*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Welcome, everyone, to the public hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen, from Henderson, Chairperson of the committee. I represent District 34. I'll begin with a few procedural items. For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist the committee members and the transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reach a seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms, who allow people to enter the hearing room based on seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability, due to the HVAC project, of an overflow hearing room for hearings which attracts over testifiers and observers. We ask that you please limit or eliminate the handouts. Please silence all cell phones or other electronic devices. We will be hearing bills in the order listed on the agenda. Those wishing to testify on a bill should move to the front of the room, be ready to testify. We will set aside an on-deck chair in the front so that the next testifier will be ready to go when their turn comes. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required. But if you do have a handout, we need 12 copies and one of the page-- pages could assist you with that. When you begin your testimony, it's important that you clearly state and spell your first and last name slowly for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. We will use the light system in

this committee. Beginning with the green light, you will have five minutes for your testimony. The yellow light indicates there's one minute left. When the red light comes on, it's time to wrap up. Those not wishing to testify may sign in on the pink sheet by the door here and indicate their support or opposition to a bill. And I'd ask that there be no clapping or show of support or opposition to any testimony. With that, my legal counsel to my right is Andrew Vinton; the committee clerk, Sally Schultz. And with that, the pages are Turner and Lorenzo today. Thank you guys for helping us. And we'll start with introductions on my right.

BOSTELMAN: Bruce Bostelman, District 23, representing Saunders, Butler, and majority of Colfax Counties.

ALBRECHT: Joni Albrecht, District 17, Wayne, Thurston, and Dakota Counties in northeast Nebraska.

DeBOER: Good morning, everyone. My name is Wendy DeBoer, I represent District 10, which is Bennington and northwest Omaha.

MOSER: I'm Mike Moser. I represent District 22; it includes Platte County and small parts of Stanton and Colfax Counties.

M. CAVANAUGH: Good morning. My name is Machaela Cavanaugh, District 6, west-central Omaha, Douglas County.

FRIESEN: There are-- other senators may be joining us shortly or sometimes they're in other hearings, and so they'll come and go during the morning. With that, we will open the hearing on LB486. Welcome, Senator Day.

DAY: Good morning, Chairman Friesen and members of the Telecommunications and Transportation Committee. My name is Jen Day; that's J-e-n D-a-y. and I represent Legislative District 49, which is northwestern Sarpy County, including the areas of Gretna, southern MIllard, and western Papillion and La Vista. I'm here today to introduce LB486, which would require a minimum of two-person rail crews. This bill is of special importance to me as I come from a railroad family. My father and grandfather worked for many years as switchmen for Illinois Central in Council Bluffs. My father was a union steward in what was formerly UTU and is now SMART Union. I grew up hearing stories about the railroad and remember my grandpa's tough,

calloused hands, brash and sometimes crass sense of humor, and blue-collar work ethic from years of hard work on the railyard. Grandpa Thomas is surely looking down with pride today as I represent-- as I present this bill to you. Not only is this bill important to me personally, but it's-- but it's an issue that affects all Nebraskans from a public safety standpoint. If you're driving through virtually any town in Nebraska, a few blocks before Main Street, you'll likely be going over a train overpass or stopping at a railroad crossing. We're a state with 3,500 miles of rail, second in traffic only to Wyoming, and it's important to remember that the trains coming through these towns usually carry not just standard freight, but often carry hazardous materials like petroleum, ethanol, and others. Any derailment in a-- in a Nebraska town, regardless of the freight being carried, would present a major catastrophe. In addition to the potential hazards of derailment, anything less than two-person crews is potentially danger-- hazardous to individual workers. Serious injuries happen often when dealing with multiton freight cars moving at very high speeds. And in the event of a medical emergency, such as said injury or otherwise, heart attack or acute medical distress, the risk to the individual is great when there is no one else with them on the yard, which is often a significant distance from anyone else who could be of assistance. The discussion of two-person crew has am-- has emerged in recent years because of advances in technology that allow a remotely controlled automatic braking system called positive train control. However, this technology remains untested in real-world circumstances, even down to the question of what happens if the single engineer has a medical emergency, as I mentioned earlier. What LB486 simply does is update our state regulations to clarify that two people are needed to operate trains in Nebraska. Currently, nine states have laws or regulations with this safety standard, all of which are Western states or states with large mining industries, both of which experience high train traffic. Opponents of this legislation will say there's no correlation between-- between crew size and train safety, that we've gone from 5 people 40 years ago to 2 people today while trains have gotten safer. I agree that for a variety of reasons, trains have gotten safer over the past 40 years. But we've seen a string of accidents and derailments recently in Washington State, Texas and South Carolina, and this causes me to ask whether Nebraska's railroad employees and broader public should be testing-- should be the testing ground for one-man-crew safety while our neighboring states adopt these safety

standards. We're a state with 3,375 miles of freight track that are constantly in use and 3,002 public crossings, including nearly 2,300 unmarked crossings. Freight is such a high-frequency industry in Nebraska that even a minuscule increase in the risk of a derailment is one that we have to take seriously. I would hope that as legislators, we are not interested in leading a race to the bottom in train safety when we know two-person crews have been successful. Lastly, this is a convenience and economic issue. With a two-person crew, when something goes wrong, the engineer stays in the cab and operates the engine while the conductor troubleshoots the damage and assesses the repairs that need to be made. If we eliminate the second person in the train, the individual crew member cannot leave the locomotive without setting brakes on the train. Between this and the inability to quickly carry out tasks like splitting out groups of cars, we are looking at significant increases in our track congression [SIC], including those that intersect our roads. I cannot predict the future, but I would guess that our constituents would be disappointed to find out that we are at fault for an increase in long waits and backed-up traffic from blocked train crossings throughout Nebraska. UP and BNSF are companies devoted to safety who both run two-person crews on nearly all of their routes, and two-person crews are still the dominant form of staffing of trains in the U.S. This is because the safety technology required to implement a one-person crew is unproven, and we can't guarantee every company in this industry in the future will keep these high standards. Positive train control braking and modern GPS can do a lot, but anyone who's ever dealt with technology knows a GPS system and a synched-up train can't match the reliability of a second person. Positive train control braking systems can't split a train with-- when an emergency responder needs a miles-long train split to get past a public train crossing in time to save a life, and it can't immediately come to the side of a colleague for extra help. We have to recognize that moving from four to three or from three to two is significantly different and less risky than from-- than moving from two people to one. A minimum of two people is necessary for basic safety of everyone involved. Furthermore, previous legal issues have now been cleared, and it is time for Nebraska to join other states that have adopted this safety measure. Just last week, the Ninth Circuit struck down the Federal Railroad Administration's preemption on state two-man regulations-- two-man crew regulations-- excuse me. The court ruled that the FRA acted arbitrarily when it tried to preempt state law and that it disregarded safety standards. LB486 brings Nebraska in line

with other states in adopting a straightforward safety measure. We have Andy Foust testifying behind me from the SMART Union, who can better answer technical questions on the work that engineers and conductors do. But I'd be happy to answer any of your questions at this time.

FRIESEN: Thank you, Senator Day. Welcome to Senator Hughes, and Senator Geist joined us. How many people are going to testify on this bill? We're going to go to four minutes. Any questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. And I may have missed it; you may have said it, but the states that do have two-man crew now, which ones are there? How many are there? Does--

DAY: There's nine other states. I don't have--

BOSTELMAN: Does-- and the states on east or west, are they included in that, do you know?

DAY: I-- you know, I'm-- I-- Sam, do you know off the top-- I don't have the names of the states off the top of my head.

BOSTELMAN: That's-- someone behind you might know.

DAY: Sorry, yeah. Yeah.

BOSTELMAN: That's OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, you're going to stick around for closing?

DAY: Yes.

FRIESEN: OK. Proponents of LB486.

RICHARD SCHMELING: Good morning.

FRIESEN: Welcome.

RICHARD SCHMELING: Senator Friesen, members of the committee, my name is Richard Schmeling. I live here in Lincoln and I've been told that mayor--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Spell your name. Spell your name, please.

RICHARD SCHMELING: S-c-h-m-e-l-i-n-g. I think I've been told that the mayor says that if we make a speech, we can take our mask down.

FRIESEN: Yes.

RICHARD SCHMELING: May I take my-- thank you.

FRIESEN: You may take your mask down, yes.

RICHARD SCHMELING: All right. Well, I wanted to visit with you about a subject that's been near and dear to my heart ever since I was a small child. I have been interested in railroads. I'm a railroad historian. I have now authored or coauthored three books about railroads. I have authored about 15 articles that I prepared in national railroad publications. My photographs of trains have appeared in more than 30 books that have been published and circulated nationally. About 1996, I got the ideal job and my ideal job was I was a crew van driver for Burlington Northern Santa Fe at the yard here in Lincoln, Nebraska. As such, I worked closely with the railroad crews, I got to observe railroading up close and personal, and so I think I'm able to give you some insight as to why this bill ought to be passed. And by the way, my organization ProRail Nebraska supports the passage of the bill. We feel that we have Amtrak trains and hopefully someday commuter trains that are running along with the freight trains, and we want those trains to be safe so that we don't have trains colliding. And a two-man crew, in my opinion, is absolutely essential for this to happen. Now it may be of interest to you that today the railroad presidents and management don't run the railroads. Our railroads here in Nebraska are run by Wall Street. Everything that you see happening on the railroads today is driven by Wall Street and the great god: dividends and profits. So where we used to see freight trains that were only 50 cars long, we now see freight trains that are 200, 230, 250 cars long. I know Senator Bostelman has expressed some concerns about crossing blockage, and that's something we may need to address at some point in time. But let me give you a scenario. Let's say we've got one of these long trains or a standard-length train, which can run about 120, 130 cars. The cars are coupled together by couplers. And they're-- they're just sort of like if-- if you imagine your hands interlocking, there is a coupler knuckle which fits inside the other knuckle. That coupler knuckle weighs about 85 pounds. And if one of

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

those breaks, if that engineer is-- is stuck to the engine, who's going to replace that broken coupler? So you need a minimum of two-- two crew members in order to operate these long trains and operate them safely. My time is about to expire. I know some of the other speakers will have some other thoughts on it. I just will leave you with this thought. I don't think we're anywhere near the point in time where we could get by with one man in the cab or, as some railroads would like to do, have nobody in the cab. We know what happens with our computers. They break down, they malfunction, and I hope we never see the day where we have trains running down the tracks in Nebraska with no human being in the cab. Thank you for hearing my testimony.

FRIESEN: Thank you, Mr. Schmeling. Any questions from the committee? Seeing none, thank you for your testimony.

RICHARD SCHMELING: Thank you.

FRIESEN: Other proponents, LB486? Welcome.

PAT PFEIFER: Senator. My name's Pat Pfeifer, P-a-t P-f-e-i-f-e-r. I'm the chairman of the Nebraska State Legislative Board Brotherhood of Locomotive Engineers and Trainmen. I've been an engineer for 30 years. The only person I'm interested in getting off a train is me in 14 months. That's the date that I get to retire. I brought you some homework. And I'm not going to read it. I got a statement in there on my behalf, my organizations. I've got the summary of the Ninth Circuit Court of Appeals ruling, a statement from Lawrence Mann. He's the primary author of the Rail Safety Improvement Act the Federal Rail Safety Act that gives you guys right to address any safety concern that's not addressed in rules and regulations. So if you have any questions of the states-- to your questions before, Senator Bostelman, West Virginia, Wisconsin, Colorado, Nevada, California, and I think Arizona all have two-man crew. The last four years have been a living hell for most railroads, with the previous FRA administration issue of waivers, fines for anything from train inspections to, you know, sometimes even hours of service. The negative preemption that they tried to do that said that those states were invalid, that question is addressed in that Ninth Circuit Court of Appeal ruling. With the pursuit of PSR precision railroading that most of these railroads are going after purely for profit, and nobody blames them for trying to increase the profitability, but to do it at the expense of the safety of their employees, the citizens of the state, or any state that

they're running train through, that's just wrong. The gist of what you have to make a decision on, one, I'd encourage you get it out of committee because every senator has trains running through their district and every senator should have the right to have a vote on it. I can't-- you know, it's hard to talk about this without talking about the next bill you're going to hear. But in the last four years, our trains have gone from 100 cars, 120 cars, to 3-- 300 cars, 320 cars, 10,000 feet to 18,000 feet, and they break down. The conductors that I work with, they've got to walk three miles back, three miles up on not just one train, numerous trains during the day. Then it gets down to the public safety. You know, we're the first responders. If we have a traffic accident or crossing incident or derailment before the fire department gets there, they're looking to us: What are you carrying or where's that car, where's that person he hit on the train? I can't leave the cab [INAUDIBLE] to tell you. That conductor does, and a lot of times they're left with a lot of emotional damage, too, PTSD or whatever you want to say. We're proud of what we do. We're proud of the safety record, the-- that the railroad achieved because of us, not because of technology. PTC, that's a safety overlay. That's all it is. It's to help protect us. So to not support two-man crew is to support a business plan that lets the rail-- these railroads become more and more profitable. At what point does the safety of the public and for my members outweigh the need for record profits? Every one of these railroads is making a billion dollars in profits per quarter. It's been steadily going up and there's always the need for constant or continuous improvement. Two hundred and seventy cars today might be 350 cars tomorrow, might be 400 cars the next day. If we don't address this and protect the public, protect us, and put some standards, then you got to support a business plan and that's what you're tasked with. It's-- is the safety of the public that puts you guys here more important or is supporting a business plan more important?

FRIESEN: Wrap up your testimony.

PAT PFEIFER: I'm happy to answer any questions you got.

FRIESEN: Thank you, Mr. Pfeifer. Any questions from the committee? Seeing none, thank you for your testimony,

PAT PFEIFER: I'll-- on a side note, I think we've been doing this, our organizations, for almost 20 years, even before half you guys were

elected. The message has always been the same. This is always about safety for us.

FRIESEN: OK. Thank you. Other proponents--

PAT PFEIFER: Thank you. I apologize for not bringing enough copies.

FRIESEN: Other proponents who wish to testify in favor of LB486?

KEVIN HOWELL: My name is Kevin Howell, K-e-v-i-n H-o-w-e-l-l. I live in Seward, Nebraska. I'm the father of three wonderful children, got a beautiful wife. I've been with the railroad for 23 years as a locomotive engineer, a conductor. I also have 15 years-plus of safety and compliance as a safety representative for the railroad. I think it's very important that we pass a two-man crew bill in Nebraska. The-- having two people up there, everybody's kind of went over it. In case of emergency, it really helps. But I can't tell you in my career how many times somebody's been there just to say, hey, did you see this, did you see that? And it really brings you back to task and makes sure that, you know, bad accidents don't happen. Two of the major accidents that have happened in North America, you had one at Lac-Mégantic, Canada, and one in Chatsworth, California. Both of those accidents had a lot of contributing factors. But one factor that they had in common was they were one-man crews. In Lac-Mégantic, the engineer, who was by himself, failed to properly tie down a train as he was leaving it, had nobody to check his work, you know, to talk to, brief with and all that, and a-- a really bad accident happened that several people were killed and injured. I think they probably could have been stopped if there was, you know, more than one person there responsible for that. And they all ended up changing laws internationally because of these accidents. It's not just about protecting somebody's craft or making sure that somebody has a job. If they reduce the crew size on the railroad, it wouldn't affect my job. I'd still have a job. I'm here because I have children and family that live in Nebraska, and I think it's very important that the railroads take safety as a priority. Since I hired on, 23 years, they've said we're on a path to zero, no injuries, no nothing like that, we want everybody to work safe. When you look at the pandemic here, we have layers of safety. We're wearing masks. We're-- we're washing our hands. We're putting up Plexiglas and stuff like that. So now the railroad says, hey, we've got this new technology, but maybe we can get rid of another layer of safety. Why would they do that? I don't

know. If you're on a path to zero, you don't want any injuries at all, why would you take one of those layers away just because you have a little bit of technology that could help? And that's my testimony. Thank you.

FRIESEN: OK. Thank you, Mr. Howell. Any questions from the committee? Senator DeBoer and then Senator Moser?

DeBOER: Just-- thank you very much for your testimony. Just a clarifying question. You said that they changed the-- the laws internationally because of the accidents. Can you be more descriptive? What do you mean? What happened?

KEVIN HOWELL: Some of our rules about securement was changed by Lac-- Lac-Mégantic, and then the Chatsworth law change was the cell phone rules where, you know, we're not allowed to even-- we have to have our cell phone stowed away anytime there's any safety-sensitive things going on around a train, so.

DeBOER: So as a direct result of those accidents, they made--

KEVIN HOWELL: They made laws.

DeBOER: I-- the first one, what's the securement, what does that mean?

KEVIN HOWELL: Well, securement means like if you're going to leave a train and there's going to be nobody on it, so they-- they have to properly secure a train. Now we have to lock it. We have to, you know, make sure there's-- there's five different things that you have to do inside the locomotive and with-- with handbrakes and all that, and then do tests to make sure it doesn't roll away and all that kind of stuff.

DeBOER: Was that accident one in which there was a rollaway or--

KEVIN HOWELL: Yes.

DeBOER: OK.

KEVIN HOWELL: It rolled down a-- a hill into that small town of-- of Lac-Mégantic. And there's a lot of news stories on it. Probably one of the best pieces was the people that were in this little cafe. Many of

them got injured and died. Some of them survived. And it's harrowing to listen to their stories about what happened.

DeBOER: Absolutely. And the other one--

KEVIN HOWELL: It was an oil train, so it was a big explosion.

DeBOER: Oh.

KEVIN HOWELL: Yeah.

DeBOER: The other one, I kind of remember that. The other one, with the cell phone, was that implicated in the-- the accident?

KEVIN HOWELL: The cell phone?

DeBOER: Yeah.

KEVIN HOWELL: Yeah. The engineer was a standalone passenger engineer, so he didn't have anybody else in the front cab with him. The speculation is that he was on his cell phone. I think they used that from his cell phone records. And, you know, he-- in the-- running into a UP train in California there, and a lot of the passengers that he was responsible for were injured and killed.

DeBOER: How would that have been affected if there had been two in the--

KEVIN HOWELL: Well, number one, a conductor could have been there to say, hey, put that phone away. And number two, a conductor could have been there to say, you're on a yellow signal or coming up to a red signal, let's stop so we don't hit this UP train, so-- or-- and-- and the conductor has its own-- we call it a conductor's minimum. It's an emergency brake application-- applicator that he can throw and stop the train if need be.

DeBOER: OK, thank you.

KEVIN HOWELL: Thank you.

FRIESEN: Thank you, Senator DeBoer. Senator Moser.

MOSER: So if you have a two-person crew on a typical train, would you have an engineer and then a conductor?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

KEVIN HOWELL: At this point, yeah, that's what we-- a normal crew size is a-- is an engineer and a conductor, both on the head end. Sometimes, depending on the work that's to be done, you might have a brakeman or something like that, so.

MOSER: The conductor probably isn't qualified to do everything that the engineer can do.

KEVIN HOWELL: That's correct. I am a conductor and an engineer. I'm qualified to do both jobs. The-- from going from conductor to an engineer is considered a promotion, so you do go through additional training. But most conductors know how to stop a train. I'd probably say all conductors know how to stop a train and when you might be getting into trouble when the engineer is not doing what he's supposed to be doing, so there is checks and balances. We both-- we work together as a team.

MOSER: Is there a bathroom in the--

KEVIN HOWELL: Yes.

MOSER: --train?

KEVIN HOWELL: Yes. Not always sanitary, but there is one.

MOSER: The accident where you say he didn't tie off his train, that's a way of saying that he didn't follow procedure and didn't--

KEVIN HOWELL: Well--

MOSER: --set the brakes or he didn't--

KEVIN HOWELL: The procedures change.

MOSER: --because he-- you wouldn't actually physically tie it off or chain it to something, I mean.

KEVIN HOWELL: They can just with single cars now. We have handbrakes that work outside of the air system, the air brake system.

MOSER: Because if they decouple, the air brakes lock, right, and stop the car?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

KEVIN HOWELL: Yes, if there's air in there. Now air can leak out over time, and that's what happened with this. There was a fire on the locomotive and the engineer-- or the engineer-- I can't remember the whole situation, but the engineer didn't sufficiently tie enough handbrakes to hold this train on a hill. Now we do have-- we do-- we are required to do a test to make sure that it doesn't roll. At that time, I don't think that was part of the law yet, so that's where I say some of the laws have changed internationally because of this incident. But, yeah, he-- he failed to tie it down properly and then the train rolled away after a-- a fire, and some firemen were out there and that kind of stuff. He even-- the engineer even said, hey, can I go back out there and take a look at it or-- or whatever, and the yardmaster supervisor at the time said, no, everything's fine, and then a few hours later it-- it rolled away on them.

MOSER: Thank you.

KEVIN HOWELL: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you for your testimony, Mr. Howell. Any other proponents for LB486?

JAMES SCOTT DULIN: Senator, we can take these off?

FRIESEN: Yes, please.

