spent a great amount of time and effort in establishing guidelines for RCL operations. Although compliance with the Safety Advisory is voluntary, the railroad industry is well aware of the fact that if railroads do not comply with the guidelines established by the FRA for RCL operations, the FRA has the authority to establish safety regulations for RCL operations. As pointed out previously, the guidelines established by the FRA have, with one exception, been adopted by the railroad industry, and the one exception is being is being monitored closely by the FRA. The FRA's findings on this issue of RCOs riding on freight cars while actively engaged in operating the RCL will be reported in the FRA's final report to Congress in May.

Senate Concurrent Resolution No. 4018 provides additional support and encouragement to the FRA in its ongoing process regarding the safe operation of RCLs. My recommendation is that nothing further needs to be done at this time. After the FRA issues its final report, the Commission may want to consider a request for FRA rulemaking if it appears the railroad industry is not willing to follow important FRA safety guidelines. I do not recommend Commission rulemaking because I believe it would violate federal law.

TESTIMONY of Ron Huff before the  
Senate Committee on Transportation  
Supporting SCR 4018

Mr. Chairman and member of the committee, my name is Ron Huff. I am the elected Legislative Representative for division 746 and First Vice-President of the North Dakota Legislative Board for Brotherhood of Locomotive Engineers and Trainmen.

I am supporting this resolution because I believe public safety is paramount and we all have a shared responsibility in helping provide a safe environment for everyone.

What is a remote control controlled train: It is a locomotive that has a radio receiver and transmitter. It is controlled by a belt pack. The belt pack also transmits and receives radio signals. The belt pack is operated by an individual operator. The pack has a couple of levers and a couple of buttons. Much like the new video games of today.

This SCR is not intended to say that remote control equipment is unsafe.

What it does do is speak to the need of rules in which the railroad can operate with this equipment. As of now, all the Federal Railroad Administration has in place is a memorandum of published guidelines for remote control operations. The memorandum so states that the advisory consists of recommendation only and is not enforceable. You have before you a copy of this memo.

In the memo it talks about the need for training on the use of remote control trains. The railroad has made a decision that 80 hours of training is adequate to be qualified so you can operate a remote

control train. Now, couple this with training of new hired trainman. They receive about 4 months of training on their duties and responsibilities, this included rules, hostler training and 80 hours on the use of remote controls.

Let me give you a scenario of what could happen. You have a new hirer, he is switching out a train, it's very dark and in the wee hours of the morning. His required equipment is a lantern, radio, a switch list and a belt pack. A tank car is the head car on the train. As you know, most tank cars are black. The trainman is shoving this train toward a public crossing. They are having to have a lantern in one hand hanging on to the side of the train, with the other hand, watching the public crossing for pedestrians and vehicle traffic, and then the yard master calls him and he has to answer the radio.

You may say to yourself, there is a lot going at the same time. You would be correct. This however, is a very common occurrence. I feel that we need rules to govern this kind of situations.

The railroad has the ability right now to send any trainman with this minimal amount of training on any train anywhere on the system. With this small amount of training, and the minimal knowledge of train handling it would be extremely difficult to control the speed of the train or stopping the train.

Imagine what would happen if that trainman took a loaded coal train down the hill at Jamestown or a train loaded with hazardous material through Fargo or Grand Forks. The railroad says that this would never happen. The bottom line is , there are no rules preventing this from happening.

I can tell you what the Burlington Northern Santa Fe has done in the past. They had a young crew take a remote control train from

Mandan to Bismarck , they switched the train and spotted the train cars on the proper tracks. The crew picked up all the cars that were to be transported from Bismarck to Mandan. When the train was made up the total weight exceeded 5,600 ton on including the engines. Just for quick math, this is 11 million 200 thousand pounds.( I don't know how many semi's this would be, but it must be a lot) Also, they have on occasion sent crews to the refinery north of Mandan. These crews are handling a lot of hazardous materials.

With this new technology public safety could be compromised. I know I don't want this for the citizens of North Dakota, do you?

In closing, SCR 4018 does not restrict the Railroads from using this technology. What it does however, is to urge the Federal Railroad Administration to get off dead center and make rules regulating the use of this new technology.

Through out my life I have be taught to be accountable for my actions. Its time the Federal Railroad Administration and the Safety Transportation Board make rules so the railroads maybe held responsible and accountable for their actions.

I ask you to show your support for public safety and give a do pass for SCR 4018.

Thank You,

RON HUFF



U.S. Department  
of Transportation

Federal Railroad  
Administration

# Memorandum

Date: February 22, 2002

Reply to Attn of

Subject: RCL Concerns and Inspection Procedures

From: Edward W. Pritchard  
Acting Director, Office of Safety Assurance and Compliance

To: Regional Administrators  
Deputy Regional Administrators  
OP Specialists  
MP&E Specialists

## Background

On February 14, 2001, the Federal Railroad Administration (FRA) published guidelines for remote control locomotive (RCL) operations in the Federal Register. The guidelines were issued in Safety Advisory 2001-01<sup>1</sup>. This advisory consists of recommendations only and is not enforceable. However, it carries much weight in the rail industry and has been readily adopted. Please encourage railroads to follow the recommendations based on safety concerns. FRA has the authority to respond to any safety concern brought to its attention. It is understood that there will be many issues that will not be covered by current FRA policy. These issues will be addressed on a case-by-case basis as they arise. FRA is relying on the expertise of its inspectors to identify problem areas and bring them to the attention of the railroad, and if applicable, to FRA headquarters for resolution.

