

**2019 SENATE TRANSPORTATION COMMITTEE**

**SB 2133**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

SB 2133  
1/18/2019  
31029

- Subcommittee  
 Conference Committee

|                                |
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| Committee Clerk: Liz Stenehjem |
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## Explanation or reason for introduction of bill/resolution:

A bill relating to railroad grade crossings; and to provide a penalty.

## Minutes:

|               |
|---------------|
| 2 Attachments |
|---------------|

**Chairman Rust:** Called committee to order. Opened hearing on SB 2133.

**Senator Oley Larsen, District 3:** I was approached by an individual that wanted a little bit more help with the grade crossings. My understanding of the bill is; when I go down the road and it says 40 mph reduce your speed, there's construction people in the area, you have to be aware of it so our minds are getting aware of that. So then when we ratchet over to the railroad crossing situation and the railroad crossing gates come down, we know we have to stop for the train. The trains always have the right of way, even if there are no crossing gates, trains always have the right of way. That is from way back when, there's a date and time when that started, (shared personal story) We have a lot of equipment that services the rails, they fix the crossings, whatever maintenance happens on there, and it's a myriad of things. Sometimes they're in the middle of nowhere and it doesn't make a lot of sense, but there are the rail crossing that they're doing maintenance on and are and then they are going from point A to point B and crossing through there and people don't realize that they can't stop, that they are kind of the same situation as a train. Of course they're not as large, but it made sense to me. They're the maintenance crews they're the working crews that are just like when we are going down the roads, they're the ones that are working around it and we need to be aware and be safe with what they are doing. I think they have things in place that can make that happen and they just want to expand on that and be part of the big picture of that safety program. I think the idea is a great one to move forward with.

**Chairman Rust:** Senator Larsen, what I see in this bill is every time you see the word "railroad train," for the most part, what you're adding in a number of sections is "or other on-track equipment." Basically that's what you're doing is you're just adding that wording. I'm guessing on Section 2 and Section 3 it's just upgrading the wording, instead of going to "no stop" you say "a stop is not required" the same thing, it's probably getting some uniform in writing. Is that the way you see the bill sir?

**Senator Larsen:** I think that is the intent of the bill.

**Deven Mantz, North Dakota State Legislative Director, Brotherhood of Maintenance of Way Employees Division:** We are men and women who build, construct and maintain railroad infrastructure in the United States. We use all types of specialized equipment to perform these duties. See **Attachment #1** for more testimony and information. The issue is that maintenance of way on track equipment operated primarily by BMWED members and railroad contractors is not included in the Century Code in North Dakota. The mandates that motorists are responsible when approaching a crossing; so basically when the gates are down, the train is approaching, flagmen stop or a stop sign is present a motorist is responsible to stop a certain number of feet away from the crossing for a train, on-track equipment is not included in that.

**Chairman Rust:** Basically the only difference is where you see “railroad train,” you added “or other track equipment” in about 5 or 6 places. That’s only change to the law, correct?

**Mr. Mantz:** Yes, there’s not a whole lot with it. Basically we want people to yield to us. We do yield to motorists over grade crossings to the best of our abilities, but we would like the same as trains because we are big equipment as you can see. We do have smaller equipment, bigger equipment, but we can’t stop just like that.

**Chairman Rust:** Why would somebody be opposed to that?

**Mr. Mantz:** I totally agree with you 100%, I don’t know.

**Senator Clemens:** What controls the gate arms?

**Mr. Mantz:** I’m not an expert in this part, that’s more signal. There a bunch of different crafts in the railroads. It uses a small bit of electricity and it can see that a train is coming and it’ll stop, it will put the crossing arms down, it’ll shunt. We have the same opportunity now, we’re starting to get that in our machines to have the same deal where we shunt the track where it makes the gates come down.

**Senator Dwyer:** Do you lower the gates when you are doing your work?

**Mr. Mantz:** It depends on what we are doing. There are days when we track travel 80 miles. That’s a long way to try to that’s a long way to try to drop the gates. We do shunt the track now, which means that you do drop that gates. We are getting that on our equipment now, which is helpful to us, before we didn’t have that. Over grade crossings where there are no arms, like out in rural areas there’s nothing, we just would like people to slow down a little bit at grade crossings, get a little more awareness.

**Senator Dwyer:** Have you had accidents?

**Mr. Mantz:** I believe it was last year, maybe it was the year before that, there was an accident here in North Dakota I don’t remember the specifics though. There have been all around the country.

**Chairman Rust:** At one time we were given the number of crossings that do not have gates in the United States, it's a lot.