JAMES SCOTT DULIN: Hi. I'm James Scott Dulin. I'm from Hershey, Nebraska, population 60-- 665. D-u-l-i-n is my name. I graduated from Hershey. I still live there today, graduated in 1987, hired on the railroad in 1988. I became a conductor in '89, an engineer in '94. I served ten years of safety captain for the railroad, peer reviewed by my fellow workers. I've had about 33 years of railroad experience. The last 15 of those years have been exclusively as a railroad accident investigator. I do that today. In 1997, a company named Allegheny Corp., which designs a lot of the components that are in rail devices that help the trains move, recalled one of their components called an insulated I-Bond. They said, you've got to pull these out. When they do break, and they all eventually break, these ones fail catastrophically, which means derailment. It might be a high-speed derailment, might be a low-speed-- speed derailment, and it might be in a town and it might not, but they-- they fail catastrophically. The

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

railroad I work for, as well as all the railroads in the nation, opted to ignore this recommendation for recall and instead pull these devices out of the rail someday, when they replace the rail as needed. They always opt for the cheaper option; they don't necessarily care about the human option. In 2004, August 5, at 12:41 a.m., I was the engineer coming home for my away-from-home terminal in Marysville, Kansas, just across the border in-- into Nebraska. I had a 15,000-ton, 7,000-foot-long manifest train, which include all sorts of commodities, including a sizable amount of hazardous material. I was traveling 50 miles an hour west. There's two tracks in this area. There was a train on the other side of Carleton, Nebraska, that was coming at me. It was a loaded coal train. It was 6,800 feet long and 143,000 tons of coal. It was also doing 50 miles an hour. When they got to the city of Carleton, Nebraska, they hit that insulated I-Bond that was recalled and defective and it diverted them onto my track. One-hundred percent of the safety appliances that the railroad had installed, the computers, everything they're going to tell you about that will take over, every one of them failed. I did not. I applied the emergency brake nine seconds before impact and kissed my butt goodbye. We hit at a near combined speed of 100 miles an hour. We derailed 83 of my 89 cars. All three of my locomotives rolled and buried partially into the earth, spilling about 5,000 gallons of hazardous material along the way. I stopped that train somehow, some way, four feet from hitting the 50,000-gallon anhydrous tank that was part of Carleton, Nebraska's, liquid fertilizer plant. If that-- if we would have ruptured that, Carleton would have been wiped out. Not-- they're going to-- they're going to try to tell you that their devices will prevent that. I'm-- I'm here to tell you that they didn't-- they didn't work that day, and had it not been for the human factor, that that would have been done for. I-- I brought this quarter here. They want you to reduce that train by 50 percent. The number-one safety device on that train is a human. The only one that didn't fail that day was the human factor, and they want to cut it down by 50 percent, a coin flip. This coin was in my pocket that day. They want to cut it down by a coin flip. I want you to all call your constituents, pick one at random out of your phone books, throw a dart at it, if that-- if that town has a railroad crossing in it, and I want you to ask that one person at random, if the next 70-mile-an-hour train carrying hazardous material comes barreling through their town, do they want one person or two person on that train? Guarantee you, every one of them is going to pick two. Every one of your constituents that you

call is going to pick two people because 50/50 is a terrible option. You don't know whether this is heads or tails right now. Heads, if they get their way, there's a 50-- I-- I'm not on that train and the town of Carleton gets wiped out; tails, I am on that train and the town is saved. That's your decision you have before you--

FRIESEN: Thank you.

JAMES SCOTT DULIN: --50/50. Thank you.

FRIESEN: Thank you for your testimony. Any questions from the committee? Senator Moser.

JAMES SCOTT DULIN: Yes, sir.

MOSER: The component that you say failed and caused that derailment, is that in the switch?

JAMES SCOTT DULIN: It's-- it's the-- it's a piece of plastic that they put inside the rail to shunt the electricity that's going to the rail so that, among other things, the crossing gates will come down. You have to stop that electricity with plastic. So it's in there. It's a really hard plastic. They come out with a new design and they thought it was going to be stronger and last longer, and it did. Unfortunately, when it did break, it broke in the shape of a derail, and that's exactly what happened. It derailed the train into my train.

MOSER: But it's-- so it can happen anywhere or it's just in a switch?

JAMES SCOTT DULIN: That-- that's in switches, derails, crossings. Anytime there's a signal, the-- the lights you see out there, you'll find these isolated I-Bonds. For-- for example, there were 250 of these new-style recalled ones in place in Nebraska on that day. The-- after the recall notice, my understanding is the railroad removed 3 of them and left the other 237. [SIC]

MOSER: So it's an insulator between rails?

JAMES SCOTT DULIN: It's-- if you have the rail, on three, they cut the rail and they insert a piece of plastic in there's a no-- no rail actually touches metal to metal, so it shunts the electricity that's flowing through there so that the devices work properly.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

MOSER: Insulates the rails, not shunts it, necessarily.

JAMES SCOTT DULIN: Shunts would be the pro-- it shunts the electricity flow in there, stops the electricity so that when the wheels roll over and pass that plastic, the gates drop down. If you ever wondered why the-- the gates drop down automatically, that's why. It-- it does a lot of other things too. That's probably the most easy to understand. It failed. It caused that train to derail. It was a cheaper option. They did it.

MOSER: Are-- are some railroads are still requiring two-man crews or proposing two-man crews for hazardous trains and maybe not for other trains?

JAMES SCOTT DULIN: My understanding is, no, they're-- they're not making any distinctions. They'd certainly be within their rights to do whatever they want. It's their choo-choo set. They get to run it in any way they want to. So if-- if you turn this down and they opt for one-man crews, they can pick when and where to put those and noth-- no law will govern them doing the right thing, which is every train should have them. You don't-- you don't want that moving pile of debris-- my-- my derailment was 300 yards, three football fields long, a few rail cars, 83 out of 89 cars. It was 80 yards wide, sliding at 50 miles an hour, 15,000 tons sliding that fast. It stopped four feet from a disaster that would have wiped out that entire Nebraska town. That's too much energy, that's too much weight, that's too much danger to leave it up to technology. And technology didn't stop that train. Me and my conductor did. And somebody wants to cut that greatest safety device in half. I think that's unconscionable.

MOSER: Were you injured in the acc-- were you injured in the accident?

JAMES SCOTT DULIN: I was. I never worked a-- I never worked-- drove train again after that day.

MOSER: OK, thank you very much.

JAMES SCOTT DULIN: Thank you.

FRIESEN: Thank you, Senator Moser. Senator Bostelman, just more-- wait-- another question here. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JAMES SCOTT DULIN: Oh, yeah. Sorry.

BOSTELMAN: That's OK. Very good. A few more questions for you.

JAMES SCOTT DULIN: Never done this before.

BOSTELMAN: That's OK. You're doing fine. So I want you to explain to me some of the different positions. So I've heard brakeman, conductor--

JAMES SCOTT DULIN: Sure.

BOSTELMAN: --engineer. So is there anyone else that potentially could be on that train? So what does a brakeman do, what does a conductor do, and what does the engineer? What are their responsibilities?

JAMES SCOTT DULIN: Historically, the brakeman is there to tie brakes. He's-- he's the labor, the greatest source of labor. If cars have to be set out and you need an extra set of hands, trains are really long, so if you've got somebody that's a mile away making a cut on a train or picking up a car, you need somebody on that end and somebody on the head end. It's-- it's-- it's time consuming to walk a mile and back every time you want to make a switch move. Typically, your brakeman will do that if there is one on them. They've already cut that off. I did-- I didn't think that was a good idea, but they did it. And it-- it makes-- when you're stopped waiting for that train at that crossing for so long, it's because that brakeman is missing. There's not a guy. So you've got another guy that's walking that mile. OK? Now I got to make a cut. Now I got to walk back up here to the switch. I got to walk back there. That can take an hour, two hours. That's why you're blocked at that crossing for so long. There's a missing man. That's the brakeman job. He does all the work. The conductor, when the brakeman's missing, takes over the duties, so he does all of that. Plus, the conductor is the authority on the train. He-- he governs. He has-- he has the right to supersede the engineer if-- if he fails to-- to do his duty. And the engineer has the right to supersede the conductor if he fails to do his duty. But he is-- he is a check valve to make sure the engineer does everything right, understands the slow orders that are coming, the speed limits, if you will. He is-- he is the governor for the engineer to make sure he's doing all those things right. If the engineer is doing his jobs right, then-- then he-- he-- he's only there in case of disaster or if work needs to be done. The

engineer operates, controls, moves the train in a safe way. It takes years to learn how to do that. It's-- it's-- it's unimaginably difficult. When I would use a train engineer, I would-- I would tell them, we're going to move 143,000 tons at a high rate of speed, this defies every physics question you ever had in ninth grade, we're going to do it anyway because we've got to do it. It does-- does boggle the mind what that engineer has a responsibility to do.

BOSTELMAN: Thank you. Question back to the accident you were referring to that you were involved in. The other train that was coming to you, it al-- it derailed into you or it--

JAMES SCOTT DULIN: Yeah. So this is a-- a dual-track area, you know, typically westbound on one track, eastbound, and they're separated by a short distance. He was coming towards me in the middle of the night, 12:41 a.m. He hit that. He had no idea what he hit. He started derailing. He called out to us. I-- as protocol, I-- I-- I acknowledged on the radio, you're in an emergency-- emergency. When I unclicked my thumb off that microphone, I could tell by his voice it wasn't just your routine emergency stop. There was something wrong. He was-- elevated voice. I immediately hit the emergency braking, which is 100 percent of all the brakes I can apply, and nine seconds later we were upside down, buried in cold, mud and rock. I was buried up to there, my conductor was buried up to there, and I had to listen to him scream all night.

BOSTELMAN: So the other-- the other engineer on the other train, so was anybody killed?

JAMES SCOTT DULIN: No, no one was killed. So they diverted their train; their locomotives skidded to the side. We actually made head impact with their fourth head coal car and they-- they got shot off to the side in-- in the derailment so they-- they weren't injured at all. Me-- neither me or my conductor ever worked again.

BOSTELMAN: OK, thank you.

JAMES SCOTT DULIN: You're welcome.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none--

JAMES SCOTT DULIN: Great. Thank you for letting me talk.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: --thank you for your testimony. Other proponents for LB486, please come to the front, be ready to go. Welcome.

JASON MEYERS: Good morning. My name is Jason Meyers, M-e-y-e-r-s. I'm from McCook. I've worked for BNSF Railway for 15 years. I started in 2006, hired as a conductor, took my promotion to engineer in 2012. And with the downturn in business, with the recent world events, I'm working back as a conductor again now. I think the first thing we should have presented all you guys with is a railroad glossary of terms because we use a lot of terminology that's not very well understood. It's kind of our own lingo that we use and it takes a little while to learn it even after you start there. I guess the biggest thing I want to bring to you today is the Ninth Circuit Court of Appeals ruling makes this something that the states definitely do have jurisdiction over. They've decided that, so there's no longer a need to put this off at the state level. Safety is, first and foremost, the most important part of the need for this. We don't want to scare you and make you think that things are dangerous, that the railroad is dangerous. We perform and behave and act very safely, and that's because of the employees out there. We can-- we can testify to that based on our safety record and our performance over the last how many years. When's the last time you heard of the serious train incident in the state of Nebraska, let alone in the country? They happen. Accidents do happen. We don't like it, but it's due course to that two people that are on the head end of that locomotive, taking care of that train, those commodities, and the people that they pass, the towns they pass through. As of right now, there's no imminent threat to crew consist, the-- the fact that we have two people on that-- on a crew right now, but it is in negotiations. The railroads and the labor unions are working, coordinating, talking. I don't want to use the word "negotiating" because it doesn't feel like a negotiation, but it's coming and we need some help. We need some protection, not only for our jobs and our employment but for our communities and the safety of our state. When these trains pass through towns, you know, we talk-- there's a lot of talk about autonomous vehicles, autonomous trucks on the road. And I'm not 100 percent up to speed and knowledgeable, so I'm not going to claim I know. But I believe there's an allowance in the state of Nebraska for autonomous trucks, but they're not allowed count haz-- carry hazardous materials. And these trains carry three to four truckloads of hazardous material per car that's in that train up to 110, 120, 150

cars. So not only do we want-- not want to talk about autonomous train operations, we don't want to talk about taking one person out of that protection for the communities and the-- and the cities we pass through. They're going to say that there's no significant proof that reducing crew size from two to one will impact safety. There's no proof in that. There's no jurisdiction for that. The only way we're going to find out if two is-- or if one is better or just as good as two is to roll the dice and take that test. I don't think any of you want to go back home and look your constituents in the eye after an accident and say that you took a gamble and-- and were wrong. I'm going to take a little different spin on it and talk about the economics of it. It is going to impact people's lives and people's well-being, people's incomes. If this isn't passed, the railroad has their way and is able to reduce crew size from two to one, you're looking at 50 percent of the workforce in these towns and villages and cities that employ railroad employees. When you take a person that's earning a very good salary working for the railroad and reduce that to little or nothing, and with the unemployment the way it is right now based on the current pandemic, where is the state going to come up with that tax revenue? Is the railroad going to ante up and make up the difference? I think we both know the answer to that question. It's going to affect these local economies in a devastating way. We are very safe. We are very proud of what we do. We take great pride in what we do and we want to continue to do it that way. Technology is not foolproof. We know it. We've seen it. We all see it in our homes. We can't-- we can't rely on technology to take care of what people are taking care of right now. So thank you for your time.

FRIESEN: Thank you for your testimony, Mr. Meyers. Mr. Mos-- Senator Moser.

MOSER: How much does a typical conductor make, just in general terms?

JASON MEYERS: In general terms, it's very hard to say. It all depends on how many trips, miles you work over the course of the year.

MOSER: You get paid by the mile?

JASON MEYERS: You get paid by the mile for the most part. That's another-- it's hard to explain it. With--

MOSER: I wouldn't want the real complicated--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JASON MEYERS: Well, with--

MOSER: --explanation. I may not understand it anyway but--

JASON MEYERS: Right now, the way things are, the railroads are trying to do more with less. They want less people working and work-- those people working more, so it's not--

MOSER: But, I mean, are they making $50,000?

JASON MEYERS: It's not out of the question to say a conductor could make $100,000 a year.

MOSER: And an engineer might make $150,000?

JASON MEYERS: Hundred and ten, $115,000. There's not a whole lot of difference.

MOSER: Is one more stressful than the other?

JASON MEYERS: Yes and no. You know, if you're on a-- they both are very demanding, both. There's a lot of responsibility in both positions. If you're on a coal train that you're going to get on at point A and you're going to run it to point B and get off, you don't have any switching, you don't have any work to do, work, so to speak, along the way, the engineer has a lot of responsibility handling that many tons of that much like the train. But the conductor has just as much responsibility making sure he's doing his job safely. Now if there's-- if it's a manifest train or a grain train, let's say you're building the facility--

MOSER: Manifest train would have stuff that belongs to different people.

JASON MEYERS: Mixed freight-- may have lumber, may have hazardous materials, it may have grain, it may have empty cars. It's just-- it's a mixed bag. And if you're-- if you're on one of those, the conductor has a lot of responsibility there because you've got to make sure everything in your train is placed accordingly and in compliance with the rules, not only railroad rules but federal rules.

MOSER: Certain things can't be next to each other?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JASON MEYERS: Correct, correct. You've got to make sure you have proper documentation for all the hazmat stuff. You've got to make sure you have proper documentation for all the air tests. The trains work on air brakes, and they're kind of the opposite of a truck braking system. If you're-- if you're familiar with a semi, you actually take air out of the system to apply the brakes on a train, which charges the brake cylinders. It's-- it's, again, back into our-- our hard-to-understand verbiage, but you're responsible to make sure that that train was air tested, that everything is functioning at 100 percent before you leave, and documenting any issues or any failures. And then when you have set outs and you leave cars in route between A and B, you're responsible for reporting those and interchanging those; if you're interchanging with the foreign railroad, making sure that documentation is taking place.

MOSER: What-- what happens if-- say you have a wheel that they're cast iron or whatever, and if they crack or fall off or something, does that typically derail the whole train or can you--

JASON MEYERS: It sure can. It sure can. There are more technology out there. They're what they call detectors on the rail out there. And there's different places that have impact detectors that measure how hard that wheel is hammering on the rail, measures the difference between this car and that car and that car. And-- and that report goes to a mechanical car desk, which is in Fort Worth, Texas. The mechanical car desk relays that information through the dispatching office, which is also in Fort Worth, Texas. The dispatching office then relays it to the train crew via radio and we are--

MOSER: Now is this specific to one particular railroad?

JASON MEYERS: This is BNSF.

MOSER: OK.

JASON MEYERS: That's all I know about.

MOSER: OK.

JASON MEYERS: I can't speak for anybody--

MOSER: Burlington Northern--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JASON MEYERS: Burlington Northern Santa Fe.

MOSER: --Santa Fe.

JASON MEYERS: Yeah.

MOSER: OK.

JASON MEYERS: And the dispatcher communicates it to the crew and at that point, the crew will stop the train, the conductor will get out, and depending-- depending on the severity of the report from the detector, you may have to walk back to find that car. It may be ten cars back, it may be 120 cars back, but you walk back and you make an inspection. You check it out to see. And they-- they also detect whether the bearings on those wheels are hot. If you have a differentiation in temperature between side to side, one axel to the next, the conductor is responsible for going back and inspecting that, checking it out to see if that bearing is hot or that wheel's got a problem. If the wheel is cracked, you're grounded. Most of the time, it's not severe enough to where you can't move it to the next station, which may be 100 yards, it may be 10 miles.

MOSER: Somewhere where you could work on it?

JASON MEYERS: Right, get it to where a mechanical truck can come out and fix it.

MOSER: Are you limited in the time that you can operate the train?

JASON MEYERS: Our hours of service, from the time we come on duty to the time we must be relieved from duty is 12 hours. We can only work 12 hours and that's an FRA requirement.

MOSER: Out of 24?

JASON MEYERS: Twelve hours at a time, and then you have to have ten hours off before you can take your next tour of duty. So you could realistically have two starts, crew starts in one day. You can work 12 hours, but that doesn't necessarily mean you're relieved and off duty and-- and to your destination in 12 hours. You're supposed to be relieved from duty, no longer have any responsibility on that train within 12 hours, but there are times-- and weather affects it. I'm not going to-- I'm not going to fib that, you know, weather has a problem

with getting vans or transportation to us to get us off those trains. There are times when crews are on trains 16, 18, and more hours, and then when you accumulate--

MOSER: Not dr-- not driving it necessarily.

JASON MEYERS: Not operating but on--

MOSER: It stops somewhere.

JASON MEYERS: --not [INAUDIBLE] and they use the technical term relieved from duty. When they consider you relieved from duty, that means you're no longer operating the train, moving the train, yet you may still be sitting on it, so to speak, protecting it.

MOSER: Can you-- I mean, what-- do the hours in the crew van when you're being ferried to and from the train, do those count against your 12 hours?

JASON MEYERS: They do, they do, yep.

MOSER: OK, thank you very much.

JASON MEYERS: Thank you for the question.

MOSER: Sure.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you, Mr. Meyers--

JASON MEYERS: Thanks, folks.

FRIESEN: --for your testimony. Other proponents for LB486, please come to the front. Morning,

ADAM HAUSMAN: Morning. Hello. My name is Adam Hausman, A-d-a-m H-a-u-s-m-a-n. I've been a locomotive engineer for just about ten years with BNSF. BNSF itself-- prides itself on safety and is one of the first words that comes out of the carrier's mouth when you get hired. We learn the-- the "seven deadly decisions" on our first day of training. We are told safety is BNSF's number-one priority for its employees. While I agree that safety is the number-one priority, we must come to an agreement on what we view as being the safest work

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

environment for us employees and the public. I'm not sure if I-- if you have watched the news recently, but in Cameron, Texas, there was a train derailment and hazardous waste leak. These types of trains run through your community every day. Now positive train control can be very useful. However, having two people on the locomotive can be more useful in a situation like this. For example, the accident involved a semi-trailer and hazardous waste. The conductor was able to-- to assist the first responders with important information regarding the materials being hauled on the train and could work with the engineer to move the train cars to effective-- effectively allow train crossings to remain open and help-- for help to arrive. In this situation, we-- we control by PTC and just one crew member, first responders would have to have-- locate the engineer for train material information, wait potentially hours for a rapid responder to arrive to assist the first responders. Rapid responders are employees that assist train and train crews that are in route. These responders cover several miles of territory, so, therefore, the word "rapid" should be used lightly. PTC is another advancement in technology, but we all know that technology can fail. PTC have four eyes-- PTC does not have four eyes. It cannot detect an individual or an object on the track. Trains are roughly 19,000 tons and do not stop on a dime. BNSF are also never on a-- BNSF employees are also never on a schedule. Many railroaders work-- you know, don't work the same shift and are usually on duty for 12 or more hours and are fatigued. Having another person in the cab keeps the engineer attentive going down the rail. Another reason two people should always be on a locomotive is due to possible health emergencies. I have experienced that myself and in my situation, had a conductor not been available to dispatch somebody for help, things could have been a lot worse. In the state of Nebraska, all 49 senators have railroad tracks going through their county and districts. We must try to consider this to get out of the committee and let all 49 senators discuss this on the floor. And also, I know there was a couple of questions about the Lac-Mégantic in Canada. After the 2013-- after the Lac-Mégantic, Canada, accident, Canada has now-- have a two-person crew requirement, and that's a government mandate in Canada. And then I know Bostelman was talking about the sort of-- or the-- what the conductor and the engineer does. In your-- the pamphlet that you got, on the last two pages, there's CFR requirements, the qualification of a certified engineer and a conductor, so then you'll find that on the last couple pages of your--

of the pamphlet. So thank you for your time. I'm open for any questions.

FRIESEN: Thank you, Mr. Hausman. Any questions from the committee? Seeing none, thank you for your testimony. Any other proponents for LB486, please come to the front. Seeing none, anyone wish to testify in opp-- hey, guys, we got to keep it moving. Welcome.