The advisory notified railroads that, under 49 CFR Part 240, RCL training would be considered a material modification of the railroad's engineer certification program, which would require the railroad to amend its program and submit it to FRA for approval. Headquarters has been getting numerous calls from labor organizations and FRA personnel alike concerning RCL operations. These operations are new to all of us and represent a significant departure from the conventional railroad operations we are familiar with. In an effort to keep you all apprised of the latest developments associated with RCL operations and our approach to them, the

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<sup>1</sup>This advisory can be obtained from FRA's web site. Click on Safety, Operating Practices Division, Safety Advisories, Safety Advisory 2001-01.

following information and guidance are provided.

### RCL Training Programs

On November 30, 2001, six of the nation's largest railroads (BNSF, CR, CSX, KCS, NS, and UP) submitted RCL training programs to FRA for approval. All the aforementioned railroads submitted an identical program, which has been approved by FRA. RCL training is currently divided into two areas: (1) training certified engineers on the new technology and (2) certifying individuals as remote control operators (RCOs). As you can see, the former is merely a training issue, and the latter is a full-fledged certification process. Most of these programs cover both areas. However, the majority of training, as it stands right now, will involve certifying former ground crewmen, i.e., trainmen, switchmen, and conductors. This certification training will consist of a minimum of two weeks, approximately two days in the class room and eight days of on-the-job training. The second week of on-the-job training will be conducted in the yard performing actual switching duties.

The above railroads first submitted a training program to FRA that only specified one week's training: one and a half days in the classroom, two and a half days of on-the-job training, and a final day of testing. These programs were not approved. We stated we would accept a tentative minimum two-week training program and would judge the extent of this training based on the performance of the RCOs who completed the class and also on their evaluations of the training they received.

During the last weeks of February 2002, the first RCL classes were conducted simultaneously on all the major railroads. We are getting feedback from various sources that the trainees on CSX, BNSF, and CR are concerned that the length of the training period (two weeks) isn't long enough. Although this may just be a preliminary reaction, we need to follow up on final evaluations of the training courses. If the trainees notify the railroad of any concerns, we are interested to know how the railroad responds. The road foremen on all the aforementioned railroads have indicated they would allow trainees more training time if requested by the trainee.

**Inspection Guidance:** It is imperative that we focus on the feedback from the trainees at the end of these first classes and also on the skills performance test procedures given to them. The bottom line: the railroad must have procedures in place to determine that these individuals have the skills to safely operate a train "in the most demanding class or type of service that the person will be permitted to perform." [see 49 CFR 240.127(b) and 240.211(a)]. If the RCOs are required to handle large, heavy drafts of cars, put trains together, and move them from one location to another, they should have performed these same moves during training and during a portion of the skills performance test. If the RCOs are required to move drafts of cars with train air brakes cut in, they should have experienced these types of moves also and should be tested on them. The test should not be superficial. We should encourage the labor organizations and railroads to work together on evaluating these new training programs.

Another concern is that the on-the-job training may not meet training program requirements.

The programs specify 40 hours of training in the yard during the second week of training. Because of software glitches or because of a limited number of locomotives to operate, trainees may not receive the full extent of the training. It is FRA's position that all trainees must receive the full 40 hours of hands-on experience. If trainees must take turns operating the equipment, then only the actual operating hours should be counted toward the 40-hour training requirement.

### RCL Operation Parameters

In order to determine the amount of training that should be provided for RCOs, we required the railroads to define the duties of the RCO. All the above railroads have defined these duties as follows:

**Remote Control Operator (RCO)** - Certified Remote Control Operator may work with equipment by means of portable controller. In the initial implementation this equipment will be used in selected locations where the job will be involved in gathering and distribution of freight and/or equipment that is typically required of yard, road switcher, or other similar assignments at the implementing location(s). The specific assignments involved will vary by locations and could include such work as: hump, trimmer, classification operations, transfer, roadswitcher, industrial and station switching.

Based on this definition, RCO operations are not restricted to yards. The above definition explains that the RCOs are restricted to performing yard switching "type" operations which are conducted at traditional yard (slow) speeds. Therefore, these assignments could operate on industrial leads or main tracks at slow speeds, including to and from switching locations provided these movements are consistent with the training received.

**Inspection Guidance:** Because the RCO training is so limited in scope, any additional duties assigned to RCOs may require more training; e.g., most of the training programs will not train the RCOs to MU locomotives or to operate a locomotive in a conventional manner. Therefore, if RCOs are instructed to MU a locomotive to the RCL or to move a locomotive in a conventional manner, they are not qualified to do so. Although these duties are minimal, they do require some training to be performed safely. Other examples would be operations at increased speeds or for greater distances. This would entail additional training on physical characteristics and train handling. As these operations expand, it is entirely possible that RCOs will see their duties expand beyond the training provided. Inspectors should monitor these operations closely to determine that the RCOs have been properly trained for the duties they are to perform. Many of the RCOs may not realize the regulation affords them this right to training. Any deficiencies noted should be reported to FRA headquarters for handling.