**Mr. Mantz:** I don't know if you would like to clarify in there, I noticed there's not a definition other than "on-track equipment" and I don't know if that would help or not. I don't know if that's needed, I'm ok with it not being in there.

**Chairman Rust:** You have a suggested definition for us, that would take an amendment to the bill. I guess we could add that I suppose, I don't know if it's necessary or not.

**Senator Patten:** I would think that on-track equipment is on-track equipment.

**Chairman Rust:** you don't see a need for the definition. One thing about putting a definition in is that it becomes very limiting. So I'm a little hesitant to do that myself.

**Jim Chase, State Legislative Director, Sheet Metal | Air | Rail | Transportation (SMART):** See **Attachment #2** for testimony. Also, I do have an answer for Senator Clemens' earlier question. On the activation of the crossing gates, it's an electronic sensor that senses the train's speed and where it's at on the track and that's how it determines when to lower the gates. Different crossings are set for different speeds, depending on what the track speed is at that location it would be set for a longer 1320-foot activation, whereas some slower track speeds it would be set for closer.

**Chairman Rust:** Closed hearing on SB 2133.

**Senator Dwyer:** I move a **DO PASS**.

**Senator Patten:** I second the **DO PASS** motion.

**A Roll Call Vote was Taken: 6-0-0 DO PASS**

**Carrier:** Bakke

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO: 2133**

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Dwyer    Seconded By Patten

| Senators                        | Yes | No | Senators      | Yes | No |
|---------------------------------|-----|----|---------------|-----|----|
| Senator Rust - Chairman         | ✓   |    | Senator Bakke | ✓   |    |
| Senator Clemens - Vice Chairman | ✓   |    |               |     |    |
| Senator Dwyer                   | ✓   |    |               |     |    |
| Senator Fors                    | ✓   |    |               |     |    |
| Senator Patten                  | ✓   |    |               |     |    |
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Total (Yes) 6    No 0

Absent 0

Floor Assignment Bakke

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

**REPORT OF STANDING COMMITTEE**

**SB 2133: Transportation Committee (Sen. Rust, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2133 was placed on the  
Eleventh order on the calendar.

**2019 HOUSE TRANSPORTATION**

**SB 2133**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Fort Totten Room, State Capitol

SB 2133  
3/7/2019  
#33369

- Subcommittee  
 Conference Committee

|                                |
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| Committee Clerk: Jeanette Cook |
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## **Explanation or reason for introduction of bill/resolution:**

A BILL relating to railroad grade crossings; and to provide a penalty.

## **Minutes:**

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|-----------------|
| Attachment #1-2 |
|-----------------|

**Vice Chairman Rick C. Becker** opened the hearing on SB 2133.

**Senator Larson** spoke to introduce SB 2133. It is a bill that will allow for additional safety measures for railroad personnel.

**Deven Mantz, North Dakota State Legislative Director for the Brotherhood of Maintenance of Way Employees Division**, spoke to support SB 2133 and provided written testimony. See attachment #1. On-Track is not identified in North Dakota Century Code. This legislation is truly a public safety issue, and the language is simple to change. There is no cost to the railroads or the state. People need to be made aware of on-track maintenance vehicles on the track. There are many other pieces of equipment that travel on the tracks and present the same dangers to motorists and railroad workers as trains.

**Vice Chairman Rick C. Becker:** If this type of equipment poses dangers to motorists. Why isn't it mandatory that the gates close when it is on the track?

**Deven Mantz:** I can't speak for everything, but the railroads are working to get that changed. A big problem is that the gates close when something is a certain distance from the track. So, if we are working close, but not on the crossing, the gates would remain down when we are working.

**Representative Paur:** These on-track maintenance devices don't travel very fast, do they?

**Deven Mantz:** They may travel 80 miles per day. They can travel 40 mph. The bill will get the public to slow down and yield to on-track equipment.

**Representative Kading:** With this bill are we shifting the liability at all in a collision?

**Deven Mantz:** This bill will make the equipment the same as train. If you have to yield to a train, you have to yield to on-track equipment.

**Jim Chase, SMART-Transport Division of the International Association of Sheet Metal, Air, Rail, and Transportation employees,** spoke in support of SB 2133. See attachment #2.

**Representative Owens:** This bill has no application if the equipment is sitting just off to the side of the crossing and is stationary, is that correct?