SONNY FANKHAUSER: Welcome. Morning, Chairman Friesen, members of the Transportation Committee. My name is Sonny Fankhauser, S-o-n-n-y F-a-n-k-h-a-u-s-e-r. Public safety is the utmost important thing about why you should pass LB486. As a railroader with nine-and-a-half years' experience, a year and a half as a conductor and seven years as a locomotive engineer, I personally experienced why two-person crew is absolutely vital to maintain the public safety. So many questions go through my head why there has to be two people on the train, like what happens if the engineer becomes incapacitated? Who's going to stop the train with the one-person crew? Who's going to call for help? How many crossings would that train pass with the person incapacitated or if the train hit something or someone while the person is incapacitated? What does a single person crew, who's busy watching over the controls and taking orders from the dispatcher, it doesn't see the accident occur, has no idea if the-- if an accident even occurred and keeps going? Who's going to be the first responder in the event of an accident? The questions go on and on, but the answer that solves all these questions, [INAUDIBLE] certified two-person crew that has individuals' responsibilities spelled out. Oftentimes we wear many hats while at work. We go from monitoring the many systems implemented on board a locomotive, such as PTC, TO, talking on the radio and taking mandatory directives from the dispatcher, to suddenly becoming first responders. When you're involved in a grade crossing accident, whether it's a bus full of schoolkids, a semi hauling grain, or a pedestrian crossing the tracks, or the all-too-often, I've talked about, suicides by train, we're the first responders when tragedies like these strike. With having a two-person crew, it makes it possible for one member of the crew to dismount the train and start helping at the scene of the accident. Oftentimes the difference in life and death at these critical scenes may come down to the first few minutes after the accident occurs. With the 3,328 public railroad crossings in Nebraska, 2,100 of which are being-- are private crossings, and many of them having one way in and one way out, it is imperative that you have a two-person crew, so in the event we have to allow EMS to get

into the scene of the accident, we can split that train in two. When I think of the most critical situation I've experienced where a two-person crew was vital in preventing a catastrophic tragedy, I think back to the time I had a locomotive start on fire while traveling down the main line at 45 miles an hour. On a loaded 135-coal-car train, we had approximately 19,500 tons. We had to put the train in emergency and got stopped directly next to an ethanol plant with cars loaded full of ethanol directly next to our train. By the time our 7,500-foot coal train came to a stop, traveling more than a half-mile between the time we placed the train in emergency, coming to a stop-- I was working as a conductor at the time-- I had already called out the emergency, warning other trains of our situation. Dialed up the dispatcher on a 911 tone-up, started to assess the grade and curvature of our track we were on and had a fire extinguisher in my hand, ready to get off the train as soon as we came to a stop. I was able to do this while my engineer was controlling the slack on the train to help ensure we didn't derail the train. After assessing the situation on the ground, I could see the fire was coming out from underneath the second locomotive in our consist. While fighting the fire, my engineer was working with relaying to the dispatcher what was going on and helping to direct EMS to our location while I was on the ground fighting the fire. I soon realized that we were dealing with a grease fire next to our fuel tank that had over 3,000 gallons of diesel on board. This locomotive was next to the first of 135 coal cars we were hauling that were sitting next to a track full of cars loaded with highly flammable ethanol. We as a team made the quick decision to tie our train cars down before separating the locomotives from the train cars in order to move the locomotive that was on fire away from the ethanol plant cars. Given the possibility of starting the coal cars on fire, even worse the ethanol cars, which in turn could have caught the entire ethanol plant on fire, this plant sits-- sits next to the edge of the city of York, Nebraska. Had it not been for the two-person crew, the process of cutting the locomotives from the train would have taken exponentially longer and increased the potential for catastrophic-- catastrophic event. I can't imagine having someone go through that experience alone. If you don't pass this bill, LB486, requiring a two-person train crew, my fear is that the outcome may not be a positive one, and we don't have to look far for an example of this being a reality if you look to our neighbors to the north, with the Lac-Mégantic tragedy that unfolded with a single person crew. The safety checks and balances that happen with a

two-person crew, I believe, help to mitigate and reduce the occurrences, both realized and potential tragedies, like these. I'm asking you to pass this commonsense safety bill, LB486, in the interest of public safety. Thanks for your time. Any questions?

FRIESEN: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for your testimony.

SONNY FANKHAUSER: Thank you.

FRIESEN: Other proponents for LB486? Come to the front. Morning.

ANDREW FOUST: Hello. Good morning, committee. My name is Andrew Foust, F-o-u-s-t, and I'm here today to testify in support of LB486. Senator Friesen and members of the Transportation Committee, thank you for this opportunity. I've worked as a conductor for BNSF Railway for 17 years. I am also the SMART TD associate state director for Nebraska, and I'm here on behalf of our more than 12,000-- or 1,200 members and their families. As of today, nine states have passed two-person crew legislation. One passed the state house in Maryland and eight more have legislation introduced. That is 37 percent of the states in the United States that have some sort of legislation either passed or introduced. You've heard countless stories about the safety of the public and railroad workers today. And for years now, you have said that this is a collective bargaining issue, but it is not. The railroad and the union should not have to come to an agreement about the safety of the public and about the safety of their-- of the employees. It is not an issue that should be compromised upon. It is nonnegotiable. Safety should never be compromised for profit, and those two parties, the railroads and the unions, certainly should not be the voice of the public. The answer to-- to both the safety of the public and the safety of the railroad employees is you, the senators of this great state. Senator Geist, I am one of your constituents, and I ask that you vote in support of LB486 when Senator Friesen calls for the vote. I ask that you be the voice for my two sons who not-- to do-- who do not have a voice. I ask that all the members of this committee vote in support of LB486 for the families of their own districts. Please send the message to those in your districts that you care about the safety of the public and the safety of the railroad employees. A one-person crew could be deadly for me and it also could be deadly for you. Today I ask that you listen to the professional

railroaders and not the professional speakers. Thank you for your time and I'll answer any questions that you guys might have.

FRIESEN: Thank you, Mr. Foust. Any questions from the committee? Seeing none, thank you for your testimony.

ANDREW FOUST: Thank you.

FRIESEN: Other proponents of LB486? Seeing none, anyone wish to testify in opposition to LB486? Morning.

JEFF DAVIS: Morning. Morning, Mr. Chairman, members of the committee. Jeff Davis, appearing here on behalf of BNSF Railway. And we've heard some very impassioned testimony this morning, and I want each and every one of you to know that BNSF shares the safety concerns expressed by our employees this morning. And I want you to know that we are committed to safety, the safety of our employees, the safety of our neighbors, the safety of the communities that we work in. We just disagree on how to best achieve the same goals of zero accidents and making sure everyone get-- makes it home at night. This is the fifth year in the last eight I've testified against this bill. And one point that I can agree with Pat Pfeifer on is it seems like this has been going on a whole lot longer. In March 1983, this committee heard in LB179 and passed a bill to require trains to keep the cabooses. And just like today, our employees were here arguing they needed that caboose and they needed the trainmen and they needed the brakemen who work back there for safety. Before that, it was the firemen. Every time railroad technology has evolved over the last century and someone was worried they might lose their job, railroads have been coming to legislatures saying we need to pass a bill to promote safety. End-of-train devices have now been in place for more than three decades, and railroading is safer than it's ever been. Since 1980, when train crews had anywhere between three and five members, railroads have reduced the employee injury rate, the number of train accidents, and the number of grade crossing collisions by 80 percent. And we're doing all of this while hauling record amounts of freight, more than twice the amount of freight that we hauled back then. It's technology that's made railroading safer. Semi-automatic couplers, air brakes, diesel-electric locomotives, end-of-train devices, automatic switches, remote-control BELTPACKs have all made those tasks safer and some jobs redundant. But every time that happened, we negotiated an agreement to take care of our employees. Many railroads have been

operating with one man in the cab for years. More than 100 railroads around the world, including Amtraks, short lines, and commuter railroads all over North America, already operate with one crew member in the cab and they handle all of the concerns that you've heard about today. Our message in this hasn't changed. Our contracts don't just say how many people are on the train; they spell out how duties are performed. We still have contracts requiring three members for certain moves. And most importantly, railroads can't unilaterally change collective bargaining agreements. And if it goes to an arbitration, President Joe Biden himself will appoint the arbitration panel. His public statement should give everyone here confidence that he will be fair in appointing a panel. In conclusion, I'll say this. We oppose this bill because we don't know what the transportation industry is going to look like in another ten years. Driverless technology is coming. We're sending unmanned spacecraft to Mars. I find it hard to believe that it's not going to be possible that we can run trains with-- with that-- with fewer than two people when the trains run on a track. All we're asking for is a continued opportunity to try to work this out with our employees that we can't do without them. Thank you.

FRIESEN: Thank you for your testimony. Did you spell your name at the beginning?

JEFF DAVIS: Sorry, Jeff, J-e-f-f, Davis, D-a-v-i-s.

FRIESEN: Thank you. Questions from the committee? Senator Geist.

GEIST: Yes, thank you for your testimony, Mr. Davis. I'm curious. You said sometimes you still appoint or assign three people on a train. Is that-- did I understand you correctly?

JEFF DAVIS: In certain circumstances, yes.

GEIST: How do you make that decision? What are the things that go into that decision?

JEFF DAVIS: I mean, it-- you know, it's-- it's-- it's all-- it's all safety, and I think it's predominantly in-- in a few locations out west is where that-- it's where that happens.

GEIST: In the western part of the country?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: But usually there are-- I mean, there are discussions between, you know, management and the employees--

GEIST: OK, it--

JEFF DAVIS: I mean, and that's just the way it's-- it's-- it's always been that in-- in those locations, we still need-- need three.

GEIST: When you say that it's usually out west, is that in the western part of the country or--

JEFF DAVIS: Western part of the country.

GEIST: --western part of the state?

JEFF DAVIS: Western part of the country. I'm not aware of us using any three anywhere in Nebraska.

GEIST: OK. All right. Thank you.

FRIESEN: Thank you, Senator Geist. Senator Cavanaugh.

M. CAVANAUGH: Thank you. Good morning, Mr. Davis. How are you?

JEFF DAVIS: I'm fantastic, Senator. How are you this morning?

M. CAVANAUGH: Fantastic. That's good to hear. So no crystal ball this year?

JEFF DAVIS: I don't have a crystal ball.

M. CAVANAUGH: OK. So we talked about this two years ago, about what-- why not have this in statute, because we can always change statute in the fut-- in the future. This isn't a constitutional amendment. But it does sound like the safety of-- of the-- the crew is dependent upon having more than one person there. And we've heard stories, this-- this year and two years ago, about long 12-hour train shifts in the middle of the night. If somebody has a heart attack or has any kind of health issue during that time, not even just the train itself but the individuals, not having another person there seems very problematic. Is it-- is it really that cost-prohibitive to the train companies to have two people on a train?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: Senator, I mean, I think in terms of it's-- we live in an increasingly global marketplace where we have to stay competitive, and if there are driverless trucks and other modes of technology, then we want to be free-- we need to be free to compete. And at the same time, you know, safety, I mean, it's this-- every time we have reduced the crew size, safety has improved.

M. CAVANAUGH: Well, you brought a chart last time that didn't actually indicate that.

JEFF DAVIS: Actually, yes, it does.

M. CAVANAUGH: It-- it showed that there was a spike in incidences when you went from three to two. I'll dig it out of my files up in my office.

JEFF DAVIS: We can-- we can-- we can dig it out of your files and-- and we can dis-- we can-- I'm happy to discuss that with you. But, no, in the-- I mean, the data is clear and, you know, the number of train accidents, the number of employee injuries, I mean, just look at the numbers. I mean, yes, you've heard a lot of anecdotal testimony here today, and I don't discount any of that, but these are-- these are accidents that have occurred over 10, 15, in some cases, 20 years.

M. CAVANAUGH: So we go to great lengths to ensure the safety in our public transportation, our mass transportation, our airways. I-- I mean, we wouldn't allow-- and even though there's a lot of automation in airplanes, we wouldn't allow for just one person to fly an airplane, in case something happened to that one person, even though we have autopilot and all of those things. Why should trains be any different?

JEFF DAVIS: Because trains don't fly--

M. CAVANAUGH: They-- well, it sounds like they can fly off the tracks.

JEFF DAVIS: --and they-- and they actually op-- and they actually operate on a track, so I would argue it's-- it's much safer.

M. CAVANAUGH: Except when they go off the track.

JEFF DAVIS: Well, they can-- they can go off the track with two people in the cab.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

M. CAVANAUGH: They can, but it sounds like--

JEFF DAVIS: And they-- and they used to go off the track more frequently when we had three in the cab.

M. CAVANAUGH: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Senator Moser.

MOSER: You're not trying to say there's a cause and effect between safety improving and cutting the size of crew. It's technology that's improving the safety?

JEFF DAVIS: The--

MOSER: I mean, what would be the improvement--

JEFF DAVIS: Yes.

MOSER: --in safety by getting rid of people?

JEFF DAVIS: Right. It's-- it's-- it's the technology that always drives the safety improvements.

MOSER: You know, we were having a discussion about this last week. You were giving me some information and I recall you saying that there's a switch that the engineer has to put his hand on or keep his hand on in order to keep--

JEFF DAVIS: The alerter.

MOSER: So if he-- something happens to him, how long before the--

JEFF DAVIS: The train shuts down 30, 45 seconds, a minute tops. One of these op-- one of the operating people could probably answer that, but no more than a minute. That train shuts down if he doesn't touch the alerter.

MOSER: The PTC that's been referenced numerous times today, that's the positive train control?

JEFF DAVIS: Yes, sir, Senator.

MOSER: And-- and that's a remote control system?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: Yes. Yes. So, I mean, we've spent more than a billion dollars on that-- on that technology.

MOSER: Does it transmit through the rails or over the Internet or by radio or--

JEFF DAVIS: No, no. No, we put up I think-- I can't remember the exact number, but several thousand towers. So we have oper-- so it with operation, I mean, could--

MOSER: It's your own network.

JEFF DAVIS: It's-- yeah, it's our- it's our own network and it has to be interoperable with-- with other railroad networks as well. But the-- the whole point is, you know, we have to have 100 percent reliability. It can't be like your-- your DISH Network that goes out when it rains.

MOSER: Or when your computer screen goes blue and you have to reboot it.

JEFF DAVIS: Correct.

MOSER: So your-- you have a proprietary system that is--

JEFF DAVIS: Correct, yes.

MOSER: --failsafe?

JEFF DAVIS: Yes.

MOSER: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Senator DeBoer?

DeBOER: Thank you, Senator Friesen. So one of the things-- thank you, Mr. Davis, for testifying. One of the things that we hear-- we heard the last time, we hear again, and we've mentioned, I apologize, maybe you talked about-- somebody talked about this when I left to introduce in another committee. But what-- what happens if the-- there is only one person running the train and they have a health issue? If they have a heart attack, what happens?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: Well, I mean, obviously, the train shuts down and with-- with-- he--

DeBOER: Wait. Go slow for me because I-- I don't know these things. So the train shuts down immediately upon the guy having a heart attack? How does it know if?

JEFF DAVIS: If he-- if-- because if the alerter switch--

DeBOER: Oh, I may have missed this when you talked about it.

JEFF DAVIS: So-- so there is an alerter switch there that the engineer has to touch approximately every 30 to 45 seconds, no more than a minute. If you don't touch that switch, the train automatically shuts down. And obviously, if that happens, then the dispatch will know and they will-- if they cannot reach that engineer, then they will automatically, you know, summon assistance to that location where that train is at.

DeBOER: So how does that work? So they-- they-- the-- the crewman does not touch the alerter switch. The alerter switch, you say, shuts the train down. What does that process like? Is that putting an--

JEFF DAVIS: So--

DeBOER: --emergency brake on or is it a kind of a slow thing?

JEFF DAVIS: It's-- it's-- it's a slow thing. It will grad-- it-- the train will just-- I mean, basically it stops getting gas and then the crane-- train will come to a stop.

DeBOER: So it's a-- yeah, OK, so it's a slower stop than if there was an emergency brake or something.

JEFF DAVIS: That is-- that is correct, yes.

DeBOER: OK, so not to be indelicate--

JEFF DAVIS: Now with positive-- now with positive train control, they might be able to intervene and do something much more-- much more quickly if they-- if they have positive train control.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DeBOER: How-- I mean, every 30 to 45 seconds for how long does the-- I mean, how long is a-- is a-- is a shift on some of these things? I-- I think I heard--

JEFF DAVIS: Twelve hours.

DeBOER: Twelve hours. There are many reasons I can think of that someone might need to step away for a few minutes during that 12-hour period. What-- how-- how is that accomplished?

JEFF DAVIS: You are-- under-- under the rules, you are supposed to either-- if you have to, quote, step away, you either have to do-- the engineer has to stop that train or you have to wait until-- wait until you get to your next stop or to a stopping point.

DeBOER: OK, how frequent are the stops in most places? Like I know on Amtrak, a couple of hours between them.

JEFF DAVIS: It-- it-- I mean, it-- it total totally varies.

DeBOER: OK. Yeah. All right, well, that seems-- OK. It seems like when I've been sitting here in all-day hearings this year, I know that there's been at least two or three times in the course of those all-day hearings, which are less than 12 hours, that my attention has gone away for a little bit. I know. Senator Hughes is looking at me like he's never had that happen, so it's so strange. [LAUGHTER] So, I mean, what-- what happens if I'm running a train, my attention sort of goes away for a minute, and something, you know, sort of unexpected occurs and I don't notice it? If there are two members of the crew, is it more likely that that-- that the second member is going to see something or is that second member off doing something else in the train and isn't really a redundancy for me? That's just a question I want to know.

JEFF DAVIS: Well, I will say that we certainly have had instances where, you know, we've had two people in the cab and they have-- things-- things have happened that it's a mystery that no one saw them. And so, you know, in-- in that perspective, I mean, we now have outward-facing, high-definition cameras on all of our locomotives, and from the control room they can tap into those cameras. They can see what's going on inside the cab as well as outside the cab. And so there is some-- there is somebody there watching. And I have-- I have

one of those cameras in my company vehicle. They installed them in our company vehicles before they installed them in the locomotives because management felt it was important that we lead by example. And so at times when I have not been paying attention and slammed on my breaks too hard, a red light comes on and I know that I'm going to-- if I'm not getting a communication, I am soon going to get one.

DeBOER: It's interesting. So there is somebody sort of there, but virtually there. Is that what you're saying?

JEFF DAVIS: Correct.

DeBOER: OK.

JEFF DAVIS: And sometimes it's after the fact, but yes.

DeBOER: OK. The-- the-- the question that got posed before, though, was, if we've come up with these great technological advancements to make things safer, is there any reason, other than financial, that we wouldn't then also keep the sort of human safety by having two crew members in place, right? So there's-- there's a redundancy by having a second crew member and there's this technological advancement that is supposed to provide safety. And every time you say we've-- we've done a technological advancement and we've been able to sort of reduce our crew members, in this case, I mean, it does seem like there's a difference between a four down to three than a two down to one. I mean, there does seem to be a difference, to me, I will just say. So I guess my question that I'm trying to inartfully get out is, why not have both safety pieces in place, two crew members and all the technological advancements?

JEFF DAVIS: I think-- I think that's a definite possibility. I think in-- in some certain instances, I think that still may be appropriate.

DeBOER: But in some instances it's not?

JEFF DAVIS: And I think it-- I mean, Amtrak operates with, you know, one-- anything shorter than three hours, they're operating with basically one engineer and that's it, so.

DeBOER: Well, they've got-- they've got, I mean, conductors and people that take tickets and things.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: But-- but they're not-- they're not on the-- they're not in the cab. I mean--

DeBOER: But presumably, can they talk to the person in the cab? If the person is having a heart attack, they could run up there and render aid or something? They'd have some kind of communication device perhaps? I don't know.

JEFF DAVIS: Well, yeah, I mean, is-- is the engineer-- I mean, is the engineer going to come up and-- and stop and go render aid? Is that-- I mean, it--

DeBOER: I don't know. I'm--

JEFF DAVIS: And I think what-- I-- I mean, I think we're going down the rabbit hole here and I think--

DeBOER: I think so too.

JEFF DAVIS: --these are issues that we want to work out in a very thoughtful way with the leaderships of our unions.

DeBOER: OK, so you're saying we might do these things, but we want to have that be a collective bargaining issue. Is that correct?

JEFF DAVIS: That is correct.

DeBOER: OK. All right.

FRIESEN: Thank you, Senator DeBoer.

DeBOER: Thank you.

FRIESEN: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Following up on some of Senator DeBoer's questions, do you have any medical accommodations for those that are on the trains for 12 hours?

JEFF DAVIS: Can you define medical accommodations?

M. CAVANAUGH: Well, let's say that one of the people working on the train has a prostate issue and needs to go to the restroom frequently. What accommodations are made?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: Senator, that is a question I have-- that has never been posed to me before, and I will have to look into that and get back with you.

M. CAVANAUGH: OK. I'd also-- while you're looking into that, I'd like to know what accommodations are made for women that work on the trains that are nursing, because there-- that is definitely a medical necessity. You cannot go 12 hours without expressing milk. You will get an infection. I assume that the trains don't have discriminatory practices against women in employment.

JEFF DAVIS: That is-- that is-- that is correct--

M. CAVANAUGH: OK.

JEFF DAVIS: --so.

M. CAVANAUGH: Then following up again on Senator DeBoer's question, why not have redundancies in place? Are trains 100 percent safe, 100 percent of the time?

JEFF DAVIS: That's-- that's our goal. They are-- they are not, but that is-- that is the goal that we're-- we're getting--

M. CAVANAUGH: And increased redundancies could lead to that outcome, correct, safety redundancies?

JEFF DAVIS: Safety redundancies, yes, and we build redundancy into everything we do.

M. CAVANAUGH: Except for with people. Having more--

JEFF DAVIS: I--

M. CAVANAUGH: Having more than one person trained would help with redundancies. It also would help-- help with bathroom breaks.

JEFF DAVIS: Well, I-- I don't-- I don't know-- I don't know that we're-- I don't know that we're there yet because my understanding is that the-- the-- our view of the conductor position is it's not going to go away. That position will be repurposed, and so they will be doing other things, similar to the other railroads that operate with one person in the cab now.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

M. CAVANAUGH: So when I was in my 20s, I had my appendix out. I don't think I would want somebody with-- taking my life into their hands who had not gone to the bathroom for ten hours and hadn't had a break. We're putting people's lives, towns' and villages' lives into people's hands that can't even go--

JEFF DAVIS: Well--

M. CAVANAUGH: --relieve themselves in 12 hours.

JEFF DAVIS: Oh, no, they absolute-- they absolutely can. They have to stop. They have to stop the train.

M. CAVANAUGH: So they can stop the train--

JEFF DAVIS: They can-- yes.

M. CAVANAUGH: --and go to the bathroom? If they have a prostate issue, they can stop the train every 45 minutes and go to the bathroom?

JEFF DAVIS: Now that, I--

M. CAVANAUGH: If they're nursing a baby at home, they can stop the train every hour and a half, two hours, depending on--

JEFF DAVIS: With-- with regard to the nursing issue, I know that we have provided specialized equipment that would allow women to express milk while they are working. I do not know the answer to the prostate question, but I have to believe that this issue has come up before and that there is an answer and I will get that back to you.

M. CAVANAUGH: OK, great. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Senator Moser.

MOSER: When the trains have more than one engine and sometimes they're separated by a number of cars--

JEFF DAVIS: Um-hum.

MOSER: --to kind of balance how they-- the force is applied to keep the train moving--

JEFF DAVIS: Um-hum.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

MOSER: --can the second person be in one of those other engines or do the second persons usually stay in the front engine with the engineer?

JEFF DAVIS: I-- I will say that to the best of my knowledge, he stays in the-- the front cab with the engineer. But I will-- I will double-- I will have to double check that answer and-- and get back to, Senator.

MOSER: The other engines are run by remote control by the engineer in the front?

JEFF DAVIS: It's-- it's called distributed power. It's a relatively new development that has occurred in the last 20 years where they can sync, you know, four, five, six locomotives together so you can have locomotives in front, locomotives in the middle, locomotives in the back.