### Operating Practices

RCL operations will necessitate modifying some traditional railroad operating rules and/or creating new rules. It is FRA's responsibility to ensure that safety is not jeopardized by these

changes. For example, we are likely to see significant changes to those rules requiring stopping within half the range of vision. Those rules require that the RCO see the track ahead of the locomotive each time the locomotive pulls out of a track yet it would be difficult to comply with such rules because no one will be in the locomotive. Because maintaining such rules would severely reduce the productivity of the RCL operation, FRA will permit railroads to create remote control zones (RCZs). These RCZs are designated areas in which an RCL may operate without protecting the leading end of the movement. An RCZ is identified by signs and special instructions. The signs are placed at the entrance tracks to each end of the zone. Basically, these zones prohibit all movements other than the RCL from entering the designated area during the time RCL operations are in progress. Movements into the area can only be made with permission from the RCO.

**Inspection Guidance:** FRA should ensure that RCZs are properly established and identified. It is imperative that all affected railroad employees are informed of the location of RCZs and have a means to determine if they are activated or not. If RCL operations extend beyond an RCZ or are conducted without RCZ protection, FRA should ensure that the movements are protected according to operating rules; i.e., each time the locomotive pulls out of a yard track, the operator must be able to see the track ahead of the locomotive to determine the track is clear and lined for the movement. As the tour of duty progresses, RCOs may become negligent of this requirement. Another area of concern is that the RCZ's parameters are properly identified to those in the immediate vicinity (safety advisory Item F). Inspectors need to ensure that warning signs have been properly placed.

Another area of concern will be local management's attitude toward the RCL operations. Because the training period is so short, the RCOs will move very slowly during their first weeks on the job. Consequently, productivity will be drastically diminished. As a consequence, there may be pressure placed on the RCOs to move faster, perhaps beyond their abilities. Inspectors should monitor this closely by periodically observing the operations and interviewing the RCOs.

#### Nonconformance with the Safety Advisory

In certain instances you may find that the railroad is not conforming to the safety advisory recommendations. For example, the safety advisory recommends that RCOs not ride on the side of railroad rolling stock other than locomotives. The impetus for this recommendation was based on older RCL technology that required the RCO to continually manipulate speed and brake controls to regulate speed. This practice would certainly inhibit the RCO from focusing on his/her situational awareness. Many railroads have elected not to adopt this practice based on the speed control features now available on the new technology. With the speed control feature the RCO can mount the car, set the speed, and hang onto the car with both hands. During conventional operations, a switchman would be hanging onto the car with one hand and giving signals or keying a radio with the other. FRA's position is that riding a car using the newer RCL technology provides at least an equivalent level of safety as conventional methods.

**Inspection Guidance:** If the railroad does not adopt one or more of the recommended guidelines, inspectors should question the safety consequences of such actions. The safety advisory allows railroads latitude in this area with the following language:

In certain circumstances, due to the design of their equipment, or differences in operating practices, a railroad may not be able to obtain complete consistency with these recommendations. In those situations railroads are encouraged to develop alternative designs or practices which offer at least equivalent or greater levels of safety.

If alternative measures are proven unsafe, notify the railroad of our concerns and work with FRA headquarters staff to resolve the issue(s).

#### Identifying Technology Malfunctions

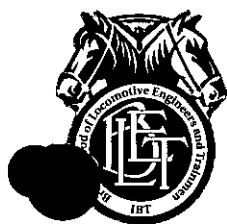
With the implementation of any new technology come the associated software failures that may have a significant adverse effect on safety. FRA has seen this first hand when locomotives with electronic air brake systems were first introduced into the industry. Engineers were reporting display screen and brake failures during train braking situations. The safety advisory recommends that railroads establish an efficient channel of communications between RCOs and local management to identify and quickly respond to these failures.

**Inspection Guidance:** Please ensure that the railroad has established such communication procedures and verify that they are in place and working.

#### Conclusion

These are just a few of the significant areas of concern that we should be looking at. I am confident that we will quickly adapt to these operations. It is of the utmost importance that the railroads are aware of FRA's presence and interest during the implementation of RCL operations, especially our concern that adequate training is provided. Your attention to this matter will secure the highest level of safety during this transition period. Since many of the areas discussed are relatively new, it is important that inspectors work closely with headquarters when addressing these issues. If further guidance is required, please contact John Conklin. MP&E issues will be addressed in a separate memo.

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# Brotherhood of Locomotive Engineers and Trainmen

## *A Division of the Rail Conference—International Brotherhood of Teamsters*

Mr. Chairman and Members of the **Senate Transportation Committee.**

My name is Mike Muscha. On behalf of all the members of the Brotherhood of Locomotive Engineers and Trainman in North Dakota, I want to thank you for this opportunity to appear before this committee.

I'm here today to speak in favor of Senate Concurrent Resolution No. 4018. At this time I would like to give special thanks to Senator Cook for carrying this strong message forward to the National Conference of State Legislators in December of 2004 in Georgia.

The language in this resolution is skillfully worded and follows like language used by other states, counties and cities throughout the United States. Each **[Whereas]** in this resolution touches on each weakness in the original guidelines established by the Federal Railroad Administration. As stated in the Feb. 22, 2002, memorandum issued by the FRA, **"This advisory consists of recommendations only and is not enforceable."**

Remote control operation is in full operation in the cities of Mandan, Minot, Grand Forks and border cities Moorhead and Dilworth. For the protection of the people of North Dakota and the fellow members I work with, I recommend we continue to urge the FRA to establish rules on the implementation of remote control locomotive technology.