**Jim Chase:** That is correct.

**Representative Hager moved a DO PASS on SB 2133.**

**Representative Owens seconded the motion.**

**A roll call vote was taken: Aye 11 Nay 0 Absent 3**

**The motion passed.**

**Representative Hager will carry SB 2133.**

Date: 3-7-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2133**

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Hager    Seconded By Owens

| Representatives   | Yes | No | Representatives       | Yes | No |
|-------------------|-----|----|-----------------------|-----|----|
| CHAIRMAN RUBY     | A   |    | REP LAURIEBETH HAGER  | X   |    |
| VICE CHAIR BECKER | X   |    | REP KARLA ROSE HANSON | X   |    |
| REP JIM GRUENEICH | X   |    | REP MARVIN NELSON     | A   |    |
| REP TERRY JONES   | X   |    |                       |     |    |
| REP TOM KADING    | X   |    |                       |     |    |
| REP EMILY O'BRIEN | A   |    |                       |     |    |
| REP MARK OWENS    | X   |    |                       |     |    |
| REP BOB PAULSON   | X   |    |                       |     |    |
| REP GARY PAUR     | X   |    |                       |     |    |
| REP ROBIN WEISZ   | X   |    |                       |     |    |
| REP GREG WESTLIND | X   |    |                       |     |    |
|                   |     |    |                       |     |    |
|                   |     |    |                       |     |    |
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Total (Yes) 11 No 0

Absent 3

Floor Assignment Hager

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

**REPORT OF STANDING COMMITTEE**

**SB 2133: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **DO PASS**  
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2133 was placed on the  
Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2133**



## Brotherhood of Maintenance of Way Employees Division

of the International Brotherhood of Teamsters

Freddie N. Simpson  
*President*

*Charlie Hogue*  
*Director of Government Affairs*

Deven Mantz  
North Dakota State Legislative Director  
Minot, ND  
701-833-0182

### Facts for SENATE BILL NO. 2133

rious Public safety issue

- No cost to the state, taxpayers, or railroads
- On-Track Equipment cannot stop on a dime
- On-Track Equipment can be defined as “any car, rolling stock, or other device that, alone or coupled to another device, is operated on permanent stationary rails”
- 20 other states have passed similar legislation
- This legislation has been passed in an overwhelmingly bi-partisan.
- Association of American Railroads has been supportive
- BNSF (Burlington Northern Santa Fe) Railway has no problem with this change in wording
- Supported by rail labor, railroads, and railroad contractors

SB2133 #1 Pg 2  
1/18/19



Plasser American Stabilizer

SB 2133 #1  
1/18/19 Pg 3



# Brandt Roadrailer

SB2133 #1  
1/18/19 P94



Plasser & Theurer Shoulder Ballast Cleaner



SB 2133 #1  
1/18/19 PG 5



Jackson 6700 Tamper



**Testimony of Jim Chase**  
**Before the Senate Transportation Committee**  
**In Support of SB 2133**  
**January 18, 2019**

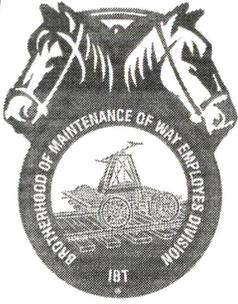
Chairman Rust and members of the Senate Transportation Committee, my name is Jim Chase. I represent SMART-Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation employees. SMART is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen and yardmasters; I am a locomotive engineer for BNSF Railway at Mandan. I am here to testify in favor of Senate Bill 2133, a bill to amend section 39-10-41 of the North Dakota Century Code to include requiring a vehicle to stop at a railroad crossing for on-track rail equipment.

The North Dakota Century Code currently affords no protections for on-track equipment at railroad grade crossings. The only protections are for trains. One of the operations that we conduct with the highest risk for injury is traversing rail crossings at grade. This bill would insure that all types of on-track rail equipment would have the same protections as a train. This is a common sense bill that would protect the public and rail workers alike.

I urge you to support a "Do Pass" recommendation on SB 2133.