MOSER: And I believe you told me earlier that the Burlington does require two people in certain situations, if there's hazardous materials on the train or--

JEFF DAVIS: Oh, I mean, we have-- we have-- to the-- to the best of my knowledge, you know, it's two people, two people out there on the open road just about-- just about everywhere. And to-- to-- to make any changes, we would have to come to an agreement with our-- with our union to-- to make any changes.

MOSER: So it's not Burlington's unilateral decision to put two people on a train where you don't have to.

JEFF DAVIS: No-- no, sir.

MOSER: OK, thank you.

FRIESEN: Thank you. Senator Moser. Any other questions from the committee? So there's been a-- a lot of accusations that you don't care about safety, you don't care about train derailments. What does an average accident or a train derailment cost your railroad?

JEFF DAVIS: It's hard to say, but-- and I would say that they are-- and I-- I will have to go back and-- and-- you know, I apologize. I just can't answer that question here today, but I can just tell you that they are very expensive.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: What does a locomotive cost?

JEFF DAVIS: Brand new, $20 million-plus.

FRIESEN: So having a derailment and an accident is a major expense.

JEFF DAVIS: Absolutely.

FRIESEN: But you don't care.

JEFF DAVIS: Of course we care.

FRIESEN: Well, you--

JEFF DAVIS: I mean, we do everything we can to prevent these accidents.

FRIESEN: Again, so, I mean, I-- I think it would be interesting to see what an average accident costs you when you have a major derailment--

JEFF DAVIS: Well--

FRIESEN: --and, you know, I think people are interested. I--

JEFF DAVIS: Well, it's-- I mean--

FRIESEN: It's a business decision.

JEFF DAVIS: Right. It-- right.

FRIESEN: But accidents aren't cheap.

JEFF DAVIS: And-- and it's-- it's not only the cost, but obviously it's the potential risk to the employees, the neighbors, and the community at-large.

FRIESEN: I assume you're like a lot of the other industries out there in your safety measures. What you require of your employees has increased exponentially in the last 20 years.

JEFF DAVIS: Absolutely.

FRIESEN: You have protocols that are put in place?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

JEFF DAVIS: Yes.

FRIESEN: A lot of-- some of them are mandated between your negotiations with the unions, but some of them are based on your decisions of--

JEFF DAVIS: Yes.

FRIESEN: --to follow safety. Accident reports or--

JEFF DAVIS: Yeah. Well, it's-- it's-- yes, we eval-- I mean, we analyze every accident out there so that we know what caused the accident. And we ask ourselves, OK, what can we do to prevent this from happening in the future, like there is a report written on every accident.

FRIESEN: OK. Any other questions? Senator Moser.

MOSER: One quick follow-up, if I could. What does it save to go to one-person crew? I mean, they get paid by the mile, typically, or they get a base salary plus so much a mile?

JEFF DAVIS: Well, I mean, you know, once again, I-- I don't think we know the answer to that question because we're still going to have-- I mean, the intention is to still have conductors and to repurpose them, or at least that's-- that's my understanding.

MOSER: You're going to come up with new duties for them?

JEFF DAVIS: I would say-- and I would say similar duties and adjustment of those duties where-- whereby--

MOSER: Well, would you still have two people on a train?

JEFF DAVIS: Well--

MOSER: Why fight that battle if you're going to try to keep two people on the train?

JEFF DAVIS: Because it could be more efficient to have that person sta-- have one person stationed, you know, every 30 miles along that track in a-- in a truck with equipment where they could actually get

to a-- to a-- to a scene, you know, more quickly than it would take someone to walk three miles from one end of the train to the next.

MOSER: I guess the point of my question is the-- the cost savings of a conductor. If-- you know, if he gets paid by the mile or on salary, has got to be pretty low compared to what the per-mile charge that the-- the railroad can collect from all the freight owner-- all the owners of the freight that they're moving.

JEFF DAVIS: Well, I think the-- I think the question is, it's the margins of the freight that are involved, because we move a lot of commodities, coal, grain, taconite, I mean, rock, sand, so those commodities are-- you know, we're competing with other railroads, we're competing with other modes of transportation, we're competing in some cases on a-- on a global scale, so, you know, those-- those costs make a difference. I can tell you that they make a difference to-- to our customers.

MOSER: So if you went with one-person crews, are you going to reduce your freight rates?

JEFF DAVIS: I don't know that we will reduce our freight rates, but, I mean, I think you can see that we're hauling roughly-- you know, I can't remember the amount, but it's like twice-- twice the freight that we were hauling 40 years ago for approximately the same price.

MOSER: Well, the same price per ton or whatever, but you're doing twice as much business.

JEFF DAVIS: Correct.

MOSER: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you for your testimony.

JEFF DAVIS: Thank you, Mr. Chairman.

FRIESEN: Morning.

ROCKY WEBER: Good morning, Senator Friesen. Members of the Transportation and Telecommunications Committee, my name is Rocky Weber, R-o-c-k-y W-e-b-e-r. I'm the president and general counsel for

the Nebraska Cooperative Council. I'm appearing today in opposition of LB486, not because we have a dog in this hunt between the employees and the railroads as to what is safe or what is right, but because we believe the language of this bill is so broad that it potentially includes covering our activities off the main line when we are loading grain and-- and receiving inputs on our loop tracks and our ladder sidings that are not on the main line. This bill would arguably require us to have two people on our light engines as we are filling shuttle trains, 110-car trains that take us 11 to 12 hours to fill, that the railroad brings in, drops off, and it's up to our employees to fill that train within a certain amount of time. This would require us, obviously, to have more people employed, more people on staff in order to do that. It's not necessary. That-- that's not a high-speed operation. It's a very slow operation, a very tedious operation, and we don't believe it's necessary that we have two-men crews for those operations. We have asked before when we have testified on this issue and are asking again that-- that you oppose this bill unless we can get amending language that ex-- excludes our operations off the main line from coverage of a bill like this. There is, in the-- in the bill, language that says, "For purposes of this section, train or light engine used in connection with the movement of freight does not include hostler service or utility employees." However, hostler service, every definition I can find, is-- is confined to railyards, the movement of cars in railyards. I don't think that is strong enough to cover our loading of grain or unloading of inputs in our loop tracks and ladder tracks off the main line. Likewise, I don't-- utility employees is not defined in this bill and I don't believe that we can determine whether this is utility employers or not. I assume it is not. I assume that references those people doing service work on the main line itself and whether they have to have two men in a crew on-- on what they're using while they're repairing the main lines. And so I'm not going to belabor this at this-- if we could get-- and I put in my handout for you, I put suggested language that we've suggested now three-- this is the third time I've testified on this bill. The first time I testified, I think members of the union and-- and the national union even said that this language was acceptable to them. But it continues-- the bill continues to be introduced without this language in it, which requires me to make sure that-- that our operations are not impacted negatively if this bill would come out of committee and-- and find that it is adopted by the Legislature. So with that, I'll take any questions.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Thank you, Mr. Weber. Any questions from the committee? Senator Albrecht.

ALBRECHT: Thank you, Chairman Friesen, and thank you for bringing this, Mr. Weber. When they do pick up your grain, do-- does someone, the engineer or somebody, check over everything before they take off?

ROCKY WEBER: Oh, I-- I-- I'm going to assume that there is a process by which that train is handed off from the cooperative back to the railroad when-- when it enters the main line, yes. I don't know who's responsible for that, but I assume that there is a process.

ALBRECHT: Thank you.

FRIESEN: Thank you, Senator Albrecht. Any other questions from the committee? Senator Moser.

MOSER: Some of the ethanol producers have their own train crews or operators. Do you represent them or are they-- are you just talking for--

ROCKY WEBER: One of our-- one of our-- one of our cooperatives is also an ethanol producer. And so to the extent they're using their loop track, which they do-- they use it to load and unload grain shuttles and-- and input trains. They also use it, of course, to transport ethanol as well. So, yes, I would-- I would say that on those--

MOSER: The same problem you have probably applies to the ethanol.

ROCKY WEBER: I-- I would assume so, Senator, yes.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you for your testimony.

ROCKY WEBER: Thank you.

FRIESEN: Morning.

BRANT HANQUIST: Good morning.

FRIESEN: Go ahead.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

BRANT HANQUIST: Chairman Friesen, members of the committee, my name is Brant Hanquist, B-r-a-n-t H-a-n-q-u-i-s-t. I'm the general director of labor relations for Union Pacific Railroad, and I'm here today to respectfully express opposition to LB486. Thank you for the opportunity to provide basic information about current label-- labor contract negotiation processes. For decades, the railroads and their labor partners have negotiated to maintain collective bargaining agreements regarding appropriate and safe crew size and safety has continued to improve across the industry. Safety is always our top priority. As a company, we continue-- continuously look for ways to enhance the safety and security of our employees and the communities and customers we serve. Union Pacific supports work rules that improve safety. Crew size has been addressed pursuant to the requirements of the fed-- federal Railway Labor Act and the collective bargaining processes as influenced by presidential emergency board outcomes. Safety improvements have a primary catalyst in those negotiations. In Nebraska, unions ratify collective bargaining agreements that include crew size requirements. Currently at Union Pacific, our crew consist agreements require at least two employees on a train. The only way this can be altered is if the parties change the existing work rules at the negotiations table. State legislation that attempts to set terms of these collective bargaining agreements would threaten the integrity of locally ratified agreements and compromise future negotiations on this issue. Permitting a party to solidify through legislation what it is unwilling to negotiate through good-faith collective bargaining could seriously undermine the motivation and Railway Labor Act requirements to bargain over issues such as crew size. The risk of frequent and serious disruptions to the nation's rail operations would significantly increase if companies like Union Pacific have to manage a patchwork of different state-based crew size regulations. This jeopardizes interstate commerce when issues such as crew size are subject to outside interferences and extend beyond the Railway Labor Act processes. The collective bargaining agreement-- the collective bargaining process has proven-- has a proven record of successful resolution through locally ratified agreements that address limitations on the amount and type of work performed, compensation, and work rules ensue-- ensuring crew safety. Crew size agreements are negotiated by representatives of both rail management and labor experts with full knowledge and understanding of railroad operations and safety goals. Work rules cannot be determined by either management or labor-- labor unilaterally. It is a collective effort. In fact, the

parties are currently in contract negotiations and this issue will be discussed. A state law mandating crew size would interfere with the ability of the railroads and unions to fully bargain the best and safest crew size for each assignment. This will put Nebraska industries and shippers at a competitive disadvantage compared to the other states without these artificial restrictions. Interstate commerce-- commerce also would likely be affected due to potential operational challenges associated with different-- differing state crew size requirements. In closing, the industry needs to remain flex-- flexible to incorporate the most current safety strategies and technology advancements into its operations and labor contract negotiations. This bill appears to ignore the long history of successful collective bargaining has brought to the safety and compensation of railroad employees. I respectfully request a no vote on LB486. I'm happy to answer questions.

FRIESEN: Thank you, Mr. Hanquist. Any questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here.

BRANT HANQUIST: Thank you.

M. CAVANAUGH: So is it your opinion that safety should be regulated through collective bargaining?

BRANT HANQUIST: It's my opinion that rail labor and management are the experts and we should be the ones discussing what's required of crew size.

M. CAVANAUGH: But as far as safety goes, is that something that should fall under collective bargaining, safety regulations on trains should be--

BRANT HANQUIST: No, we don't-- those are set by the federal-- FRA and other entities but, no, I would not--

M. CAVANAUGH: Safety regulat--

BRANT HANQUIST: --the collective agreement issue, no.

M. CAVANAUGH: So then it's more that this is something that you've decided is not a safety issue.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

BRANT HANQUIST: I'm sorry?

M. CAVANAUGH: Well, if safety should be regulated through the FRA and-- and the argument is, is that this is a safety issue but you--

BRANT HANQUIST: The crew size can be negotiated, which is being said is a-- is a safety issue.

M. CAVANAUGH: Yes.

BRANT HANQUIST: OK.

M. CAVANAUGH: The concern seems to be that it's a safety issue to those that are working in the crew.

BRANT HANQUIST: Right.

M. CAVANAUGH: They believe it to be a safety issue, which is why they keep bringing it--

BRANT HANQUIST: Sure.

M. CAVANAUGH: --every year to this Legislature. And you're saying that it should be handled through collective bargaining, but--

BRANT HANQUIST: The crew size should be.

M. CAVANAUGH: But you do have a mechanism for handling safety issues, which is the FRA.

BRANT HANQUIST: Right, there-- there-- there--

M. CAVANAUGH: And the FRA did just--

BRANT HANQUIST: There would be nothing keeping the parties coming to an-- an agreement on safety.

M. CAVANAUGH: On crew size--

BRANT HANQUIST: Correct.

M. CAVANAUGH: --if it went through the FRA.

BRANT HANQUIST: Yeah. Any--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

M. CAVANAUGH: And the FRA did--

BRANT HANQUIST: Anything can be negotiated.

M. CAVANAUGH: Didn't the FRA just seek a-- a standard on crew size?

BRANT HANQUIST: I-- I'm not-- I'm not an attorney. I--

M. CAVANAUGH: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Senator Moser.

MOSER: When you were talking about having different regulations in different states, so when you get to North Platte and you're going to go into-- the Union Pacific goes into Colorado from North Platte?

BRANT HANQUIST: Probably Cheyenne. Could go into Colorado, yeah, or Wyoming, yeah.

MOSER: Or Wyoming, so there you'd have to add a crew member or subtract a crew member if--

BRANT HANQUIST: Yeah, it becomes problematic. Wyoming, if they don't have that regulation, where does that person get on and off? You know, they're stationed out of Cheyenne. We'd have that-- we just don't have people standing at the border waiting to get on a train or-- or get off.

MOSER: You don't want to drive them out there and let them walk home?

BRANT HANQUIST: No, sir.

MOSER: Yeah. [LAUGH] You heard the other testimony. That was supposed to be a joke, I hope.

BRANT HANQUIST: It was. It was good.

MOSER: It didn't--

BRANT HANQUIST: I smiled.

MOSER: It didn't go well, I can tell you this. But you heard the other testimony from the Burlington representative and the questions we

asked him. Do you have any-- did any of those questions inspire you to make any comments or remarks other than your-- your prepared remarks?

BRANT HANQUIST: They really have nothing to do with crew size.

MOSER: And on the Union Pacific, you currently have two on every train?

BRANT HANQUIST: We have two and in some lo-- some locations, in certain situations, there are three still required by contract. It's based on the amount of-- some-- some of the contracts still require three if there's so much work to be performed, such as setting out of customers and they need that extra person.

MOSER: OK. Well, I just wanted to give you a chance to get everything said that you wanted to say.

BRANT HANQUIST: Yeah, that other stuff really isn't a collective bargaining agreement issue.

MOSER: OK. Thank you.

FRIESEN: Thank you, Senator--

BRANT HANQUIST: Thank you.

FRIESEN: Thank you, Senator Moser. Any questions from the committee? Seeing none, thank you for your testimony? Morning.

DANIEL BLANK: Good morning. Mr. Chairman and members of the committee, my name is Daniel Blank, D-a-n-i-e-l B-l-a-n-k. I'm an assistant vice president and chief safety officer for the Union Pacific. I've been with the Union Pacific for many years, including three years spent out as a terminal operations director in North Platte, Nebraska, right here in my home state. I'm here today-- today to respectfully express opposition to LB486. Thank you for the opportunity to speak about safety. Union Pacific is committed to the safety of our employees, the public, and the communities that we serve and live in. Safety is Union Pacific's highest priority. As a company, we continuously look for innovative ways to enhance the safety in every aspect of our business. You've already heard about many of the technologies that are in use today that have helped improve that safety. We invest significant resources in training, research and development, and public education,

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

all with the goal of increasing rail safety awareness and improving safety. For decades, railroads and their labor partners have negotiated and maintained collective bargaining agreements regarding appropriate and safe crew size, as well as many other work conditions and rules. Since the 1980s, all key safety indicators have trended downward, even as crew size has decreased. Union Pacific, now 158 years old, can demonstrate that no correlation exists between crew size and safety improvements, none. There's no objective data supporting that two-person crews are safer than one-person crews. The FRA has acknowledged there's no safety justification for mandating the crew size, even after it spent several years examining the issue. Additionally, after reviewing the issue as a potential contributing factor in certain accidents, the National Transportation Safety Board Chairman Christopher Hart recently testified that based on our limited experience in this and other modes, we don't find the two-person train crews offer a safety benefit. Historically, safety and technology improvements have been the primary catalyst for negotiations related to crew size. As a result of these improvements, rail labor and rail management have agreed to reductions in crew size from as many as five persons in the 1980s to two persons on most territories today. These were achieved without compromise to safety, as witnessed by the decline in rail employee injuries, train accidents, and grade crossing collisions. In every category and metric used to measure safety outcomes, Union Pacific is proud to have achieved exceptional safety records in what is already the safest industry for ground freight transportation. According to the U.S. Bureau of Labor Statistics, railroads have lower employee injury rates than most other modes of transportation and major industry groups, including grocery stores. As proud as we are, we will not be satisfied until we reach our target of zero incidents, injuries, or fatalities involving our employees, pedestrians, drivers, and trains. Risk-based safety programs such as our risk identification and mitigation program informs our approach as we contemplate different work practices to move our nation's freight. The Federal Railroad Administration and our labor organizations will accept nothing less. Quite frankly, it is in the industry's best interest to advance safety for our employees, shippers, and communities, as well as liabilities for failures are simply too great. Please consider allowing the forces already within the industry, including organized labor and multiple regulators, to continue to demand ever-improved safety results. Passing legislation that interferes with these well-established forces will have unintended

consequences as we strive to remain a relevant mode of transportation. In light of the interstate nature of rail transportation, the FRA's role in regulating safety, lack of evidence demonstrating multiperson crews are safer than single-person crews, potential negative impact of minimum crew size legislation on our superior technological improvements and the historical role of collective bargaining addressing the issue, states should not attempt to legislate in this space. Again, safety can only be advanced by the industry's people. For these reasons, I respectfully request a no vote on LB486.

FRIESEN: Thank you, Mr. Blank.

DANIEL BLANK: Thank you.

FRIESEN: Any questions from the committee? Seeing none, thank you for your testimony.

DANIEL BLANK: Thank you.

FRIESEN: Good morning.

CONNIE ROSEBERRY: Good morning. Chairman and members of the committee, my name is Connie Roseberry, R-o-s-e-b-e-r-r-y. I'm senior counsel for Union Pacific Railroad. I am here today to express opposition to LB486, and we can talk about the three overlapping federal laws that arguably would preempt it. You've heard from my colleagues about how this has traditionally been a matter for collective bargaining between the railroad and their employees. But I think before we go into that, and I'm here to kind of answer some questions and clear up some things that we've been talking about most of the morning, I think that it's remarkable to note, just based on the number of people that are here and offering testimony, both as proponents and opponents, how much the people of our state care about our industry, care about railroads, and care about railroad safety. And so on that note, I think, you know, what we should accomplish to do is try to find a way to make our railroad, our industry the safest that it can be under the parameters that are already set up to regulate the railroads. As you-- as you know, you know, railroads are subject to comprehensive federal legislation, federal regulation, and they have been for over a century and-- and this really leaves no need for Nebraska to regulate crew size. I know there have been some questions from the panel about, you know, some of the legal issues and the Ninth Circuit case and some

other things. And so I'm certainly happy to answer those in the interest of time and not be cumulative with the comments and remarks that have already been made in the room this morning.

FRIESEN: Thank you, Ms. Roseberry. Any questions from the committee? Senator DeBoer.

DeBOER: I would like to talk about preemption with you--

CONNIE ROSEBERRY: Perfect.

DeBOER: --for a moment. I figured-- I was waiting for the lawyer.

CONNIE ROSEBERRY: Everybody does. It's amazing. It's super exciting.

DeBOER: I was waiting for the lawyer to come up. So I looked at, I guess we're calling it, Transportation Division. I don't know how we're going to shorthand that case, the Ninth Circuit case from last week.

CONNIE ROSEBERRY: Oh, OK.

DeBOER: And it seemed to me that the Ninth Circuit's logic seemed very logical to me, that there was, in fact-- that the order was, in fact, not an appropriate preemption of state law in this area and that-- that their-- that the notice of-- of rulemaking was inadequate for having time to respond, since it was a very different-- I mean, their-- their logic was you put in a rule-- notice of rulemaking, we're going to make it a two-person crew-- crew, and you ended up with, no, we're going to make it a one person, which is-- I mean, I-- I see the-- the logic there. My question is, has the Eighth Circuit looked at this? Are there any cases in-- in our area that are dealing with whether or not this is properly preempted or not?

CONNIE ROSEBERRY: Not to my knowledge. So going back to your initial question about what the Ninth Circuit had held, as we've seen over the past couple of years, where some state legislatures have tried to enact minimum crew staffing requirements, they start to be challenged on a-- on a federal basis. So, you know, we've heard today that there are some states that do have this. They just haven't been challenged because the issue isn't ripe, meaning that there isn't a railroad that's currently seeking to operate with less than two persons, so the challenge wouldn't be ripe from a legal-- perspective. So how the

challenge got to the Ninth Circuit and the result that came out of that doesn't necessarily change the conversation that we're having here. What the Ninth Circuit said was that the manner in which FRA sought to occupy the field, sought to preempt any state attempts, was inappropriate, so it was more of a form over a substance argument. They said, the order that you put out--

DeBOER: No, I mean, I-- I-- no, I mean, I read the case. So I think they-- they had to because they-- in fact, the concurrence was that they agreed that they could only go so far and deal with the form and not the substance because that wasn't ripe [INAUDIBLE]

CONNIE ROSEBERRY: Because the form, right, because the form was not correct.

DeBOER: Because the form was-- was defective, they didn't want to have a discussion down to the merits, which I think is-- is appropriate that they had to deal with the form first. So my question then is, if the FRA finding of preemption doesn't apply, I think we're dealing in a place where if the Eighth Circuit would have a similar ruling, there would not be federal preemption on the area of crew member size.

CONNIE ROSEBERRY: Well, I disagree.

DeBOER: OK.

CONNIE ROSEBERRY: I feel like the Ninth Circuit remanded this issue back to the FRA and the FRA will be dealing with it, whether that is in something that's appropriate under the Administrative Procedures Act and go through a notice and comment period or, in fact, come up with an entirely new proposed rulemaking.