At this time I would like to take you back a few years. Today I brought two items along with me, one is a **bible**; the other is the **Code of Federal Regulation**. Here is why. The CFR is the railroad bible. In that CFR are all the safety regulations, such as 49 CFR Part 219 Drug and Alcohol Regulations, 229 Locomotive Standards, 232 Power brake Regulations, including requirements for two-way end of train devices and at least 20 other parts. All of these have provisions for enforcement to insure compliance for bona fide safety reasons. Now, after this explanation, don't you find it odd that we don't have Federal Rulemaking on remote control technology that allows movement of rail equipment with unmanned locomotives?

Are we forcing a situation like that seen before railroads finally placed two-way end of train devices on freight trains? Do we have to look at millions in damages, death and injury once again before the FRA acts?

The safety of railroads, and the public, cannot be monitored without enforceable regulations. No data can be generated to demonstrate sound or unsound safety practices in rail operations without compliance, observation and enforcement. Regulations are absolutely necessary to insure the safety of railroads, their employees and the public.



**BNSF Railway Company Testimony in Opposition to  
Senate Concurrent Resolution 4018 (Remote Control Locomotives)  
February 11, 2005**

Good Morning Mr. Chairman and Members of the Committee. BNSF Railway Company opposes Senate Concurrent Resolution 4018, which calls on the Federal Railroad Administration to adopt rules regarding the use of remote control technology on locomotives. We certainly understand and appreciate the interest that the resolution's sponsors have in safe rail operations. However, the resolution before you is one that has many problems, because it was drafted for them by an organization that is adamantly opposed to the use of this technology by anybody who isn't a member of their union.

The wording of this resolution is very similar to one that was proposed at the National Conference of State Legislatures meeting last year by the Brotherhood of Locomotive Engineers. NCSL rejected the resolution. Apparently, it was modified for use in North Dakota. This resolution puts the cart before the horse, is based on inaccurate information and would put the Legislature in the middle of dispute not only between railroads and one of their unions, but between two unions.

First, some history. Remote control technology has been used on locomotives for more than 20 years by private industries in the United States. In the late 1980s, the Canadian railroads began using it for switching operations. The resolution is flat-out wrong when it refers to this as experimental technology. It has been used for a long time and has been proven to improve safety. Here's how.

Rather than have an engineer in the locomotive cab communicating with the ground crew via hand signals or radio, the ground crew members control the locomotive with a belt pack. This puts control of the locomotive in the hands of the people closest to where the cars are being coupled.

The result has been a dramatic improvement in safety where it is used in Canada. Because the chance for miscommunication was so greatly reduced, both the accident rate and the personal injury rate went down significantly when remote control was used. There were fewer derailments and few people being hurt.

The Federal Railroad Administration first began issuing waivers permitting U.S. railroads to use this technology as part of a study program in 1994. In 2001, the FRA issued guidelines for use of remote control technology by railroads. The guidelines are termed "voluntary"s but that is really a misnomer. First, the guidelines include references to existing FRA rules, such as certification of the operator and track speed. But also, our operating plan for use of remote control must be approved by the FRA and we must operate within that plan. So it is not correct to say that we are operating only under voluntary guidelines.

On the subject of operator certification, this resolution is very, very misleading. It gives the strong impression that a person could be hired off the street, undergo 80 hours, or two weeks of training, and be operating a remote control locomotive. That is absolutely false. Before being accepted into remote control training, that person must first be qualified as a trainman on the railroad. That means 13 weeks of training and passing safety rules examinations BEFORE starting remote control training. Then, the person must work at least 30 more days using remote control before he or she can be the lead person on a crew.

It should be emphasized that the FRA continues to monitor remote control operations closely. In fact, a study by the FRA on this subject is due to be released within the next few months. But at this point, it appears that the statistical portion of the study will show that remote control operations continue to be safer than the old-fashioned way of doing things. That study covered the first nine months of 2003 and showed that at BNSF accidents were down about 30 percent when remote control was used. Personal injuries also were reduced.

In 2002, five of the major U.S. railroads reached an agreement with the United Transportation Union to use remote control in limited situations. One result of this was that it eliminated the job of the engineer, who is typically a member of the BLE (Brotherhood of Locomotive Engineers). The BLE fought this in court and in arbitration and lost. Their goal was not to ban the use of remote control, but to be the ones to do the work. In fact, there are railroads where the BLE members do the work, and the BLE has no problem with it there. It's not experimental technology on those railroads because BLE members are using it.

Since losing the work on the major railroads, the BLE has embarked on a crusade to drum up opposition at city councils and county boards. The regulations referred to in this resolution did not result from minimal training or experimental technology, as the resolution claims. They resulted from BLE members engaging in fear mongering and telling city councils and county boards very distorted stories.

That explains why this resolution contains so many errors and misleading statements. It is a boilerplate BLE resolution used for that purpose. Unfortunately, legislators who are acting out of concern about a rail safety issue picked up this resolution, not realizing how much misinformation it includes, and introduced it.