SB 2133  
3-7-19

#1  
p.1



**Brotherhood of Maintenance of Way  
Employees Division**

of the International Brotherhood of Teamsters

Freddie N. Simpson  
*President*

*Charlie Hogue  
Director of  
Government Affairs*

Deven Mantz  
North Dakota State Legislative Director  
Minot, ND  
701-833-0182

Facts for SB 2133

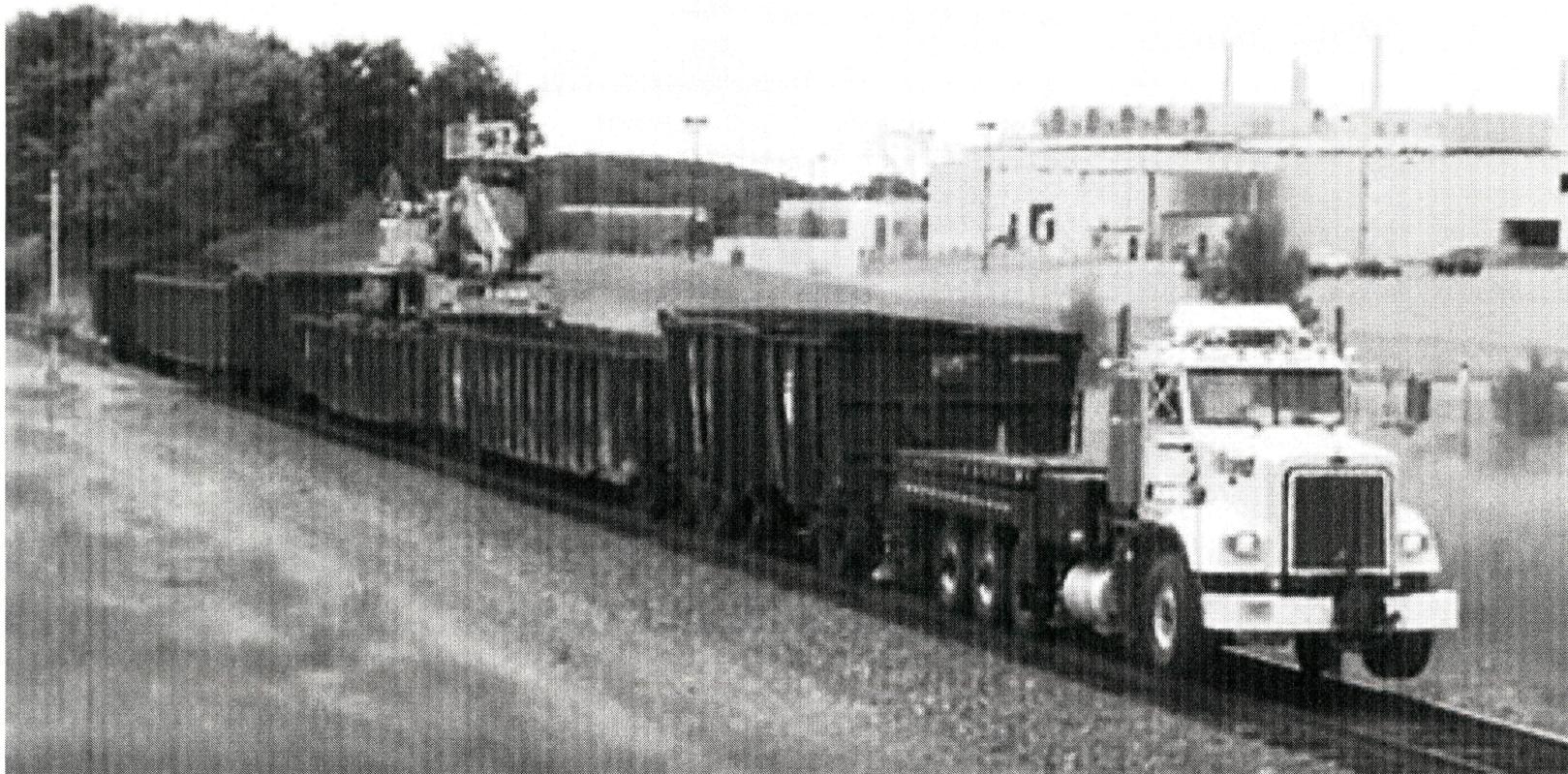
- Serious Public safety issue
- No cost to the state, taxpayers, or railroads
- On-Track Equipment cannot stop on a dime
- On-Track Equipment can be defined as “any car, rolling stock, or other device that, alone or coupled to another device, is operated on permanent stationary rails”
- 20 other states have passed similar legislation
- This legislation has been passed in an overwhelmingly bi-partisan.
- Association of American Railroads has been supportive
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SB 2133  
3-7-19  
# 1  
P.2