DeBOER: So I think that's probably right. I think-- I think we-- we disagree less than that. In that, what I'm saying is I think that probably the Eighth Circuit would also vacate that previous-- if they followed the Ninth Circuit, they would vacate the previous rulemaking and say we need to have a new rulemaking. Is that-- is that your understanding?

CONNIE ROSEBERRY: I-- I-- I follow what you're saying, but it-- it's a hypothetical. And if a-- if one of those circumstances existed in the Eighth Circuit, it would be because there is a specific rule being

challenged and a specific state crew size law being challenged, and it would have to be ripe and the FRA would have had to take--

DeBOER: Sure.

CONNIE ROSEBERRY: --no action between now and then to-- to do something, so.

DeBOER: OK, it's a hypothetical, but the Ninth Circuit did find that the current preemption attempt in that order is not valid.

CONNIE ROSEBERRY: That is correct. They found that the order that attempted to supersede the notice of proposed rulemaking and kind of put it to rest was not the appropriate manner in which to accomplish that, remanding it to come up with what is the appropriate manner--

DeBOER: OK.

CONNIE ROSEBERRY: --acknowledging through that, I do believe, that, you know, preemption of state safety laws is not outside of the gambit of FRA. They just failed to do it in an appropriate manner.

DeBOER: Well, they did have some dicta in there that suggested that they would not have, on the record, been able to find that, and that finding it on the record was arbitrary and capricious since the order said that there is not enough evidence to suggest we should do this for two-person crews, so, therefore, jumping to we're not going to do it, we're going to require this be preempted and keep only to one-person crew. I mean, the Ninth Circuit was a little bit concerned that the-- the--

CONNIE ROSEBERRY: I think that the Ninth Circuit was-- was critical of the manner in which it happened, how they went from a proposed rulemaking--

DeBOER: Sure.

CONNIE ROSEBERRY: --that talked about what evidence may exist to coming to an order that said, nope, nothing is there and everything's preempted. So I think that is-- is what the Ninth Circuit's overarching issue was, not--

DeBOER: They--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

CONNIE ROSEBERRY: --whether or not FRA should do this or could do this. They just didn't do it appropriately.

DeBOER: Well, and that they thought that there was concerns based on the record of whether or not it was appropriate to jump all the way to one-person from two-person. But thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Senator Moser.

MOSER: I'll try to be quick. So the Trump administration suggested that through their-- I don't say interference, but influence to change to one-person crews, is that part of this case that Senator DeBoer was talking about?

CONNIE ROSEBERRY: I-- I-- I don't believe so. And in fact, the-- the notice of proposed rulemaking on-- on crew-staffing issues arose post Lac-Mégantic, the accident up in-- in Canada. And so that was in 2013. And then after that-- it was around 2014-- that's when FRA assembled a Rail Safety Advisory Committee to look at appropriate crew staffing. So this was well before President Trump took office and--

MOSER: But the President can-- or can he, by executive order, issue an edict that says that rail companies have to have two-person crews?

CONNIE ROSEBERRY: I imagine probably so. But I-- I-- my experience is that's not how it-- how it generally happens. But certainly the President does set priorities and those do, you know, become channeled to--

MOSER: Or Congress could enter a bill to--

CONNIE ROSEBERRY: Or--

MOSER: --cover the whole country in every state.

CONNIE ROSEBERRY: Yes, to the extent that crew size would be regulated, it would be most appropriate from a federal level, yes.

MOSER: Thank you.

FRIESEN: Thank you, Senator Moser. Seeing no other questions, thank you for your testimony.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

***KRISTEN HASSEBROOK:** Chairman Friesen and Members of the Transportation and Telecommunication Committee, my name is Kristen Hassebrook, registered lobbyist for the Nebraska Chamber, and I'm here today in opposition to LB486. LB486 would mandate train lengths. A common frustration for business, especially in transportation, is duplicative state and federal regulations. Traveling across the country, navigating what can often be a nightmare of different state and federal regulations is extremely problematic for the transportation sector. This is especially true for the railroad industry. LB486 attempts to impose a state regulation in an area more appropriately left to federal law. The right of the federal government to legislate on matters affecting interstate commerce is appropriate. The Nebraska Chamber recommends leaving this policy debate to be resolved there and not burden our railroad industry with a patchwork of state legislative rules with which to comply. Thank you for the opportunity to provide this testimony. We ask that the committee not advance LB486.

FRIESEN: Any other opponents to LB486? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Day, you wish to close? We do have one in-lieu-of-person [SIC] testimony in opposition from Kristen Hassebrook from the Nebraska Chamber. I have position letters of support from Bob Borgeson, state director of SMART Transportation Division, a support letter from Crystal Rhoades, commissioner, District 2, NPSC, and an opposition letter from Rocky Weber, Nebraska Coop Council. [SIC]

DAY: OK, so thank you for the engaged hearing. I really appreciate the questions from the committee today. And thank you to all of the testifiers who showed up both to support and to oppose this bill. I think this is a really important conversation that we need to be having. A few things that I did want to address, our office had every intention of reaching out to Mr. Weber to address his concerns and amendment and I think our wires got crossed, so I apologize to him for not having that amendment ready to go today. But we are happy to bring that amendment to address his concerns, to remove them from this bill. Also, there was a lot of discussion about data today, and part of the issue with not having data is that we have yet to experiment with one-person crews because unions have prevented that experiment from happening, so that's why we don't have data on this. But also, again, we have to recognize that going from four people to three people or three people to two people is entirely different than going from two

to one in terms of the risk to the crew members. It is significant when we go from two people to one. And additionally, you heard a couple of folks in here arguing for the collective bargaining process and allowing this to be up to that process in-- in the decision that's being made. But the union members that are sitting in this room and the union itself are the ones that continue to bring this bill, because I think that they're concerned about basic safety measures being used as a bargaining chip in that process. And I think that's where the State Legislature comes in to make sure that that cannot happen, that we are-- that we are taking care of the basic safety procedures and measures that are necessary to safely operate these trains. So additionally, you heard when Mr.-- Mr. Davis was up here, I think Senator-- Senator DeBoer asked a question and said, you know, so there is virtually a person-- or there's a person there, but they're virtually there and Mr. Davis said yes. There's a few people in-- in the hearing room that were-- were shaking their heads no, so I just discussed it with them and they said that essentially there's an inward-facing camera and it's on a 24-hour loop. So there-- but there is not a person watching that camera at all times, so essentially that loop or-- or-- or the-- the-- the tape on the camera is only-- is only looked at if there's an incident or on the occasional check-in. So this is not like there's someone sitting there watching what's going on inside the cab at all times. So when they say there's virtually someone there, there really isn't virtually someone there at all times. He also mentioned that they work up to 12-hour shifts with no scheduled break. And if they take any breaks that are outside of-- I'm sorry, I'm trying to think of exactly the language he used. Yes. If there's-- if they take any breaks or stop the train for any reason outside of the dispatcher's decision, they're subject to discipline, so it's not as easy as them just stopping and taking a break at their leisure. There are, again, issues with that from-- from their perspective. And then to answer Senator Bostelman's question about which states, so there was nine [SIC] states that have the two-person crew laws and they are Arizona, California, Nevada, Colorado, Kansas, Illinois, Wisconsin, and West Virginia. And I think that's it for me. If you guys have any questions, I'd be happy to answer.

FRIESEN: Thank you, Senator Day. Any questions from the committee? Seeing none, thank you for bringing--

DAY: Thank you.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: --the bill. And with that, we'll close the hearing on LB486. Next we will-- OK, now we will open the hearing on LB539, Senator Walz.

WALZ: It's still morning. Oh.

FRIESEN: Good morning.

WALZ: Thank you so much. Good morning. How are you? Good morning, Chairman Friesen and members of the Transportation and Telecommunication Committee. For the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. Today I'm introducing LB539, a bill that would require that no train operating on any main track or branch line within the state shall run or be permitted to run if it exceeds 8,500 feet in length. The limitation seeks to eliminate excessive train length as a safety measure. Excessive lengths obstruct the path of children getting to school, parents going to work and, most importantly, most importantly, emergency vehicles assisting a person or property in danger. Isolated community-- communities with limited entrances blocked by bodies of water and/or railroads have experienced delays in emergency services during-- due to train crossings because of excessive train length. We have heard of people and emergency responders waiting well over half an hour with no way around the train because it blocks the only crossing or even multiple crossings at the same time. Not only are communities put in danger by current lengths, but also crew members. Many trains now exceed up to three miles, three miles in length, and transport hazardous materials. This creates many safety problems, mechanical and logistical, such as the inability to maintain adequate brake pipe pressure, which is needed so a train can safe-- safe-- safely slow and stop. As trains lengthen, incidences of them breaking apart are far more frequent-- frequent, and crew members cannot observe and monitor an entire three-mile-long train by looking out the window. When a conductor is required to walk a long train, often on even-- on uneven terr-- terrain and during all weather conditions, the portable radios oftentimes lose contact with the engineer in the lead locomotive. When a train is too long and there is a loss of communication with the rear of the train, the locomotive engineer cannot activate the brakes at the rear of the train. Most importantly, when a long train becomes disabled, where it blocks a crossing, it is far more difficult to uncouple the train to open crossings. I'm going to just let you guys know that I have had call after call after call

after call regarding this issue. In fact, this is probably one of the number-one issues I hear from my constituents in my district, and it's a safety issue. They're concerned about their safety. LB539 is a much-needed safety measure aimed at ensuring the well-being of rural communities. A limitation on length would ensure that children can get to school on time, emergency vehicles can save lives, crews can do their job safely, and dangerous situations are limited. I also want you to know that I included an amendment that's been passed around that changes the length from 7,500 to 8,500 to be consistent with Kansas, Illinois, and Arizona, who have also introduced this same bill, including Iowa. So I urge your support on this piece of legislation, and I would be happy to answer any questions that you might have.

FRIESEN: Thank you, Senator Walz. Senator Moser.

MOSER: So the calls you get to your office are about train safety or they're complaining about not being able to get across through the crossings?

WALZ: They're about both. There is, especially along Highway 30 near-- in between Fremont and North Bend, there's a lot of calls regarding their inability to get out onto the highway, whether it's for work or-- or, you know, whatever it is, but more importantly, the ability for an emergency vehicle to get to them if something happens to somebody in their family or themselves.

MOSER: The nearest viaduct is--

WALZ: Oh, boy.

MOSER: --Fremont, then--

WALZ: Fremont, and then I think Columbus.

MOSER: --Schuyler is [INAUDIBLE].

WALZ: --or Schulyer. Yeah.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Senator Geist.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

GEIST: I'm sure you have an answer to this because it's in your bill summary, but I'm curious what it is. You have-- it says the federal Safety-- the federal Railroad Safety Administration Act of 1994 currently does not impose specific limitations on freight or work train lengths. It's possible LB539 could conflict with the federal law. Can you speak to that?

WALZ: I'm going to let somebody else speak to that, actually.

GEIST: OK, OK, that'd be fine. Thank you.

WALZ: They'll-- they'll explain it better than I will, I'm sure.

GEIST: OK.

FRIESEN: Thank you, Senator Geist. Senator Albrecht.

ALBRECHT: Thank you, Chairman Friesen. Thanks for bringing this bill. I happen to have an issue in my neck of the woods too when we have cattle on-- on board and we're waiting for a train. But on these-- these other states that have proposed this, has it gone anywhere ever or--

WALZ: Not that I know of, Senator Albrecht, and I think it has something to do with the--

ALBRECHT: Federal?

WALZ: --constitutionality of it and the interstate, but I will have somebody else explain it better. But they have introduced legislation. There's four states that have introduced legislation.

ALBRECHT: OK. Thank you.

FRIESEN: Thank you, Senator Albrecht. Seeing no other questions, are you going to stick around to close?

WALZ: Yeah.

FRIESEN: OK. Thank you. Proponents of LB539-- or opponent-- proponents, proponents. Good morning.

PAT PFEIFER: Well, thank you, Senators. Again, my name is Pat Pfeifer, P-a-t P-f-e-i-f-e-r, with Nebraska State Legislative Board,

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

Brotherhood of Locomotive Engineers and Trainmen. You know, before, I had-- again, I gave you some homework here, I gave you a statement of mine, some commentary from Lawrence Mann, again, that was the chief author of Rail Safety-- or federal Rail Safety Act, and then a GAO study that's been done in Washington over the impact of big tr-- or long trains. Excuse me. The-- one thing with-- it's hard to talk about this without talking about the prior bill. And listening to all the testimony on the prior bill, man, there's a huge disconnect from a board room to a crew room of what's important, whether you can negotiate, you know, safety or anything like that. But both these bills, there's no federal law, there's no federal regulation on the size of a-- of a train or the size of a crew, and every state has the right and the authority to institute a law to protect the safety of their-- their constituents. You have the authority right now. The FRA has not taken up this issue. The negative preemption of the two-man crew bill didn't say they were going to go one-man; they just said it don't matter. For the last four years rules and regulations have been issued waivers. Those are our safety checks out here. This bill, along with that two-man crew bill, is going to be introduced in every state, and you guys are the authority until the federal government steps in. We do have a Safe Freight Act up in Washington that would take care of every state. We do have probably a train length bill that's going to be introduced in Washington that that [INAUDIBLE]. To suggest we got to stop at a state crossing-- or the border, drop off a crew man or set out cars, that's not what happens. We're putting standards in. PSR, Precision Scheduled-- when I first hired out as an engineer, our trains were 100 cars long, 6,000 feet long. The last few trains I've taken have been 15,000, 16,000 feet long. To sit there and say we got to be competitive, one of the stack trains I took from North Platte, Nebraska, to Missouri Valley, Iowa, we got to-- the-- the railroads think they got to be competitive with the truck industry. Two hundred and forty-car long stacker is 480 containers. Where could you offload those and have in-- infrastructure to run that? There is no competition between trucks and trains. There simply ain't. There are six Class I railroads in this country. They've got their own issues as far as the federal court with the price rigging or fuel surcharges and stuff like that, which our truck companies don't have that. They're about the same. So we've-- we've had success getting a crossing bill passed down in Oklahoma. It got overturned. But this is not just a-- a local issue. This is everywhere. Technology fails. Two of my members out in Sherman Hill died because-- which Mr. Davis called the end-of

train telemetry device. They couldn't activate it. They had a pinched air hose with 14 cars that couldn't stop a 130-car train. Best thing they could do is call the train that was heading, tell them get off before they hit that, and they died because technology does fail. And you can continue to go from 16,000 to 20,000 to a 30,000 foot trains just for profit, just for a business plan. You jeopardize the safety of everybody in the state.

FRIESEN: Thank you, Mr. Pfeifer.

PAT PFEIFER: Any questions?

FRIESEN: Any questions from the committee? Seeing none, thank you for your testimony.

PAT PFEIFER: [INAUDIBLE] easy questions. Thank you.

FRIESEN: Any other proponents for LB539?

ANDREW FOUST: My name is Andrew Foust, F-o-u-s-t, and I'm here today to testify in support of LB539. Senator Friesen and the members of the Transportation Committee, thank you for this opportunity. I've worked as a conductor for 17 years and I also represent the SMART-TD associate state director for Nebraska. I'm here on behalf of the more than 1,200 members and their families. BNSF and the Union Pacific are currently running over 16,000-foot mega-coal trains across the state and have for years now. Sixteen thousand feet is over three miles long. Those trains run across this state every day and the only reason that they're not longer is because they don't have the capability to run the air for the braking systems through the entire train. These companies can't even run 10,000-foot merchandise trains without air problems. So when the train comes apart and loses air, the conductor is required to walk the entire length of the train and fix the problem. Further, the radios that we-- that we have do not even reach the rear of the three-mile-long train, which requires additional time for the conductor to communicate in person to the engineer; meanwhile, the train is stopped and blocking crossings along its route. Here's an example. It takes approximately 20 minutes for a coal train to run down to Nebraska City and there are eight crossings through south Lincoln. Senator Geist, that is your district and will affect your constituents. In other words, for at least 20 minutes, the-- that coal train will prevent first responders from responding to any emergency

south of those tracks. And that is nothing-- and that is noth-- if nothing went wrong, such as the air problems that I just spoke of. Now, if that same train ran through Fremont, which is Senator Walz's district and also where I grew up, it would block the entire west side of town for emergent-- from emergency responders. The same scenario would be true for North Bend, Nebraska, where the UP travels. Then there are small towns that rely on volunteers to be the first responders. That is approximately 20-minute delay from the train that would add onto the time that it already took those volunteers to arrive at the station, get their equipment, and then depart to the scene of the emergency. I ask, when Senator Friesen calls for the vote on LB539, that every member of this community-- of this committee votes in support of it. I'll be happy to answer any questions if-- that you might have.

FRIESEN: Thank you, Mr. Foust. Senator Geist.

GEIST: OK, so here's-- here's what I'm thinking about my district. Believe me, I've heard a lot--

ANDREW FOUST: Yes, I know you have.

GEIST: --about this. The tradeoff is long trains or many trains. I don't see a win [LAUGH] simply because the-- the arms are down means no traffic. And-- and there are no overpasses to speak of going north and south on the intersections in my district. Thoughts?

ANDREW FOUST: You also have a fire station within possibly a quarter-mile of three crossings.

GEIST: Right.

ANDREW FOUST: You have 70th Street--

GEIST: They're all on the north side.

ANDREW FOUST: --56th Street and Pine Lake.

GEIST: All on the north side, correct?

ANDREW FOUST: Yes. So if that train takes 20 minutes to get across those crossings, and this is just me thinking, I live in the development that's right south of that cr-- those three crossings. My

house is burning down. That firefighter and those first responders are sitting right there watching my house burn down. If that person is a family member of mine and they're having a heart attack, those first responders are sitting right there, watching me through the train, watching my family member die, not being able to provide help. It's the same way in North Bend, Nebraska. You have volunteer fire to fire-- firefighters on the north side of the crossing in North Bend that provide assistance to the people in Morse Bluff, right? And they'll-- and like I said in my statement, those-- those firefighters are volunteers, so they already live away from their equipment, right? So they have to take the call, go to the station, get their equipment, and then travel to wherever they're going. Now they've gotten all that. They're sitting at the crossing waiting for a train to clear to provide emergency response.

GEIST: It's a problem.

ANDREW FOUST: Senator Walz said Fremont. I grew up in Fremont for 20 years, and there is a-- a large population of Fremont that is west of those tracks that she's talking about, and there is no way for those first responders. These three-mile-long trains would block the entire west side of that town. There is no overpass.

GEIST: Understood. Thank you.

ANDREW FOUST: There is a-- there is a lake community west of Fremont that the only way into it-- it has the UP tracks running through the entrance, and there is no way for those first responders to get into that lake community.

FRIESEN: Thank you. Any other questions from the committee? Senator Bostelman.

BOSTELMAN: Thanks, Chairman Friesen. Thank you for your testimony, Mr. Foust. So if it's not a 16,000-foot train, how long?

ANDREW FOUST: If it's not?

BOSTELMAN: What-- what I-- yeah, I mean, historically, over time, what were they running? If it's not 16,000, is 8,000? Is it-- I mean, what's the--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

ANDREW FOUST: A merchandise train can be anywhere from 4,000 foot to 8,000 foot.

BOSTELMAN: Right, and so what I think her bill is saying--

ANDREW FOUST: A coal train could be 135 cars, which is 10,000 foot.

BOSTELMAN: So-- and I believe what her bill is saying, nothing over that 8,000 foot, right?

ANDREW FOUST: 8,500.

BOSTELMAN: So I'm just trying to get perspective. Like what Senator-- Senator Geist was saying, you know, we have one train through or we have two or three trains through, just timing things, just to understand it, because I under-- I know North Bend used to be every 15 minutes there's a train going across the crossing.

ANDREW FOUST: Yes.

BOSTELMAN: Now it's-- sadly, it's not that way. I say it sadly, just in the case that not the freight going across there--

ANDREW FOUST: Yeah.

BOSTELMAN: --not necessarily by length of train, but just, you know, of the freight going across there. So I'm just kind of, you know, following up on hers, if-- the question, if we don't have this one, you know, how often that train's going to go and are we-- we may have a short break in there, but how much time are we saving, I guess, is where I'm at. If you got an 8,000-foot train, coal train coming through, or you have a 16,000-foot-- you have two 8,000-foot trains back-to-back or an 8-- 16,000-foot train, are you saving the time that you-- for the people at that crossing that you need to, to go across? Does that makes sense?

ANDREW FOUST: I would say with the shorter trains you're allowing-- because that would allow for a 15-minute gap, like you said, for instance, in North Bend, for those people to travel across the crossing and then another train comes. It's the same way in-- in Fremont. I know for a fact a train probably tra-- the problem in Fremont is there's-- there's a diamond, and that's what they call-- and the BNSF travels across the UP diamond. The UP has control of the

diamond, so their trains run first and they might allow the BNSF to run across that.

BOSTELMAN: Are we-- are we primarily talking coal then?

ANDREW FOUST: There's coal and there's been oil in the past, which I highly see that coming back--

BOSTELMAN: OK. All right.

FRIESEN: Thank you, Senator Bostelman.

ANDREW FOUST: --merchandise.

BOSTELMAN: Just-- yeah.

FRIESEN: Any other questions from the committee? Seeing none, thank you for your testimony.

ANDREW FOUST: Thank you.

FRIESEN: Any other proponents?

JAMES SCOTT DULIN: Do you guys want us to introduce ourselves all over again, even though it's the same folks? OK. I am James Scott Dulin from Hershey, Nebraska, population 665. I graduated there in '87, hired on the railroad in '88--

FRIESEN: Spell your name.