Many of the "regulations" referred to are actually resolutions, not regulatory ordinances. And most of them were passed without any input from the rail industry. That's because a city council or county can usually adopt a resolution without much public notice or a public hearing. But adopting an ordinance requires advance notice and a formal hearing. That ruins the ambush tactic the BLE likes to employ.

This resolution makes no references to three state legislatures (South Carolina, Georgia and Alabama) that adopted resolutions that recognize the safety of remote control technology and praise the rail industry for using it. Nor does it refer to the similar

resolution adopted by the American Legislative Exchange Council or the refusal of NCSL to adopt the BLE's position..

Finally, this resolution calls for the FRA to adopt rules. What rules? What particular concerns need to be addressed? As noted earlier, the FRA is wrapping up a study of remote control and should have that issued within a few months. It would make far more sense to see what that study says and use that as the basis for determining what additional rules, if any, should be adopted.

As noted earlier, we appreciate and understand the desire of legislators to make sure that rail operations in the state are safe. But the resolution they were given to express that concern is based on false and misleading arguments. It would put the legislature in the middle of a labor-labor-management battle. It is premature. It should be rejected.

# united transportation union




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 **RISCH**  
State Legislative Director  
NORTH DAKOTA LEGISLATIVE BOARD

## Testimony of John Risch Before the Senate Transportation Committee Opposing Senate Concurrent Resolution 4018 February 11, 2005


Mr. Chairman and members of the committee, my name is John Risch. I am the elected North Dakota legislative director of the United Transportation Union. The UTU is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen, and yardmasters.

I'm not happy about being here at this committee hearing today. This is the first time I have appeared in opposition to something that other railroad workers have wanted. These fellows are my union brothers and coworkers, and it saddens me that we're here to talk about something that is essentially a jurisdictional dispute between two labor unions and the railroad industry.

 I am here to testify in opposition to this resolution, but at the outset I'd like to say that I don't like remote control locomotives (RCL). I wish they did not exist; I wish they were not used; and I wish they had never come into being on America's railroads.

I don't like them because they eliminate jobs. When I hired out on the railroad, we had five people on both switch crews and freight train crews. That number soon dropped to four, and then to three, and now we have two-person crews on the road, and, with the advent of remote control locomotives, two person switch crews in the yards.

The issue before you is jobs. It has virtually nothing to do with safety. Remote control locomotives, if they are operated in a safe manner, are as safe as or even safer than conventional switch engines; however, with the railroads saying they're safe and the Brotherhood of Locomotive Engineers saying they're unsafe, you might be wondering which is true.

 The Federal Railroad Administration (FRA), which oversees safety in the railroad industry, has proclaimed RCL operations are safe. A May 2004 FRA report to the U.S. Senate Commerce Committee states: "Preliminary data that were prepared for this report indicate the safety record of RCL operations over the past seven months (May 1, 2003 through November 30, 2003) has been quite positive, RCL train accident rates were found to be 13.5 percent lower than the train accident rates for conventional switching operations over the same period, while employee injury rates were found to be an impressive 57.1 percent lower for RCL operations than for conventional switching operations."

If that's not enough, even the International President of the Brotherhood of Locomotive Engineers agrees that the issue before you is not about safety, but jobs. (See attachment with Ag Week quote.)

Neither the UTU nor the BLE wanted remote control locomotives to be used in the first place. We both would prefer to have a locomotive engineer and two switchmen on yard crews. But with the advent of remote-control technology, which had already been in use for a number of years in Canada, on the Red River Valley & Western here in North Dakota, and on the Montana Rail Link by BLE members, we were forced to address the issue.

Our national rail agreement explicitly states that we cannot reject new technologies and we must negotiate the conditions of new technology as they come up. So when the railroad industry sought to implement remote control technology, the UTU asked the BLE to join with us to negotiate with the nation's railroads to find an equitable solution.

Our offer to the BLE was that together we would negotiate to preserve as many jobs as possible. If RCO reduced switch crews from one engineer (represented by the BLE) and two switchmen (represented by the UTU) to two RCO operators, we would work with the BLE to see to it that one RCO position would be from the engineers ranks and one would be from the ranks of switchmen and, further, that any RCO extra work or vacancies would be manned from engineer extra boards. Our offer essentially meant that the UTU-represented switchmen would lose positions and the BLE-represented engineers would actually gain jobs.

The BLE leadership flatly rejected our offer, insisting that they should get 100 percent of all RCO jobs. That was unacceptable to our side, so the UTU went ahead and negotiated the implementation of remote control technology without the BLE.

After the negotiations ended and RCL operations began, the BLE cried foul and threatened to strike. The railroads prevented the strike by obtaining an injunction from a federal judge. The judge ruled that the question of which railroad employees are authorized to operate RCL fell under the "minor dispute" definition in the Railway Labor Act and remanded the disagreement to arbitration. In January 2003 the arbitrator ruled in favor of the railroads and upheld their agreement with the UTU.

The BLE lost on the issue of remote control because their leadership made some poor decisions. Their leadership demanded all or nothing and in the end got nothing for their members.

Some union leaders go through their careers just saying no and telling their members, "We sure told them." Other union leaders confront complex issues and deal with them head-on. These leaders may not always get what they want, but they get the best deal possible out of some bad choices. That's what the issue of remote control represents--our leadership getting the best deal out of what were some bad choices.

