

respect to this issue last time that it was discussed on Select File. I indicated that the decision-making process was now shifted to the Department of Roads and the need for an agreement between the railroads, the political subdivision and the state was eliminated. I since reread the bill and I find that I was incorrect. The decision as to where a crossing should be placed has indeed been placed with the Department of Roads, but for constitutional reasons, as Senator DeCamp has very capably pointed out, you cannot confiscate the railroad's property without some type of an agreement, and so the actual decision as to where a crossing is placed does rest with the Department of Roads. That is a change from previous state law, but there is still a requirement that a contract be signed relative to constructing a device. That's in Subsection 5 in the Committee amendments, and that does not change. So the answer to your question is, while the railroads still do not...we have changed it to the extent that the railroads do not decide where a crossing is to be placed, that has been changed and is with the Department of Roads, but still they could block a crossing by refusing to sign a contract which outlines the details of the construction and the financial arrangements.

SENATOR WESELY: Thank you, Senator Cullan. I think that is the key point on this motion, and that is basically that we can identify now where railroad crossings are unsafe and there is a responsibility placed on the Department of Roads to do something about that problem, but we haven't changed the fact that the railroads have to agree, the local community has to agree, and the state has to agree to finance these projects, which means that if a railroad decides they don't have the money to pay seventeen and a half percent, they can say, uh uh, we're not going to do it, and we can have that crossing remain unsafe just because the railroad refuses to cooperate. We don't have that increased power that I thought we had, and which changed my position on this issue last time, and I would hope... I would hope all of you would seriously consider the implications involved if we do support the Dworak amendment... to...motion to reconsider his amendment, because I think it's going to block some improvements in railroad crossing safety in this state, and I know I'd like to as much as anybody place greater responsibility on the railroads for dealing with the safety problem that they have caused. I, more than anybody am concerned about the fact that they're not taking their fair share on this matter, but if it means that we're going to have more crossings, and continue to have crossings that are unsafe in this state as a result,