JAMES SCOTT DULIN: D-u-l-i-n-- hired on the railroad in '88, became an engineer in '94. I've got 33 years of experience, 10 of those as a safety captain from my peers. What I think this all boils down to, the decision before you guys today, is-- is evaluating the-- the opponents' view of risk and reward and the proponents' view of risk and reward. And I think the railroads of this nation are really good at evaluating risk and what they can-- they can extract out of that in reward and weighing the scales. And it's-- it's prevalent in this piece of legislation here that they--they want to-- to maximize their reward and evaluate that risk with-- with them. Other than this morning's bill, this-- those-- this one's different is-- is there there's almost no risk on the railroads for-- for making unlimited lengths of train, the-- the financial risk that they might be

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

wagering. It isn't, it's nonexistent. It's somebody-- farmer out in the-- rural Nebraska complaining. That don't cost him anything. It's your house that might be blocked and the complaint you might make. That don't cost him anything. There's no-- there's no financial risk on-- on this piece of legislation. The reward is enormous. They can-- they can increase profits unlimited. I mean, today, it's a 16,000-foot train. What about in five years they'd like to sit in front of you again and tell you, hey, we've got some even better supercomputers that'll allow us to do this and make even more money. Well, what's a 50,000-foot train? What's a-- what's a ten-mile train? I-- I don't know. Where do-- where do you put the stop? Nobody likes regulations, but this is-- this is an area where regulations are for the good of the people. They protect the people that will not have a constant ability to affect that risk and that reward. Their complaints are going to go nowhere. They know their complaints are going to go nowhere. Thirty-five years you've been maybe getting phone calls from block crossings, did nothing. Those-- those people's-- tomorrow their crossing will get blocked again. The difference between a small train and a-- and a large train, as an engineer for-- did this a long time, and as the rest of the engineers will tell you, we got a-- we got pretty good about what we can do. If I know I got to stop five miles down the road and I got a one-mile train, I know every crossing on my district like the back of my hand and I can anticipate in enough advance to find a spot where I don't block anybody and endanger their lives with that blockage. I can do that. You take it out of the-- you-- your most valuable commodities' hands when you make that train three miles long. There-- it doesn't exist, not in Nebraska. There ain't a place where you ain't going to be able to stop that train and not block a crossing. It-- it's not going to happen. And when you do, all you guys are going to get is complaints on the phone. Those people are going to pay in emergency, fire, rescue, police, or simply inconvenience. I say you should do what-- what your constituents want, not what this corporation wants to do. Their reward is-- is great; their risk is minimal. Questions?

FRIESEN: Thank you for your testimony. Any questions from the committee? Seeing none--

JAMES SCOTT DULIN: Thank you.

FRIESEN: --thank you.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

KEVIN HOWELL: Once again, my name is Kevin Howell, K-e-v-i-n H-o-w-e-l-l, from Seward, Nebraska. I'm an engineer. 23 years on the railroad. I've had the opportunity to run and be a part of some of these-- we call them on our railroad megatrains, where they take two trains and basically slap them together, and that's where you get your 15,000 feet or-- or more. As an engineer, when I'm trying to instruct a conductor or a-- a new engineer on how to operate, some of-- some of the thing that takes the longest time is-- is, where do we stop? You know, you have a signal system or a PTC that tells you about five miles in advance, maybe more, six miles in advance, where you're going to be stopping. And on a signal system, it's, you know, green light, yellow light, flashing yellow, and, you know, red. And we might stop on any of those signals so that we're not blocking crossings. With a megatrain, now, you got a guy, a conductor, hopefully, who gets to stay on the train, who has to walk back and decide which crossings to cut. You know, they're coupled together-- you guys are learning the technology now-- with those knuckles. You take those knuckles apart and separate the trains so that cars can pass through. Well, now this conductor has to trudge through the snow, whatever other conditions, and-- and usually a lot of bad walking conditions, you know, rock and balast-type situations. Instead of just walking a half a mile or a mile, he might have to walk and make three cuts on that train, and it takes a lot of time and-- and so basically now, as an engineer, we just pull up the red signal because you've got a train that's so long that you can't manipulate and park in a place where you're going to not impact traffic. They're-- they're so long, they just-- they-- they block everything. So that's something that we're have-- having to deal with. Just recently, they started out of Lincoln running megaloads, which are coal trains that are twice the length of a regular train and they're loaded, so they're extremely heavy. And I got the opportunity to deadhead on one. Deadhead is when they have too many crew members on one end of the road and-- and not enough on the other. They'll either, by bus or by train or however they can, get you to the other location. And when I was deadheading on this loaded megatrain-- luckily it happened in Lincoln Yard-- there was a emergency application of the brakes due to the PTC system malfunctioning, and the end-train forces made such a racket that four of those couplers, those knuckles, those pieces of steel, broke throughout the train. I've never seen in 23 years that the end-train forces would make four places break, separate places. Now that conductor has to carry 90 pounds of steel to all those locations in order to fix that train and

that takes a lot of time. If we're talking about blocking highway crossings and-- and fire departments and stuff like that, it could be a real disaster. So I do like the-- the legislation and having the smaller trains are a lot easier to manipulate in Nebraska.

FRIESEN: Thank you, Mr. Howell. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. Howell, for being here. Where I was going with my questions before is, are you seeing-- and the comment you made kind of brings it back up again. So are-- and maybe those behind will ask-- will answer, as well, from the-- the railroads' management there. Are we seeing trains now being put together more and more readily? Is that where we're going in the future? Is that what you're seeing?

KEVIN HOWELL: They're trying to, but there's a lot more things that can go wrong with these longer trains. There are just too many moving parts and too many, like I said, end-train forces and all that kind of stuff where they're breaking and all this. I-- I know there was a management employee who said they were going to try a-- a 48-hour blitz of just making megaempties. So these trains, they put all the trains together two at a time and send them out on this one subdivision just to see if it'd work. And I don't think they even made eight or nine hours and it just made a mess of everything, and so it didn't work. But, yeah, the longer these trains get, the more opportunity for breakdowns and failures. And luckily, what happened to us, it was in a yard where it was a little bit easier to fix and there wasn't crossings blocked, but that could have very easily happened seven miles before we got to Lincoln Yard and-- and, you know, they would have been blocking traffic for a very long time--

BOSTELMAN: OK, thank you.

FRIESEN: Any--

KEVIN HOWELL: --and nothing that we could do about it.

FRIESEN: Thank you, Senator Bostelman. Any other questions? Seeing none, thank you for your testimony.

KEVIN HOWELL: Thank you for your time.

FRIESEN: Any other proponents, LB539?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

SONNY FANKHAUSER: Chairman Friesen, members of the Transportation Committee, again, my name is Sonny Fankhauser, S-o-n-n-y F-a-n-k-h-a-u-s-e-r. I did have a speech prepared, but I don't want to be repetitive of what you've heard today, so I think I'll take this time to answer some of the questions you guys have brought up. In Nebraska, we have 3,117 rail miles. There's 3,228 public crossings; 2,100 of those are private. So on average, in Nebraska, we have about a crossing every mile. So a typical train we run now, 135-car coal train is 7,500 feet long. So we stop that train, we might have one crossing blocked. Now we're running these megatrains, as Kevin alluded to. They're up to 15,000, 16,000 feet. So now, on average, we're having three crossings blocked. So when we're running through south Lincoln, if there's an emergency responder that needs to get access to somebody in need, instead of having to go around one mile, around the train, now they're having to go around a six-mile trip or-- or journey. So it increases the response time exponentially, these longer trains do, and in some instances-- like I said, there's 2,100 private crossings in the state of Nebraska, many of those one way in, one way out. You increase the chance or the probability of blocking somebody in with-- without getting a responder to them in a timely fashion. Those first critical minutes, you know, as we know, are critical of somebody's life being saved. Another thing I'd like to bring up, Mr. Davis kept bringing up the alerter on the trains, how we have to hit it every-- he said 30 seconds. Typically, it's dependent on train speed, could be up to 60 seconds.

FRIESEN: Is this-- this part of this bill?

SONNY FANKHAUSER: Yes, on train length?

FRIESEN: Train length, OK.

SONNY FANKHAUSER: Yep, on train length. He said that PTC will stop the train in the event we're not hitting that alerter. Well, right now, I've reported several of my trains where if you don't blow the crossing, PTC will start blowing the crossing for us. It's a safety overlay, but that will nullify the alerter, so it'll allow a train to continue on down the tracks. If somebody is incapacitated, that train, in theory, could go on as long as-- as long as PTC keeps blowing the whistle at the crossings and--and nullifying that alerter. That's something that has been reported to the railroad in their own safety device. They-- they're aware of it and they say that's why they

programmed it, so they've nullified their own safety devices. It's supposed to stop these trains in the event of somebody becoming incapacitated. And these longer trains, like I said, you're going to increase the potential for a bigger disaster when you have more cars, more tonnage. It's going to take a lot longer for that inertia to stop. Another thing, Mr. Davis kept talking about why we need to run either two-man, and it ties in with train length, is this competitive disadvantage. He says we're in competition with truckers. Well, a typical grain train right now, say we're 100 hundred cars. They want to run them 200 or 300 cars. A typical 100 coal train car is going to be equivalent to 500 hundred semis, so two people on a train are doing the work of 500 semi drivers. I mean, there's just no advantage. The scale that we operate on is on another level. And you can talk about his earnings, their operating ratio, you know, is at a 59.7 percent operation-- or operating ratio for BNSF compared to somebody like Werner Trucking, which is a major trucking firm, they're at 90.8 percent operating ratio. So the-- the efficiency that we operate on the railroad, again, is a whole nother scale. There is no competitive disadvantage. The competitive disadvantage is to the truckers, not to the railroad. I'll-- I'll take questions at this time. Thanks for your--

FRIESEN: Thank you, Mr. Fankhauser. Any questions from the committee? Seeing none, thank you for your testimony.

SONNY FANKHAUSER: Thank you.

FRIESEN: Any other proponents of LB539?

JASON MEYERS: Well, it's been long enough, I can say good afternoon now. My name is Jason Meyers, M-e-y-e-r-s. I am a certified conductor, locomotive engineer both, from McCook, Nebraska. I'm also a union officer for SMART-Transportation Division. I forgot to mention that earlier. There's two underlying factors that directly correlate to both this bill we're talking about now and the previous bill, LB486, and that is corporate profits. It all equals money and where can we save money, and if we build technology in or make these trains longer or double them together, we make more, but where can we save it, where can we offset it? You combine these two trains into one, like is what my other brothers had mentioned earlier in testimony, and if you're running a 15,000-foot or 16,000-foot train versus two 6,500- or 7,000-foot trains, you're running two trains with one crew. So if you

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

have X number of crew change points between the initial terminal or the initial-- where the train is built and where its destination is, how much savings is there? There's a huge savings. There's all kinds of savings. It's all about-- it's all about the money. On the line I work on, between-- primarily between Lincoln, Nebraska, and Denver, Colorado, McCook's kind of the middle of that. And in the area that I work on, siding length, where we can meet or pass other trains, primarily dictates train length. On-- between McCook and Lincoln, they like to run them 6,500 feet because that's what the sidings are. That's where-- that's where we're at when we fit. But when we put a 6,500-foot train into the siding and there's crossings in every town, I mean, we know what-- we don't have room to separate those crossings. Our terminology is "cut," cut the crossing. We don't have room. Our rules say, when there's an adjacent track, we have to give 250 feet on each side of that public crossing. So we're looking at almost 600 feet of separation by the time we get that train separated, so there's room for the traffic, the public to see a train coming on the adjacent track. You put a 6,500-foot train in a 6,500-foot siding and try and find 600 foot of room to separate that crossing for public safety, can't be done. And I am very confident in my thought process that if the-- if the siding links weren't 6,500 feet over here, we'd be running trains the size of the sidings, which from a business standpoint I totally get it. You've got to be as efficient as you can, run as big as you can, run as hard as you can, and make as much as you can. But at what cost? There's added expense in doubling these trains together. That's part of why they're trying to minimize it or minimize, you know, the crew cost on that. You know, you go from three locomotives on a 7,000-foot train, but if you make it 15,000, you've got to have extra motors in the middle, extra motors on the rear. It takes more power, so where's those savings coming from? Well, it's coming from crew starts; you're reducing your labor force. Again, business models say that's smart. But again, I-- I reiterate, at what cost? At what cost to public safety? There's been a lot of terminology thrown at you guys and gals today and-- and a lot of acronyms and-- and phrases we use in the rail industry, and I guess I'd really like to encourage you guys, if you have questions today or down the road, you've all got our-- our slips we submitted with our names and our phone numbers and our addresses. Ask the guys who work in the industry, the guys and gals who work in the industry. Ask us what goes on out there. We know what we're working on a day-to-day basis. The-- and meaning no disrespect whatsoever to the corporate representatives

of the carriers that have been here today, but they're paper pushers. They know what it says on paper. They know what-- how it should work. We know how it does work. We understand it. There's a lot of questions that were asked to the proponents, for the most part, today that you got answers to. There's a lot of questions about rail operations asked to the opponents, but they didn't have answers. We'll give you the answers. Feel more than free to reach out to-- I'll volunteer myself, and I'm sure many of the other proponents and people that have given their-- their information. If you have questions, reach out, ask us.

FRIESEN: All right, thank you.

JASON MEYERS: Thanks for your time.

FRIESEN: Thank you, Mr. Meyers. Any questions from the committee? Seeing none--

JASON MEYERS: Thank you.

FRIESEN: --thank you. Any other proponents of LB539?

ADAM HAUSMAN: Good afternoon. My name is Adam Housman, A-d-a-m H-a-u-s-m-a-n. BNSF currently has trains that are 15,000 to 16,000 feet going on right now. I-- you know, I'm not going to keep beating a dead horse, but, you know, it's almost three miles long or over-- or longer. Most tracks that we run on have temporary speed restrictions to down to 25 miles an hour. This can cause crossings to be blocked for a signi-- significant amount of time. For example, if a train is one mile long, going 50 to 60 miles per hour, it takes one minute to clear a crossing. At 30 miles per hour, it takes two minutes to clear a crossing. So if a train is three miles long, it could take up to six to seven minutes just for one of those crossings. Every second counts when there's an emergency. A fire can engulf a building within five minutes. In the state of Nebraska, there is a crossing every mile, so if a train is stopped, it could potentially have three crossings blocked at once. Fire and rescues were called to a location on the other side of the tracks, they may have to travel seven miles out of their way to render aid, and sometimes farther. This is potentially life threatening as every second counts. Take a moment and think about your location and your family members and how this could affect you, hopefully not, but please consider passing this bill out of committee. And thank you for your time.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Thank you, Mr. Hausman. Any questions from the committee? Seeing none, thank you for your testimony. Any other proponents? Seeing none, anyone wish to testify in opposition to LB539? Welcome back.

JEFF DAVIS: Good afternoon, Mr. Chairman. Members of the committee, Jeff Davis, appearing here again on behalf of BNSF Railway. And, you know, I certainly respect what-- what Senator Walz is here trying to do today. I think she and her constituents--

FRIESEN: Spell your name.

JEFF DAVIS: Oh, J-e-f-f- D-a-v-i-s. I think she and her constituents are frustrated about a blocked crossing issue, and that issue has little to do with train length. Shorter trains mean more trains, but it doesn't mean those trains won't block crossings. I'm aware of very few instances where a shorter train will actually solve a blocked crossing problem. In most cases, blocked crossings are an infrastructure problem and they require an infrastructure solution. Sometimes we can make an operational change to solve it, but more often than not, we need a longer siding, a grade separation, or something else to improve the situation. And I think that's a discussion that's best had between the railroad and local officials and we can do a better job of being more attentive. If this really is about train length, I think we have to be very careful. This isn't about trucks. We are competing in a global environment. We have to be able to adapt to market changes and the needs of our customers. Shippers own the vast majority of our rail cars that we haul. Major retailers want better utilization; they want more turnarounds. They're demanding on-time pickup and delivery, while at the same time they are insisting we can-- that we should reduce our carbon footprint. Container ships that move these intermodal units are also getting bigger and demanding faster turnaround. Last year, BNSF had more than 200,000 carloads of freight originate in Nebraska. Most of those commodities were grain and agriculture related. Grain and commodity shippers are competing in a global market with other producers, and they need to be as efficient as possible. That's why the co-ops were here this morning and testified against the previous bill, and the sponsor said she would accept their amendment, didn't have anything to do with safety. They're trying to keep their costs down. Likewise, we routinely haul coal trains of more than 7,500, 8500 feet through Nebraska because we have to do everything we can to keep those plants

open and cost competitive. Weeks like we had two weeks ago, where temperatures plunged below minus 26 degrees, make railroading very difficult. At those temperatures, equipment failures, rail tends to snap and break much more frequently. Operating a network means we might not have to stop just one train but every train on a particular line until the repairs are made, which aren't easy in that type of weather. In conclusion, train length truly is a matter of interstate commerce, as it affects a lot more people than those who are-- who are most immediately affected by a blocked crossing. The industry has room for improvement, BNSF has room for improvement, but shorter trains does not solve the problem. If you do hear of blocked crossing problems, please call me and I'll do whatever I can to help make things better. Thank you.

FRIESEN: Thank you, Mr. Davis. Any questions? Senator DeBoer.

DeBOER: I just have one question for you. You mentioned that-- the carbon footprint and all of that. Is there a substantial difference in fuel use between longer trains, like one sort of double-length train and one-- and two shorter trains, or is it a similar amount of fuel is used in either of those cases? In other words, can you save fuel by doing a longer train?

JEFF DAVIS: Yes.

DeBOER: Is it a substantial amount?

JEFF DAVIS: When you are operating approximately 1,400 trains a day, 365 days a year, yes, it would be a significant amount.

DeBOER: OK, thank you.

FRIESEN: Thank you, Senator DeBoer. Senator Cavanaugh.

M. CAVANAUGH: Thank you. You mentioned that blocked crossings are an infrastructure problem and-- and that there are things that can be done to address that, but you didn't give any examples or specify. Do you have any thoughts on how we can address that infrastructure problem if it's not through the train lengths?

JEFF DAVIS: So we have a bottleneck in Grand Island that received some press attention last year, and it ended up where we were stopping-- you know, before, where we were blocking trains, we basically started

stopping somewhere else to alleviate that problem. And, you know, my understanding is the-- the complaints from Grand Island have largely gone away. I mean, that was-- that was a fairly simple fix that-- that we were able to make, but not all of them are that simple. Sometimes they require, you know, grade crossings or at, you know-- you know, other infrastructure, longer sidings, you know, removal of at-grade crossings, etcetera.

M. CAVANAUGH: Removal of what crossings?

JEFF DAVIS: At-grade crossings.

M. CAVANAUGH: What is that?

JEFF DAVIS: That's where the-- the train tracks and the road meet, so it's an at-grade.

M. CAVANAUGH: Oh, OK.

JEFF DAVIS: So you-- grade separation, so you'd separate--

M. CAVANAUGH: So would you raise the trains then?

JEFF DAVIS: Well, sometimes it's-- it'd be an overpass--

M. CAVANAUGH: Right.

JEFF DAVIS: --just like we've got an overpass project that we've been working on here in Lincoln for a few years now.

M. CAVANAUGH: An overpass for cars or an overpass--

JEFF DAVIS: Overpass for cars.

M. CAVANAUGH: OK. OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? So the complaints I've received, and some of them from Lincoln here, too, it seems to me there's only one-- there's two solutions. We can build overpasses or we can ban the trains.

JEFF DAVIS: Well, I hope you don't ban the trains. [LAUGHTER]

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: I'm just saying, I-- I mean, I'm-- I get blocked crossing complaints, too, but we-- and we're trying to build overpasses, but I know that's a-- a joint project between DOT and you guys.

JEFF DAVIS: Um-hum.

FRIESEN: And I know you guys contribute a lot of money to that. But again, when it comes to blocking a crossing--

JEFF DAVIS: Um-hum.

FRIESEN: --the only two solutions to that if my life is in danger, supposedly, is to either have an overpass there or to ban trains. That correct?

JEFF DAVIS: Correct, Mr. Chairman, yes.

FRIESEN: I think we've cut it down to a pretty simple thing. Thank you, Mr. Davis. Senator Cavanaugh.

M. CAVANAUGH: Thank you. Sorry. Chairman Friesen, you brought up another question for me. The cost for the overpasses that are built, those are borne by both the state and the train companies?

JEFF DAVIS: It is, yes, and it's usually a matter of negotiation.

M. CAVANAUGH: So it actually costs the state more to not ban the trains because the state's bearing the cost of the overpasses?

JEFF DAVIS: You know, I-- I don't know that-- I mean--

M. CAVANAUGH: That's OK.

JEFF DAVIS: There is a cost-- there-- there's normally a cost-sharing agreement and it promotes public safety when we do that--

M. CAVANAUGH: OK.

JEFF DAVIS: --because we're removing an at-grade crossing and that's one less opportunity for someone to get hurt.

M. CAVANAUGH: I can ask the department for the cost sharing. Thank you.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Thank you. Senator Cavanaugh. Seeing no other questions, thank you for your testimony. Any others wish to testify in opposition to LB539? Welcome.

DANIEL BLANK: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. Once again, my name is Daniel Blank, D-a-n-i-e-l B-l-a-n-k. I'm an assistant vice president and the chief safety officer for the Union Pacific Railroad. I'm here today to respect-- respectfully express opposition to LB359-- excuse me, LB539. Thank you for this opportunity to speak about employee and public safety, which is an integral component of the Union Pacific's business practice. Safety is priority number one. We are proud to have an exceptional safety record in what is already the safest industry in ground freight transportation. In 2016, the FRA began looking at train length as a potential contributing cause of reportable accidents or incidents. However, the FRA stated in a 2018 letter there is insufficient data and no evidence to justify limiting train lengths and has since not taken any federal action in this regard. Simply put, there's no objective data to support the notion that train length negatively impacts safety. The Union Pacific invests significant resources in training, research and development, and public education, all with the goal of increasing rail safety awareness and improving employee safety. The advancement of train capacity didn't happen overnight. Our multifaceted approach to operational safety includes the evaluation of changes to operate-- operations prior to implementation by investing in science, proven technologies, and operating best practices. Union Pacific also provides comprehensive, ongoing safety training programs covering all aspects of railroad operations, including programs specific to train handling. There are thousands of daily activities required for railroad operations in our terminals, our maintenance facilities, and along our main tracks. Enhancing the utilization of our resources and leveraging the train capacity allows us to reduce the amount of activities that we are requiring our employees to do. The ability to operate trains with more railcars results in fewer trains, which reduces potential for employee injuries and derailments, improves operating best practices, and contributes to other key safety aspects. In Nebraska, the Union Pacific alone has over 1,000 road crossings. Unfortunately, many of the train-vehicle collisions are due to a try-- a driver trying to get to the crossing before the train. Again, leveraging the train capacity allows for fewer trains, which provides

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

less opportunity for a driver to try to beat the train, possibly causing a train-vehicle collision, thus making it safer for drivers. Union Pacific is proud to have achieved exceptional safety records in what is already the safest industry for the ground freight transportation. We will continue to advance the best-in-class safety measures and will not be satisfied until we reach our target of zero accidents, injuries, or fatalities involve-- involving our employees and the public. I respectfully ask that you oppose the advancement of LB539. Thank you for your time and I'm happy to answer any questions that you have.