Since the BLE lost the work, they have been going from city to city, county to county, and now to state legislatures, appealing to those bodies of government for help. In North Dakota they proposed a resolution to the City of Mandan which was reviewed and rejected.

Some cities and counties have passed resolutions similar to this, and they will have little or no impact on remote control technology. If the North Dakota Legislature passes this resolution, it is not likely that the FRA will declare, "My, we overlooked the RCL issue, we'd better act on this." Rather, what will happen to this resolution is the BLE will proudly display it on their website and in their national newspaper declaring that North Dakota sides with them that RCL is unsafe.

Let's go over the resolution. (See attached copy.)

We offer to help clean up this resolution with the attached amendments.

We recommend that you adopt the attached amendments and then give the amended resolution a "Do Not Pass" recommendation.

# BNSF making tracks

■ Railway moving forward with new technology

By Vikas Bajaj  
Dallas Morning News

FORT WORTH, Texas — For an old economy company, Burlington Northern Santa Fe Railway is a poster child for brave new world automation.

The railroad drills its engineers on 40 simulators outfitted with all the controls found in a locomotive. Rail yard employees use remote controls to move and switch cars, creating trains bound for different destinations. Not to be left behind, conductors file reports on arrivals, departures, pickups and drop-offs using a voice-recognition system.

For the last few years, Burlington Northern has been putting \$80 million a year into information technology, with as much as \$40 million going to software development. Partly as a result of that, its shipments per employee grew 6 percent annually in the last two years. Revenue per worker has grown an average of 4.3 percent in the last three years. By comparison, the economy averaged a 3.55 percent productivity growth rate during the last four years.

And executives say they aren't finished yet.

"There are multiple things moving in many areas, all of which have safety implications as well as productivity implications," says Gregory W. Stengem, vice president for safety, training and operations support.

## Focus on productivity

But not everyone cherishes intense focus on productivity by the Fort Worth, Texas-based BNSF. Labor union leaders and workers say some technologies are making work more inefficient and dangerous by reducing staffing levels.

BNSF's work force has shrunk from 38,700 in 2000 to 35,900 in 2003, though officials expect it to climb to 36,535 by the end of this year as it adds engineers and conductors to keep up with business growth. The job reductions have come from retirements, attrition and layoffs.

Executives say technology is not only making the railroad more productive and profitable, but also reducing errors, accidents and injuries.

A veteran of the railroad business, Stengem frequently evokes the landmark transition from steam to diesel engines in the 1940s and 1950s to describe Burlington's current technology transformation.

"Even then there were people saying diesel was going to be the ruination of the railroad," he says.

## Labor Issues

Labor leaders' biggest complaint has been about the use of remote controls to switch rail cars. The technology, which BNSF started using in 2002, allows two switchmen on the ground to move a locomotive without the help of an onboard engineer.

Switchmen redistribute cars from one train to several other trains based on each shipment's final destination. One worker switches tracks while the other unhitches rail cars and moves the train back and forth, with the remote control, to send the cars rolling onto other tracks.

The Brotherhood of Locomotive Engineers contends that its members are better trained to understand and operate them and should move the train.

"This is all about crew costs," says Don Hahs, national president for the Brotherhood. "It allows them to reduce a member from the operating crew.... This is not about safety."

A switchman at BNSF's Haslet rail yard says he prefers having an engineer because the trains he and his partner move get so long they have a hard time seeing the engine they are supposed to control.

"I am always worried," says Brad Long, who has worked at BNSF for three years. "I don't want to hit anything. You just have to think ahead with the remote. When you tell ... the train to stop, it takes a few seconds."

Stengem points to a Federal Railway Administration study showing that remote controls have reduced injuries by 57 percent. Crews worried about moving longer trains can send one person to the front of the train to make sure nothing is in the way.

Some workers support the technology. The United Transportation Union, which represents switchmen, broke with the engineers and accepted it in 2002.

"Change is hard to accept for all of us," Stengem says. "What I can assure you of is we really believe ... that the level of risk in switching operations has been reduced."

## Improving data

Burlington also is aiming its technology at paperwork.

Working with Dallas-based Intervoice Inc., the maker of speech software, BNSF is asking some conductors to call their reports directly into the corporate network via cellphone or radio. The system is similar to technology that banks and airlines use.

"Their goal is obviously to improve data" collection, says Ron Owens, an Intervoice director of professional services.

Conductors who are handling more complicated shipments enter information on touch-screen computers that can be connected to the network via docking stations. Both technologies replace faxed reports that were later typed by clerks into BNSF's systems.

Reports filed on terminals are 99.9 percent accurate, while reports that have to go through three individuals are accurate 77 percent of the time, says Mike Acosta, a senior technology manager at Burlington. "This has brought them out of the era of paper and pencil."