Plasser American Stabilizer

SB2133  
3-7-19  
#1  
P.3



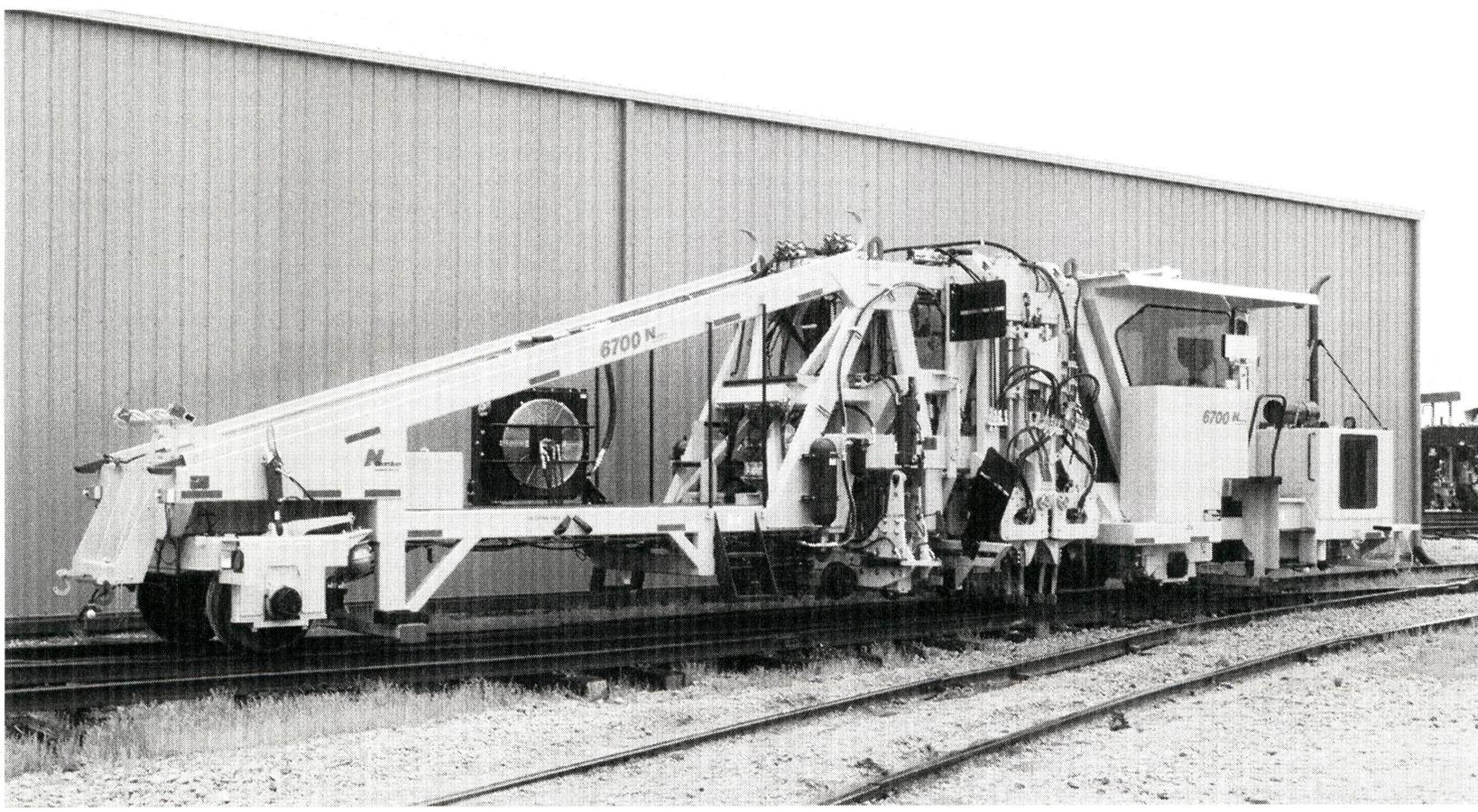
**Brandt Roadrailer**

SB2133  
3-7-19  
#1  
P.4



Plasser & Theurer Shoulder Ballast Cleaner

SB 2133  
3-7-19  
#1  
p.5



Jackson 6700 Tamper



SB 2133  
3-7-19  
#2

**Testimony of Jim Chase**  
**Before the House Transportation Committee**  
**In Support of SB 2133**  
**March 7, 2019**

Chairman Ruby and members of the House Transportation Committee, my name is Jim Chase. I represent SMART-Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation employees. SMART is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen and yardmasters; I am a locomotive engineer for BNSF Railway at Mandan.

I am here to testify in favor of Senate Bill 2133, a bill to amend section 39-10-41 of the North Dakota Century Code to include requiring a vehicle to stop at a railroad crossing for on-track rail equipment.

The North Dakota Century Code currently affords no protections for on-track equipment at railroad grade crossings. The only protections are for trains. One of the operations that we conduct with the highest risk for injury is traversing rail crossings at grade. This bill would insure that all types of on-track rail equipment would have the same protections as a train. This is a common sense bill that would protect the public and rail workers alike.

I urge you to support a "Do Pass" recommendation on SB 2133.