FRIESEN: Thank you, Mr. Blank. Any questions from the committee? Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. Blank-- Blank, for being here. So your-- the FRA safety analysis that you're talking about is for the train only, correct--

DANIEL BLANK: For the train length, correct.

BOSTELMAN: --and how the train functions itself, not about whether that fire department could get across the track because that train's blocking the track, not about whether Highway 14 in Superior, Nebraska, was blocked for hours upon end, which was a major highway that goes north and south between Superior-- or between Nebraska and Kansas, and it blocked all the major roads within the town for hours on end on multiple times, and the sheriff was there wanting to arrest the crew because the train was blocked. So your safety, I'm just wanting-- I'm sorry. I'm not trying to be argumentative in a sense. I'm just-- I just want to understand your safety. What you're speaking about is accidents the train had, not necessarily how it affected that crossing or that community. Would that be right? Would that be accurate?

DANIEL BLANK: So the FRA study that I referenced did talk specifically in relation to the length of the train and the operating practices and reportable equipment incidents, which would be-- would be like a derailment.

BOSTELMAN: Right.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DANIEL BLANK: It did not isolate and look at the impact to the different facets of the community, which I know we've covered in some degree here, talking about the difference between, you know, train length or-- having fewer trains or having more trains that might potentially stop at the crossing. And we have talked about a lot of the-- the infrastructure challenges or changes with the grade separations that we've done in a lot of communities that could help with some of that. And those are discussions that Union Pacific would like to continue to have with each local representative, each community, because, again, these are the communities that we live in, as well, that our families live in. And if we have opportunities like that, we'd like to be able to address them.

FRIESEN: I understand. I just want clarifica-- I just want to make sure I had it in my mind that what we're talking about is really the-- the-- the accidents that the trains may or may not have had at a crossing or on the rail, not necessarily if there was any effect within the community, if there was, and there may not have been any and, you know, I-- I-- you know, whether there was an effect on-- on someone being able to cross the track in timely manner in-- for whatever reason, in case of emergency or fire, ambulance, whatever it might be. But I just wanted to make sure I'm understanding your testimony on-- on the safety aspect.

DANIEL BLANK: Your statement is correct in regards to the FRA piece. Now the Union Pacific does track crossings that do get blocked. We have a Response Management Communication Center that coordinates with local law enforcement and members of the community. And we use the same type of risk mitigation program as we look at the areas where we see more frequent locations where they might be blocked, and we use that to generate some standards in how we operate our trains. Of course, we don't want our train stopped any more than the community wants our train stopped. Our objective is to be able to keep them moving as much as possible, and we do use that data and some of the relationships with the community to-- to look at those specific instances at more of a granular level.

BOSTELMAN: OK. Thank you.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you for your testimony.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DANIEL BLANK: Thank you.

STEVEN BYBEE: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Steven Bybee, S-t-e-v-e-n B-y-b-e-e, and I'm an assistant vice president of network integration and scheduling for Union Pacific Railroad. I joined Union Pacific as a conductor back in 2005 and spent four years in that position before moving into management roles. I've worked in operations at various locations and have firsthand working knowledge of our network operations. I'm here today to respectfully express opposition to LB539. Safety is first and foremost. Union Pacific is dedicated to running a safe, efficient and reliable transportation service. We operate in over 23 states and recognize the im-- importance of being sensitive to community-specific concerns, including considering how operational changes impact communities. The railroad industry is a fluent interstate network. Events in one location may impact the efficient flow of freight operations hundreds and thousands of miles away. For these and other reasons, an occupied crossing may feel local but is actually the result of a distant or complex operational issue, such as weather, grade crossing incidents, or mechanical failures. Train length restrictions in Nebraska would slow all trains throughout the state, a ripple effect that can quickly spread throughout the entire rail network. Attempts to reduce the time crossings are occupied in one state by restricting train size potentially increases the duration crossings are occupied in the same and neighboring states. In my capacity, my team is responsible for assessing resources needed to manage present and future demand. Evaluating network capacity and operations includes many factors such as network traffic, weekly and seasonal peaks, and recovery from weather. Planning resources to handle current needs and anticipated growth, including crews, locomotives, mainline capacity, and terminal infrastructure, is a complex matter. Union Pacific leverages innovation and proven technology to efficiently manage crew schedules, making work more predictable, increasing fuel efficiency, reducing emissions, and decreasing train interactions with vehicles and pedestrians. Leveraging train capacity allows us to meet our resource needs, provide excellent service, and maintain network fluidity. We are dedicated to maintaining and improving infrastructure to meet Union Pacific's capacity in Nebraska through strategic allocation of resources, which include nearly 100-- which include nearly a thousand route miles in Nebraska. We devote a substantial effort to exploring

every available means of increasing throughput of our existing infrastructure, in addition to spending dollars and time needed to put new iron in the ground. In fact, in 2019, Union Pacific invested $360 million in our infrastructure in Nebraska. LB539 will result in significantly increased costs for railroads, rail customers, and consumers. That means fewer resources dedicated to innovative solutions and infrastructure improvements. In closing, LB539 will have a direct negative impact on rail operations by stifling Union Pacific's ability to grow its business, and safely and efficiently. Such negative impacts would impede our ability to serve our customers and constrict our ability to compete with other railroads and within the freight industry, particularly against trucks. I respectfully ask that you oppose advancement of LB539. Thank you for your time and I'm happy to answer any questions that you may have.

FRIESEN: Thank you, Mr. Bybee. Any questions from the committee? Seeing none, thank you for your testimony.

KELLI O'BRIEN: Thank you. Good afternoon.

FRIESEN: Welcome.

KELLI O'BRIEN: Good afternoon, Chairman Friesen and the members of the Transportation and Telecommunications Committee. My name is Kelli O'Brien, K-e-l-l-i O-'-B-r-i-e-n, and I'm the senior director of public affairs for Union Pacific Railroad. I'm here today to respectfully express opposition to LB539. Safety is Union Pacific's number-one priority, and we continuously look for innovation to enhance the safety of our employees, communities, and the customers we serve. The public interacts most closely with railroad operations through at-grade crossings, where the road and the rails meet. Union Pacific coordinates with local road authorities, private property owners, and Nebraska Department of Transportation to identify crossings that can be consolidated, upgraded, grade separated, which means viaducts or overpasses, and/or closed. A closed crossing is a safe crossing. Those efforts sometimes include identifying and improving alternate routes for drivers or working with local planning authorities to plan their communities and to design new infrastructure developments that don't interfere with railroad operations. Limiting train length will result in more trains passing through crossings. This increases opportunities for train-vehicle accidents, which are typically due to driver behavior, such-- such as ignoring warning

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

sign, flashing lights, and going around gates. Additionally, in collaboration with Operation Lifesaver, Union Pacific promotes public service campaigns and educational initiatives to increase railroad safety awareness at and around at-grade rail crossings. Union Pacific works diligently with community leaders, government partners, first responders, and the public to manage-- manage and mitigate the impact of rail crossings on communities. We do our very best to plan our operations to minimize the amount of the time trains spend occupying at-grade crossings. Local residents can call, and do call, our 24-hour Response Management Communication Center, where you've heard about-- it's called RMCC, as we refer to it, 1-800-848-8715-- to report their at-grade crossing concerns. In addition to fielding local resident at-grade crossing concerns, RMCC dispatchers often proactively coordinate with local emergency dispatchers to advise them of occupied crossings within their jurisdiction, or they work with people at crossings that are having cattle cross their crossing. We do that often, where people call into that number and they coordinate about 24 hours ahead to get their cattle moved across safely. Our relationship with local communities are a vital part of providing safe and efficient rail services. We will continue to leverage best practices and proven technology to improve our network integration and scheduling procedures, to reduce the frequency and duration of occupied crossings. I respectfully ask that you oppose advancement of LB539.

FRIESEN: Thank you, Ms. O'Brien. Senator DeBoer.

KELLI O'BRIEN: Yes.

DeBOER: You may not be the right person--

KELLI O'BRIEN: Sure.

DeBOER: --to ask this question.

KELLI O'BRIEN: No, that's fine.

DeBOER: But you brought something up from your testimony.

KELLI O'BRIEN: Sure.

DeBOER: --that I hadn't really thought of. The most dangerous part of a crossing, I assume, is when the train is first coming through. There

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

might be someone, you know, like a motorist or something in the-- in the train crossing area. So by that logic, I would think you would find that it was even less safe to have multiple trains rather than one long train. So my question is-- that's sort of a hunch that I have. So my-- my-- my question is whether or not you know if most trains/pedestrian, or probably motorist, accidents occur when the train is first going into the crossing or if there are any that happen, I suppose occasionally, where someone--

KELLI O'BRIEN: People run into the train, yeah, they do.

DeBOER: --people run into the train as it's crossing?

KELLI O'BRIEN: They'll just run into the train because they're not paying attention, because they're-- distracted driving is a huge problem we have in this country on roads and with our rails. And it's amazing to me how many times in a weekend, at a certain hour of the late evening, that people will have had something, a substance and run into the side of our trains, and the trains are there and the trains are in the crossing clearly. So I don't have a data point. I-- I could maybe defer to my colleagues, but we could get that for you if you're just curious.

DeBOER: Yeah, I am curious whether--

KELLI O'BRIEN: OK.

DeBOER: --whether there is a difference, but it sounds like maybe there isn't. My hunch was that maybe it was the most dangerous type.

KELLI O'BRIEN: Well, have you ever seen people go around gates? Have you ever seen people get-- try and gun it and-- and try and beat a train? They-- they think trains are going to-- that are not going very fast. They don't think about the physics related to that, so.

DeBOER: OK. Well, I was just curious if there is any data maybe you or someone else has on--

KELLI O'BRIEN: Yeah, I can--

DeBOER: --on whether or not it would basically be more dangerous to have multiple short trains or one long train.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

KELLI O'BRIEN: Any of my colleagues or--

DeBOER: Well, they can--

_____: Kelli, I can tell you [INAUDIBLE]

FRIESEN: Just-- no. Let's--

DeBOER: Well, let-- wait-- just-- just send it to me.

FRIESEN: Let's not do this.

DeBOER: Just--

KELLI O'BRIEN: Yeah, I'll send it to you, no problem. Yep.

DeBOER: All right.

KELLI O'BRIEN: And there's one more of us to-- to go ahead and testify. I think that might be it, but--

DeBOER: All right. Thank you.

KELLI O'BRIEN: Anything else, Senator?

FRIESEN: Thank you, Senator DeBoer.

KELLI O'BRIEN: No one else?

FRIESEN: So I-- I take it sometimes when trains do stop, they choose where to stop their scheduled stop, but there's other times that trains are just forced to stop right where they're at. Is that safe--

KELLI O'BRIEN: Yeah, they can-- they can, actually.

FRIESEN: Because if they can't--

KELLI O'BRIEN: And then, you know, I think Steven, our AVP, talked about the network and if their network is experiencing changes or anything like that, or when you have wrecks-- sometimes we have things that have nothing to do with a train, that has everything to do with a crossing and a tractor-trailer. I just had one the other day where a tractor-trailer had gotten high centered and they had-- they had kind of taken a wrong turn and we had to-- we had to connect with our-- our

dispatch to-- the sheriff, actually, of this county called us to tell us so that we could stop the train, and we did.

FRIESEN: So all trains just stop were they're at.

KELLI O'BRIEN: Yep, yep.

FRIESEN: You can't move.

KELLI O'BRIEN: Yep, so.

FRIESEN: OK, that-- I should have asked that sooner, but--

KELLI O'BRIEN: Yeah.

FRIESEN: OK. Senator Albrecht.

ALBRECHT: I do have one quick question.

KELLI O'BRIEN: Sure, Senator Albrecht.

ALBRECHT: I appreciate your testimony.

KELLI O'BRIEN: Sure.

ALBRECHT: And rather than having to legislate something like this, I personally would like to know if you would be able to share with our committee, the 1-800 number that people call, can you--

KELLI O'BRIEN: Yeah, I'd be happy to--

ALBRECHT: I'd like to know, like, how many people actually are calling into that 1-800--

KELLI O'BRIEN: OK.

ALBRECHT: --number one, if they even know how to call into it. I don't know if you've ever had a situation where you actually let the public know what they can do--

KELLI O'BRIEN: Sure.

ALBRECHT: --because I would really like to be able to call--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

KELLI O'BRIEN: Yeah, actually--

ALBRECHT: --you-- you know, on a 100--degree day that I'm going to take cattle across the crossing, that--

KELLI O'BRIEN: Yeah.

ALBRECHT: --that it would be nice to know that. And the-- and the other thing is, if people do call in, because there could be, like-- like where-- where I'm talking, this crossing that we have, the fire department is right on the other side of the tracks.

KELLI O'BRIEN: Right.

ALBRECHT: But if you're on the wrong side of the tracks--

KELLI O'BRIEN: Yep.

ALBRECHT: --you have to dispatch another fire department is quite a far-- you know, a bit--

KELLI O'BRIEN: Right.

ALBRECHT: --further away, so just coordinating that with-- with law enforcement--

KELLI O'BRIEN: Yes.

ALBRECHT: --and how that happens.

KELLI O'BRIEN: Yeah.

ALBRECHT: But again, rather than over-regulating something like this, do you find that several communities do call in? They're not--

KELLI O'BRIEN: Yes.

ALBRECHT: --calling the 1-800 number, but they're calling you.

KELLI O'BRIEN: They're calling me, but I also am having them call that data point. When people call-- so here's an example. When people call their city councilman and don't use the blue sign-- every DOT has a DOT sign. And I should have brought my prop. I thought about it today.

It's a metal sign and it's blue. They're all horizontal. They're at every crossing.

ALBRECHT: OK.

KELLI O'BRIEN: So what it tells you is several things. It gives you the grade crossing number of the institution, the train company that has it. So if it's in-- if it's a short line that it's theirs or if it's BNSF's or ours, it tells you. It also tells you the crossing number. Then that, when you call that number, you know where you are, they know where you are, they know the crossing that you're at. So that's where you can register that. And I encourage people to utilize 1-800-848-8715. And if you have any other questions, I'd be happy to have a--

ALBRECHT: Great.

KELLI O'BRIEN: --a side quest-- a side conversation with you--

ALBRECHT: Thank you.

FRIESEN: Thank--

KELLI O'BRIEN: --especially about your cattle.

FRIESEN: Thank you, Senator Albrecht. Seeing no other questions, thank you for your testimony.

KELLI O'BRIEN: Thank you very much.

FRIESEN: Any other opponents to LB539? Welcome.

CONNIE ROSEBERRY: Good afternoon again. My name is Connie Roseberry, R-o-s-e-b-e-r-r-y. I am senior counsel of safety and operations for Union Pacific and I am here today to oppose LB539. You've heard from my colleagues throughout the morning about safety being the foundation of everything that we do. We are also dedicated to running an efficient and reliable transportation service, which includes considering how our operational decisions can impact down network communities. LB539, however, which seeks to regulate the length of trains operating in Nebraska, is invalid and unenforceable as an impermissible restriction on railroad operations. So we talked earlier this morning about crew size and the preemption associated with that

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

is more of the-- the negative-type preemption, which is where FRA has not acted in that arena but has occupied the field. When we talk about train length, it is much more direct because there is express preemption. And what has been handed out to you is essentially a white-paper legal opinion that lists the large amount of cases, all the way down from the circuits in this country to the Supreme Court, that have addressed this issue and have determined that states may not impermissibly regulate railroad operations, which this regulation of train length would fall under, and it's been directly discussed. So I wanted to bring that to your attention. You know, Chairman, when you talked about you have two solutions, it's either building overpasses or-- or banning the trains, I offer you an opinion on why you shouldn't do the latter.

FRIESEN: Thank you, Ms. Roseberry.

CONNIE ROSEBERRY: And I'm happy to answer any questions.

FRIESEN: Thank you, Ms. Roseberry. Senator DeBoer.

DeBOER: Thank you again for testifying. Sorry if I got a little heated last time.

CONNIE ROSEBERRY: That-- that wasn't heated. Come on.

DeBOER: Well, I'm pretty-- the-- so this one has been-- has been officially preempted. Is it by case law or by statute or how is it-- or fi-- FRA?

CONNIE ROSEBERRY: It is-- we-- I use the term "expressly preempted by the holdings in several court cases." So the FRA is not--

DeBOER: Has not--

CONNIE ROSEBERRY: --the main player in this-- in this jurisdiction. It's more of economic regulation. Right? So it's a violation of the commerce clause and the ICCTA preemption, which is the Surface Transportation Board.

DeBOER: And so there have been Supreme Court cases or just circuit court cases?

CONNIE ROSEBERRY: Both.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DeBOER: OK. And they have expressly said--

CONNIE ROSEBERRY: Yes.

DeBOER: --in the Supreme Court--

CONNIE ROSEBERRY: Yeah, yeah. The language is set out for you. I-- it-- it's a lot to get into in a hearing, but it's pretty clearly said in-- said in the white paper for you about what the holding is and-- and where that came from, and it specifically talks about train length.

DeBOER: OK. Thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Seeing none, thank you for your testimony.

CONNIE ROSEBERRY: Thank you.

FRIESEN: Any other opponents to LB539?

***KRISTEN HASSEBROOK:** Chairman Friesen and Members of the Transportation and Telecommunication Committees, my name is Kristen Hassebrook registered lobbyist for the Nebraska Chamber, and I'm here today in opposition to LB539. LB539 would mandate train lengths. A common frustration for business, especially in transportation, is duplicative state and federal regulations. Traveling across the country, navigating what can often be a nightmare of different state and federal regulations is extremely problematic. This is especially true for the railroad industry. LB539 attempts to impose a state regulation in an area more appropriately left to federal law. The right of the federal government to legislate on matters affecting interstate commerce is appropriate. The Nebraska Chamber recommends leaving this policy debate to be resolved there and not burden our railroad industry with a patchwork of state legislative rules with which to comply. Thank you for the opportunity to provide this testimony. We ask that the committee not advance LB539.

FRIESEN: Anyone wish to testify in a neutral capacity?

RICHARD SCHMELING: Hello again. My name is Richard Schmeling, S-c-h-m-e-l-i-n-g. I sense that I could get some points with this committee if I keep my remarks extremely short [INAUDIBLE]. I think

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

we're all hungry and we're ready for a break. I have just a few observations. Number one is that I've listened to the rhetoric from the railroads. I'm afraid, unfortunately, this committee is going to be forced, with the-- this bill and the bill you heard before it, to say the railroads from their own selves. We know they're profit driven. Some of the practices they're employing are unsafe, it's dangerous to the people in this state, and you're going to have to tell them don't do that because they're not going to voluntarily do it themselves. Now regarding these long trains, I-- I go out and I take pictures of trains. It's my hobby. I've done it for years. I spent some time down toward Steel City, Fairbury, down in there on the line that goes down to Marysville. The double trains are being operated on those lines, when they have a problem with the train, the broken knuckle, the broken air hose, the pulled drawbar-- more the railroad terminology-- when they have a problem, that train often sits there blocking crossings for two to three hours because it takes that long for the conductor to fix the problem or maybe waiting for a mechanical truck to get up from Marysville or someplace else. And to me, that's dangerous and it's tremendously unacceptable, so I don't buy this idea that these long, extra-long trains are safer. I wouldn't want to be a shipper shipping on the Union Pacific because we have the big classification yard out in North Platte and if I were a shipper and my freight car was sitting there waiting for them to assemble a 250-car train and my shipment doesn't get to me, I wouldn't want to ship on that railroad, so I think they're shooting themselves in the foot. They talk about needing to be globally competitive, but what they're doing is they're essentially slowing up and providing poorer service. I-- I think that really pretty much covers what I wanted to say. ProRail Nebraska is officially taking a neutral position on this bill and the record should so reflect, and I make these comments simply because I've sat here and listened to a lot of rhetoric and I think the committee really needs to focus in on maybe we need to do something to curb some dangerous situations.

FRIESEN: Thank you, Mr. Schmeling. Any comm-- questions from the committee? Seeing none, thank you for your testimony. Anyone else wish to testify in the neutral capacity? Seeing none, Senator Walz to close. We do have one in lieu of in-person testimony in opposition, Kristen Hassebrook, and we have numerous position letters in support and one neutral. Welcome back, Senator Walz.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

WALZ: Thank you. And I know it is way past lunchtime, so I-- I'll try to hurry, but, you know, a lot of good discussion today, Mr. Davis said that I do have some constituents that are frustrated, and frustrated is just-- that's a small-- that's-- they're beyond frustrated. They're-- they're fearful as well. They're not just frustrated, but they're fearful. And I-- I've been caught, you know, in-- on-- right off Highway 30 in between Fremont and Arlington, waiting for a train up to 20 minutes, and then, you know, traveling a mile to the east and it's still blocked, and then going back two miles to the west and it's still blocked. So, yeah, people are beyond frustrated. Senator Albrecht, I'm glad that you mentioned the 1-800 number. I do want to say that I have had some really good conversations with Kelli O'Brien, you know, regarding what can we do to make sure that-- that crossings are-- are free and clear so emergency ve-- vehicles can get through. And she did bring up the 1-800 number. And you had a good point. You know, how can we make the public more aware that there is a 1-800 number? Well, first of all, I just want you guys to know the signs are about this big, so they're pretty tough to see or read from the car. And I believe-- and so I was thinking maybe we make the signs bigger. Maybe-- you know, maybe the-- they're flashing lights that say "call this number." But then I learned that Nebraska pays for those signs. We pay for those signs, not the-- the railroads, so that probably won't be a-- a good solution. But the bottom line is that, you know, I-- what other options are there? And there are no-- there are no other options. I-- I said, if somebody calls the number and the train still can't be moved and the emergency vehicle can't get through, then what? And there's no answer. It doesn't matter. So that's the end of my testimony, I just hope that you guys will seriously consider passing this piece of legislation and making sure that all of our constituents are safe.

FRIESEN: Thank you, Senator Walz. Any questions from the committee? Seeing none, that will close the hearing on LB539 and close the hearing for this morning session.