**RCO Operations**

The following is a list of issues that have been resolved through the RCO Committee:

1. **No single OCU (box) switching will be allowed.** Single box operation will only be allowed in an emergency to shove into the clear.
2. **The person that is on the point (shoving or pulling) will have control of the movement.** This means that if there is a **LOSS OF COMMUNICATIONS** one person cannot ride in the cab and take radio signals from an individual protecting the point to control the movement, (the utility person will still be allowed to make joints in the yard).
3. No pushing or assisting of trains with the RCO.
4. RCO will not be assisted by other trains (shoving).
5. No dog catching of trains with the RCO.
6. **No going to Bismarck with the RCO to pickup or setout cars,** only light engine movement will be permitted. (Exception, in an emergency, derailment etc, and no engineer is available or practical the RCO operator may be asked to take or move cars by company officials and only be required to move the number of cars the RCO operator is comfortable with.)
7. The RCO will only be permitted to go to Sunny, Heskitt (for empty coal cars), Strata, Cenex and yard switching.
8. Should an RCO operator encounter a situation that requires skills that you have not been specifically trained on, you must **immediately** notify your immediate supervisor (Yardmaster, Trainmaster) of this fact.
9. If an employee is called for a RCO job and has not operated the RCO for long period of time (6 months or longer) and feels he needs refreshment on RCO operation, he needs to inform the crew caller of this fact. (Additional training will be provided on an individual basis at the employee's request and should be done, when possible, prior to being called to work the RCO job.)
10. Certified RCO operators, including RCO operators that have been working road service, who are called to work a remote job, which have not had their license signed for 1 year must advise their respective Road Foreman of Engines or Trainmaster of this fact.
11. An RCO Safety issue/Complaint form has been developed, this is to be used to report issues or concerns to the RCO committee for resolution. (A name should be included on the report form so a RCO Committee member can contact the individual for follow-up, **names will not be used unless the person reporting gives permission**)
12. Any questions on any of these items please contact a RCO Committee member:  
Terry Berger 663-0433   Dave Fandrich 667-2217   Jerry Suko   667-2255  
Jim Chase   471-2125   Alan Marden   667-2285

Fifty-ninth  
Legislative Assembly  
of North Dakota

# SENATE CONCURRENT RESOLUTION NO. 4018

Introduced by

Senators Cook, O'Connell, Stenehjem

Representatives Keiser, R. Kelsch, S. Meyer

1 A concurrent resolution urging the Federal Railroad Administration to establish rules on the  
2 implementation of remote control locomotive technology. *Not always Trains*

3 **WHEREAS**, remote control locomotives are trains operated electronically by an  
4 individual not physically occupying the cab and only recently have been introduced in the  
5 United States; and *Sometimes in cab* *Been around a decade*

6 **WHEREAS**, the Federal Railroad Administration, as the federal safety enforcement  
7 agency for the railroad industry, has the paramount responsibility to ensure the safety of the  
8 general public as well as railroad workers; and

9 **WHEREAS**, the Federal Railroad Administration has permitted the introduction of  
10 remote control technology, has issued only nonbinding guidelines for the operation of remote  
11 control locomotives, and has allowed the railroads to certify individuals to operate remote  
12 control locomotives after the minimal training of only 80 hours; and *other Training as well*

13 **WHEREAS**, this minimal testing and training on the part of remote control locomotive  
14 operators and the experimental nature of remote control technology has raised serious  
15 concerns throughout the country about the safety of remote control locomotives, evidenced by  
16 regulations passed by numerous cities and counties; and

17 **WHEREAS**, state governments have an interest in rail safety as well as in promoting the  
18 prudent introduction of new technologies into use and the security of all facets of our nation's  
19 transportation system must be closely supervised and regulated due to increased and  
20 unpredictable terrorist threats; *They are*

21 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE**  
22 **HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

23 That the Fifty-ninth Legislative Assembly urges the Federal Railroad Administration to

24 establish rules on the implementation of remote control locomotive technology; and

*What rules do we want.  
Doesn't say.  
Be careful what we ask for!*

*Air Brake Test  
Locomotive Hand Brakes  
Reporting Switch Locations*

Page No. 1

53066.0100

*Recent rules*

*all operating rules apply  
Final rules not yet written*

*Not experienced  
all link*

- 1        **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this
- 2 resolution to the administrator of the Federal Railroad Administration, the Secretary of the
- 3 United States Department of Transportation, and to each member of the North Dakota
- 4 Congressional Delegation.

SENATE CONCURRENT RESOLUTION NO. 4018  
PROPOSED AMENDMENTS

Page 1, line 3, remove "trains"

Page 1, line 4, remove "not physically occupying the cab and only recently have been introduced in the"

Page 1, line 5, remove "United States"

Page 1, line 9, replace "has permitted the introduction of remote control technology, has issued only nonbinding guidelines for the operation of remote control locomotives, and has allowed the railroads to certify individuals to operate remote control locomotives after the minimal training of only 80 hours" with "is monitoring and has issued substantial instructions concerning remote control operations"

Page 1, remove lines 13 through 16

Page 1, line 17, remove "as well as in promoting the"

Page 1, remove line 18

Page 1, line 19, remove "transportation system must be closely supervised and regulated"

Page 1, line 24, replace "establish rules on the implementation" with "continue to monitor the use" and after "technology" insert "and ban its use outside of rail yards"

Page 2, line 2, before the third "the" remove the comma and insert "and"

Page 2, line 3, after "Transportation" replace the comma with a period and remove "and to each member of the North Dakota"

Page 2, line 4, remove "Congressional Delegation" and remove the period

Proposed by United Transportation Union  
John Risch, Legislative Director  
February 11, 2005

**SENATE CONCURRENT RESOLUTION NO. 4018  
PROPOSED ENGROSSMENT**

A concurrent resolution urging the Federal Railroad Administration to establish rules on the implementation of remote control locomotive technology.

**WHEREAS**, remote control locomotives are operated electronically by an individual; and

**WHEREAS**, the Federal Railroad Administration, as the federal safety enforcement agency for the railroad industry, has the paramount responsibility to ensure the safety of the general public as well as railroad workers; and

**WHEREAS**, the Federal Railroad Administration is monitoring and has issued substantial instructions concerning remote control operations; and

**WHEREAS**, state governments have an interest in rail safety due to increased and unpredictable terrorist threats;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the Fifty-ninth Legislative Assembly urges the Federal Railroad Administration to continue to monitor the use of remote control locomotive technology and ban its use outside of rail yards; and

**BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution to the administrator of the Federal Railroad Administration and the Secretary of the United States Department of Transportation.



## NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

### REMOTE CONTROL LOCOMOTIVES BACKGROUND

Remote control locomotives (RCLs) are train engines operated electronically through the use of a transmitter and receiver system by a person not physically located at the cab controls. A computer system is located within a cab, and operators stand on the ground next to it. Conventional methods include an engineer in the cab to move the locomotive, with one or more individuals on the ground to direct the movement and location. RCLs have been used for a number of decades in Canada. In the late 1990s, they were introduced for use within U.S. railway switchyards.

The Federal Railroad Administration (FRA) requires that remote control operators (RCOs) receive 80 hours of training on the ground and in a classroom. In comparison, fully certified engineers receive a minimum of four months of classroom training with an on-the-job qualification period of two to eight months, depending on terrain, anticipated risk and technical issues associated with a specific area of the country.

#### Regulatory History

The Brotherhood of Locomotive Engineers (BLE) filed a petition with the FRA in November 2000, asking for the creation of mandatory regulations regarding the use of remote control locomotives. In 2001, the AFL-CIO also requested an emergency injunction prohibiting all use of remote control locomotives in the U.S. until enforceable safety regulations are enacted by the FRA.

In July 2000, the FRA conducted a technical conference to discuss changes in the use of RCLs throughout the previous five years. A Notice of Safety Advisory 2001-01 was released in February 2001 with recommended minimum guidelines for the use of RCLs in switchyards. These guidelines are not mandatory, but do state that full compliance is expected with FRA regulations already established that apply to specific areas of RCL use. Railroad companies also submit RCO training programs to the FRA for approval. The FRA continues to monitor the use and safety records of RCLs. The FRA, in a letter to the AFL-CIO, stated that the minimum guidelines, while voluntary, constitute the agency's present response to the BLE petition for mandatory regulations.

Early in 2002, the railroads and the United Transportation Union (UTU), representing train conductors, entered a labor agreement regarding the operation of RCLs solely within railroad switchyards. The BLE contended that the UTU agreement was a violation of long-standing collective bargaining agreements between railroads and engineers and threatened to strike. The railroads prevented the strike by obtaining an injunction from a federal judge. The judge also ruled that the question of which railroad employees are authorized to operate the RCLs falls under the "minor dispute" definition in the Railway Labor Act, and remanded the disagreement to arbitration. The arbitrator issued a decision in January 2003 in favor of the railroads continuing usage of remote control locomotives and upholding the UTU labor agreement.

In September 2003, Senators John McCain and Ernest Hollings, chairman and ranking member of the U.S. Senate Committee on Commerce, Science and Transportation, requested that the FRA conduct a study and produce a report on the safety of RCLs. The preliminary report to Congress, released in May 2004, found that during a six-month testing period in 2003, the remote control locomotive accident rate was 13.5% lower than conventional switching mechanisms, and the employee injury rate was 57.1% lower than previous rates. The FRA also found that all incidents that resulted in accidents were the result of human error rather than malfunctions in the RCL technology. The FRA continues to assess the use and impact of remote control locomotives. The final report, anticipated in 2005, is to include any additional findings and recommendations concerning best practices and possible legislative or regulatory action.

### **States and Localities**

Approximately 60 county commissions and city councils across the country have adopted resolutions expressing concerns about safety issues relating to RCLs and requesting that the FRA issue binding regulations regarding their use. A number of AFL-CIO units have also adopted resolutions, which contend that any locomotive movement should be controlled by fully certified engineers.

Conversely, state legislatures in Alabama, Georgia and South Carolina have adopted resolutions in support of RCLs and commending the railroad industry for technological innovation and increased safety and efficiency.

### **Sources**

*Association of American Railroads.*

[www.aar.org/Rail\\_Safety/Rail\\_Safety\\_PLCT2.asp](http://www.aar.org/Rail_Safety/Rail_Safety_PLCT2.asp)

*Brotherhood of Locomotive Engineers.*

[www.ble.org/remotecomtrol](http://www.ble.org/remotecomtrol)

*Federal Railroad Administration. Press release, May 13, 2004.*

[www.fra.dot.gov/us/press-releases/27](http://www.fra.dot.gov/us/press-releases/27)

*Federal Railroad Administration. Regulatory Review, June 23, 2004.*

[www.fra.dot.gov/downloads/safety/reg\\_overview\\_062304.pdf](http://www.fra.dot.gov/downloads/safety/reg_overview_062304.pdf)

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