FRIESEN: Welcome to this afternoon's Transportation and Telecommunications Committee. I'm Curt Friesen. I'm Chairperson of the committee. I represent District 34. I'll begin with a few procedural items. For the safety of our committee members, staff, pages of the public, we ask those attending our hearings to abide by the following procedures. Due to social-distancing requirements, seating in the

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order presented outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a sergeant at arms who allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing, wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. We ask that you please limit and eliminate hand-- limit or eliminate handouts. Please silence all cell phones, other electronic devices. We will be hearing bills in-- listed in order on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have an on-deck chair in the front so the next testifier will be ready when their turn comes. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required, but if you do have any handouts, we need 12 copies. One of the pages can assist you with that if you need it. When you begin your testimony, it's very important that you clearly state and spell your first and last name slowly for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise and try not to repeat what has already been covered. We will use a light system in this committee and beginning with the green light, you'll have five minutes for your testimony. The yellow light indicates there's one minute left. When the red light comes on, your time is up. Those wishing to testify may sign in-- those not wishing to testify may sign in on the pink sheet by the door to indicate their support or opposition to a bill. I'd like to introduce the staff next. To my right is legal counsel for the committee, Andrew Vinton. To my left is

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

Sally Schultz, the committee clerk, and pages today are Peyton and Sam. Thank you very much for being here today and I'll start on my right with committee introductions.

BOSTELMAN: Bruce Bostelman, District 23, representing Saunders, Butler, and the majority of Colfax Counties.

ALBRECHT: Joni Albrecht, District 17: Wayne, Thurston, and Dakota Counties in northeast Nebraska.

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

MOSER: Mike Moser, District 22, which includes Platte County and some of Colfax County and Stanton County.

M. CAVANAUGH: Machaela Cavanaugh, District 6, west-central Omaha, Douglas County.

FRIESEN: And some-- the other senators may be joining us-- I guess one missing-- may join us during the session. Senators come and go. They may have to go to other hearings. So with that, we'll open the hearing on LB12.

OLIVER VanDERVOORT: Good afternoon to you, Chairman Friesen, and the rest of the Transportation and Telecommunications Committee. My name is Oliver VanDervoort. That's spelled O-l-i-v-e-r V-a-n-D-e-r-v-o-o-r-t and I'm the legislative aide for Senator Blood and I'm filling in for her today. She has a bill going on right now in another committee. At its heart, LB12 is a very simple bill. It tasks the Nebraska Department of Transportation to conduct a study on the benefits, the cost, and the feasibility of establishing a commuter rail line between Lincoln and Omaha. The department would then issue a report to the Nebraska Legislature. You will note in the draft of the bill that the due date for the report is December of this year. However, after speaking with various stakeholders, including the department, we determined that December 31, 2021, was not enough time to get the study done correctly. Therefore, we brought an amendment, which should be in your packets, that moves the due date back a year to December of 2022. LB12 covers a topic that has been-- has seen

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

similar bills brought the past with the most recent being Senator Morfeld's LB979, which was last session. LB12 is slightly different because his bill was brought to the Appropriations Committee and we believe that going through the Transportation Committee is the better way to, to go about this study. When it comes to the possibility of a commuter rail line between the two cities, there are quite a few Nebraskans who commute to and from Lincoln and Omaha for work or for entertainment on a daily basis. There are-- we in fact believe plenty of senators and staff right here in this building that would also certainly take advantage of a commuter rail line should it be eventually implemented. There are also special events that take place in Lincoln and Omaha that would be much easier to attend if people didn't have to face the prospect of driving back and forth. Something that comes to mind almost immediately is Husker Saturdays. I don't know how many of you have ever tried to make that drive during a game day, but Interstate 80 and Highway 6 are both a traffic jam and a mess hours before and hours after the Nebraska football games. Being able to hop on trains in order to get to Lincoln and back to Omaha would save quite a few headaches. The same can be said for state high school basketball, football, and volleyball tournaments. The benefits of this kind of commuter rail aren't just about reducing headaches, however. More people taking the train rather than driving puts fewer people on the highways and interstate, which, of course, reduces congestion, but would also reduce accidents. In short, we believe establishing this kind of rail line will save lives. This is especially true when sporting events are taking place in the middle of winter. When people are no longer having to drive on icy or snowy roads, they, they won't have to worry about their loved ones getting injured or hurt if they're going to their favorite school to see the big game. We also believe there will be very tangible economic benefits for this kind of plan. If people know they don't have to drive for an hour in order to go from one place to the-- to another, there's a better, better chance they'll take advantage of the rail line to just have a kind of change of pace weekend or vacation. Going-- getting on the train will allow them to relax and read and even just rest en route and that's-- we believe that's going to bring more visitors to both cities and more incomes to the businesses there. I do want to point out that a commuter rail line like the one we're talking about is far from unheard of. Around the country, there are about 32 commuter rail systems in operation, with more being looked at all the time. Some of the communities with, communities with commuter rail systems that are

comparable to what we'd like to have are Kansas City, St. Louis, Denver, Nashville, Portland, Albuquerque, Santa Fe, Detroit, Ann-- and Ann Arbor. I believe there is at least one testifier coming up after me that will also talk specifically about another rail-- commuter rail system that's in operation in California. I will close by saying that despite this kind of bill being introduced several different times, the last deep-dive study Nebraska did on this specific subject was back in 2003 and things have changed quite a bit since we last took a look at that. Chief among the factors that could and should be different is that-- in the previous study is that the previous study found it would take a significant amount of capital investment to update the rail lines between Lincoln and Omaha so they could be used for commuter rail. However, in the year-- years since, BNSF made several of the updates that were called for in the study on their own. And while those study-- while those updates were said to cost about $80 million in the 2003 study, since they've been carried out, we believe that would remove the most prohibitive cost of establishing this kind of commuter rail line. We think that should LB12 pass, this study would bear that out as well. And with that, I will end my opening remarks and am ready to answer any questions you might have. I will note we do have several experts here that will be answer-- able to answer some of your more specific questions. Thank you.

FRIESEN: Thank you for carrying this forward for Senator Blood. We, we won't ask any questions of the staff.

OLIVER VanDERVOORT: OK, so obviously waive closing as well?

FRIESEN: If, if she can't be here, really, you don't need to be here for closing either.

OLIVER VanDERVOORT: Right, thank you.

FRIESEN: Any proponents of LB12? Welcome, Mr. Schmeling.

RICHARD SCHMELING: Thank you, Senator and members of the Transportation Committee. Good thing I don't watch daytime TV serials because I'm spending my entire day down here with you folks. Richard Schmeling, last name, S-c-h-m-e-l-i-n-g. I am the District 1 director of ProRail Nebraska. I have been down here at the Legislature for a lot of years talking about railroad-related bills. Unfortunately, our president, Matthew Roque, was going to be our initial speaker, but

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

Matthew and his wife just had a new baby and apparently there's some sort of a family thing going on, so I'm going to wing some of this and I hope you'll bear with me. Back many, many years ago, about 17 years ago, there was a study which was done and it was a very comprehensive study about both commuter rail and commuter bus service between Lincoln and Omaha. At that time, the consultants concluded that there was not sufficient potential ridership for a commuter rail at that point in time. However, they did recommend that we restudy the whole issue in about five years because they foresaw the growth of both Lincoln and Omaha. They foresaw there would be many more trips taking place in the future. As a matter of fact, the Nebraska Department of Transportation has determined there are now 60,000 trips per day between Lincoln and Omaha and that's-- the way they did it is kind of interesting. They, they track the cell phone calls and they are able to figure out where traffic originates in Omaha and part of it ends up here in Lincoln. So that's counting just the cell phone traffic and there may be other people without cell phones that didn't get included in that count. We think a reasonable capture percentage for people would be around-- in the neighborhood of 10 percent. If we have a 10 percent capture rate, that gets us 6,000 people a day to ride the trains and that would fill quite a few trains. Our concept is that we would run on the existing Burlington Northern Santa Fe tracks. Those tracks are good for 79 miles an hour. The Amtrak trains travel on that route. The trains would go from downtown Lincoln in the Amtrak station in the Haymarket to the Amtrak station in downtown Omaha. It could possibly be done that you could expand the network to serve the two airports. You could go airport to downtown to the next downtown, up to Eppley field. My feeling is that there are a lot of people that are tired of that long drive on Interstate 80, especially when the weather's bad. I think we'd have a lot of takers. We have Jim Hanna, who is a-- also director of ProRail and he's going to talk to you about a commuter rail system called SMART Sonoma in Marin County, California, and he'll tell you about it and why that would work well for, for Lincoln to Omaha. We're not talking about having to build a new track. We're not talking about having to install new signals. We're not talking about having to reinvent the wheel. We would use existing track, existing signals, and then all we would need to do is get some rail cars and get some crews. So it's a bare bones operation. Senator Morfeld's bill last year talked about high-speed rail. That probably wouldn't work too well simply because you've got to buy new right away and [INAUDIBLE] and so on. I've given you some handouts. We

need to get working on commuter rail now because our interstate is getting congested and I'm telling you what the people that build highways won't tell you and that is when you add lanes, you don't get a proportionate increase in capacity on highways and you can see the charge there. When you finally get five pairs of lanes, if you have a six pair of lanes, you don't get any increase in capacity. There's a safety thing to be considered here and, and that is that there's a tremendous societal cost for the people who are killed and injured in auto accidents. I've given you a handout on that. It-- the figures are staggering. And Senator Geist, you introduced a bill-- you were concerned about abortion and so on-- and I submit to all you senators that we as a society need to be concerned about the slaughter that's taking place on the highways. It's a tremendous financial loss. And who knows? I recall an accident up around the Greenwood interchange where three young children from the same family were killed. Who's to say one of those could have been the person that invented-- invents the cure for cancer or was the first astronaut to land on Mars or becomes president of the United States? So there's a dollar loss, but there's also a loss to society. By putting people on the trains, you know, the trains are much safer than driving. They're ten times safer than when you drive your own car. So that's a broad overview of my thoughts about the commuter rail and I'd be more than happy to answer any questions any of you might have.

FRIESEN: Thank you, Mr. Schmeling. Any questions from the committee? Senator DeBoer.

DeBOER: I have two basic questions for you. One is a clarifying question. I know this is just a study, but I'm trying to understand what the study would exactly entail. Does this intend to be just-- are there multiple stops along the way from downtown Omaha, throughout Omaha, into suburbs, and then--

RICHARD SCHMELING: It, it, it could be mixed, Senator. Some of the trains would be what we call express trains. They would go downtown Omaha to downtown Lincoln. Then you could have some local trains and they would stop-- for example, you can have an east Lincoln stop to catch the people from the east part of Lincoln, south part of Lincoln, and the Waverly people, have a stop in Ashland, have a stop in Gretna, have a stop in Ralston, and then onto downtown.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DeBOER: Because folks in my district, or at least in the western part of my district, it's probably equidistant between downtown Omaha and Lincoln for them, so, you know, they wouldn't probably want to use-- going all the way down just to ride the train to the-- and then-- you know, they'd have the same amount of, of distance, so I think that would be something that would be important to, to sort of work out.

RICHARD SCHMELING: Any, any transportation system anywhere needs what we call connectivity and I have been working here in Lincoln, the StarTran public bus system, to try to get better service here in Lincoln. Our group has also worked with the Omaha Metro system to get better bus service in Omaha. Those bus systems would then send busses down to the Amtrak stations and that would be how you get to what we call the last mile. That's how you would get to your ultimate destination. And your, your concern is, is very valid. I wish I could run the trains up into your neighborhood, but, you know, we, we have to start somewhere.

DeBOER: Got it. The next question I have is about the capacity on the track because I, I actually like to take the Amtrak and I've done that quite a few times and quite frequently, it's been four or more hours late and they say the reason that it's stopped and it's four hours late or this or that is because of freight on the track and so we get delayed while the freight goes ahead or whatever. It seems like those are pretty busy tracks, so is there capacity on the track and how would we-- like, how would you deal with the fact that if something breaks down, there's not a lot of redundancy in those tracks in that area and then you'd end up with, you know, a four-hour delay? It seems, seems problematic.

RICHARD SCHMELING: Yeah and that's a very good question. OK, the Amtrak trains that are running late are what we call long-distance trains. They originate in Chicago. They go all the way to Emeryville, California, so they have a very long route and anything can happen along there. Our trains are going to go 70 miles and so we're not going to have as many opportunities for the trains to have something interfere with them, so we think we can keep them very much on time. As far as track congestion, when the N-TRAC track study was done back in 2003, BNSF Railroad was not real anxious to have passenger trains on that line. We were at the height of what's called the coal boom. Now things are different because what's happened is we have a number of power plants that have converted from being fueled by coal to

natural gas, so we have fewer coal trains and Senator Morfeld visited with BNSF and he-- and they specifically told him that they would have the capacity to handle the passenger trains and they said it's not going to cost us that much more because we already have to maintain the track at 79 miles an hour for Amtrak. So you can put your trains on there. You'll have to pay us something for using our track, but I don't think time-- being on time would be a problem.

DeBOER: Is that part of the study? Is that specifically imagined within timelines? Is that part of what they're asking to be studied? Would you--

RICHARD SCHMELING: What, what the study would do is, as I understand it, is the study would, would study-- first of all, get some of those numbers that we've been talking about. Find out, you know, what are the potential trips between Lincoln and Omaha every day and then what's our capture rate? How many people could we get to ride the trains? Then what we do is we start looking at hardware or the equipment of the trains. What would that cost us? And then we can also project some operating costs as to what it would, would cost to, to have the crews for the trains.

DeBOER: And maybe I'll ask this question of Senator Blood when I, when I get the opportunity, but I think probably if we do this, we should make sure that we have some kind of a feasibility study as part of this to make sure that there would be not just the rides, but also that there would be the, the track, space, etcetera.

RICHARD SCHMELING: Right.

DeBOER: OK.

RICHARD SCHMELING: I, I just saw a fiscal note because-- and I don't know if you have that or not, but I just saw it for the first time today. DOT is estimating that to do the study called for in LB12, it would be $500,000 and that, that would hire the consultants. And I would, I would guess that there will have to be some parameters set forth between the Legislature and DOT as to the scope of the study. I think, I think a lot of the data from the N-TRAC study could be used. There was a study done last year about commuter busses between Lincoln and Omaha. Some of that data could be transferred over. So I, I think there is going to be plenty of material to work with.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

DeBOER: OK, thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Seeing none, thank you for your testimony.

RICHARD SCHMELING: Thank you.

JAMES HANNA: Honorable Chairman Friesen and members of the Telecom-- Transportation and Telecommunications Committee, my name is James Hanna, J-a-m-e-s H-a-n-n-a. I'm a board member of ProRail Nebraska, which is an all-volunteer organization by the way. We are advocates for improved and expanded public transportation, particularly rail based. I'm also the Nebraska representative to the Council of the Rail Passengers Association, which is a national passenger rail advocacy organization. These organizations believe that the time is right to study the feasibility of providing a commuter service between Omaha and Lincoln. The-- as has been mentioned, the logical end points, at least initially, would be the Amtrak stations in Omaha and Lincoln, but we could also serve stops near the UNL East Campus, Waverly, Greenwood, Ashland, Gretna, Ralston, and south Omaha and possibly other locations within Omaha. I've provided you with a handout of a trip that I took in 2019 on the Sonoma-Marin Area Rail Transit system in California. I was out there for the fall conference of the Rail Passengers Association and we had the opportunity to ride that, that service. It looks to me to be a really good model for-- that would be a-- very appropriate in terms of the equipment that is used and the, the way that the system is structured for travel between Omaha and Lincoln. I won't go through this whole thing. You're welcome to look at it and-- but if you look on page 2, the lower photograph there is of one of the SMART trains. They are very different from what we normally think of as a train here in Nebraska, where you have a bunch of locomotives on the front and then you have an innumerable number of cars that you have to sit and wait for at crossings. These are very short trains. They consist of basically two units that are permanently connected together. Each of those units has a control cap at one end and-- but you can couple multiples of those two-car sets together to make a train as long as you need for the amount of traffic that you have at-- during any particular time of the day. The, the schedules out there are very dense with trains at the times in the morning and afternoon when commuters are, are traveling. The time-- the headways between trains are short. But then during the times of the day when there's less commuter traffic, there are fewer trains and they're

spaced more in-- time-wise, more further apart. The cars are what they call diesel multiple units. Unlike having just a locomotive that has the power and a bunch of cars that it drags along, each of these units has its own engines. They're diesel engines, so there's no need to build electric lines to provide power to, as you would find a lot of the light rail systems in, in cities, so it's-- they're relatively inexpensive to build and to maintain. They use basically the same kind of engines that you'd find in a large diesel truck. The, the fact that you can couple multiples together is, is-- makes for a very economical operation because, as I said, you can run longer trains during busy times of the day, busy days of the week. You can run fewer during times when you don't need that much capacity. On page 3, you'll see the interior view of one of those cars. They are very comfortable. They have seats very much like you find on an airplane, but they're quite a bit larger and more comfortable and spaced further apart, so you're not sitting on top of your neighbors. In the center of each of those two units, there's a, a small compartment, which is a, a snack bar. They have a-- an attendant on the car who helps people board and, and get off if they have mobility issues, but during the rest of the trip, they will sell you drinks and snacks and each car also has a very large and very accessible restroom on it, so there--

FRIESEN: Could you wrap up your testimony?

JAMES HANNA: Yes, sir. The-- well, I, I-- that's the essentials. If you have questions, I would be happy to answer them.

FRIESEN: Thank you, Mr. Hanna. Any questions from the committee? Senator Moser.

MOSER: I have to ask Mr. Hanna a question. He is-- lives in my district and he works for one of the churches that I interact with a lot and so I know him really well. How do you anticipate this being operated? Do you see the private company wanting to own this train or do you think it's going to have to be publicly owned?

JAMES HANNA: That--

MOSER: You don't, you don't think it's going to make money, I assume?

JAMES HANNA: Well, how much money does I-80 make for us?

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

MOSER: Yeah well, we don't-- the state doesn't operate I-80. You drive your cars-- I mean, here you're buying a train and operating--

JAMES HANNA: I often understand that, but, you know, we, we pay a lot of money publicly for good public transportation is my point. Hopefully, we'd be able to recover the, the costs of operation. That's one of the things that we need to find out through this study. That's why the study is needed.

MOSER: What do you think this train is-- would cost to buy a train? Do you have any idea?

JAMES HANNA: The, the Sonoma-Marin paid, I think, about $3.5 million per car set. That's two units, but they were adapted-- they're-- they were made by a Japanese company and they had to be modified to meet U.S. standards, so the first-- I think the first ten sets cost, like, $3.5 million each, but then the cost dropped down to under $3 million apiece after that, once they paid, paid the costs of doing that additional engineering and conversion.

MOSER: Are the rail space differences-- different sizes and different distances apart?

JAMES HANNA: Well, in different countries in different parts of the world, even in some places in the U.S. on commuter railroads, the track spacing is different, but that's fairly adaptable.

MOSER: OK. Well, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee?

JAMES HANNA: And I would add for Senator DeBoer, the-- we, we feel your pain with Amtrak delays. And just last year, the, the, the next-highest court to the Supreme Court in Washington, D.C., rendered a decision that will hopefully change that. When the freight railroads gave over passenger railroad service to the-- to Amtrak, they committed to provide priority service to Amtrak, but there was nothing in that bill that gave anyone the authority to, to be the, the enforcer of those rules. The-- last year, that court said that the Federal Railroad Administration does have that authority and so the Rail Passengers Association has been asked to help them develop the

rules and regulations. So hopefully pretty soon we'll have those codified and we'll see better service.

FRIESEN: Thank you. Thank you, Mr. Hanna. No other questions, thank you for your testimony.

JAMES HANNA: Thank you for having us.

FRIESEN: Any other proponents of LB12?

DAVID PURDY: Good afternoon, ladies and gentlemen. My name is David Purdy. I am also an officer of ProRail Nebraska.

FRIESEN: If you could spell your name, please?

DAVID PURDY: I'm trying to coordinate my thoughts in detail with the rest of the group, so it might be better if you just accepted them as my opinion.

FRIESEN: Could you spell your, spell your name, please?

DAVID PURDY: Oh, I'm sorry. David Purty, D-a-v-i-d and P-u-r-d-y. OK? I'm sorry. Well, I'm in favor of LB12 and it's a brief bill, but I think that commute-- a rail in the Omaha metropolitan-- Omaha, Lincoln metropolitan area will be an important facet of transportation in that area. It will provide a good, quick method to get from one end of the area to the other. After all, the area is kind of a blob, but it's a long blob and the proposed commuter rail line runs the length of the blob. It will be necessary, as some other speakers have pointed out, that you coordinate the rail with the local service to get to the final destinations. I saw one small, but important change that should be made in the bill itself. That is in Section 1, line 3, requires consideration of economic impacts. The words social impacts, ecological impacts, and safety impacts should be added because you don't have a complete study until you consider all these aspects of the whole thing. Now in order to do this study, we have to develop a design for the service and we should be very careful to maximize the sort of service that this concept provides. And I'll give you a couple of examples of thoughts that cross my mind about it and if we don't consider all these advantages, we'll result in a study that is incomplete and probably more negative than it needs to be. A comp-- study of complete benefits is necessary to make a complete study. One thing is the choice of the route that the, the trains run. It is a

necessary-- necessity along the spine, but at my end, which is the Omaha end, I see possibilities for different places to end the service and that is to say, I think that the northern terminal should be in north Omaha, somewhere in the vicinity of Locust Street. This places it at, at the fringe of the area we usually call north Omaha and there's a bunch of people up there that need jobs and the-- this railroad would provide them. The turnel-- the terminal should be there. A storage yard to store the trains overnight and a maintenance area should also be there and would be important additions to the community. And also placing the northern end up there would provide access not only to an important residential area that is a source of riders for the service, but also do things like maintain the service with the CHI event center or the, or the Gallup campus and to the airport because the proposed location would run reasonably close to the airport and service could be provided to the field itself by shuttle service, such as we use now for remote parking areas. Another possibility that has important social benefits is south Omaha. There should be a station probably. I-- using probably because we're going to do a study and we're going to decide on these things. You have to consider all the factors. But near L Street and 36th Street, there's an important industrial area that serves as a destination for many of the trains and that is they're getting people to their jobs. The way I look at this is-- or consider with two things, bedrooms and jobs and you've got to universally get people from one to the other and back and do it with service at the right time. In other words, we have to design a service for its social benefits.

FRIESEN: Thank you, Mr. Purdy. Your red light is on. Does anyone have any questions? Senator Geist.

GEIST: Yes, just quickly, you indicated the name of a street in north Omaha where you thought the terminal should be.

DAVID PURDY: Yes.

GEIST: What was that street? I missed--

DAVID PURDY: Locust Street.

GEIST: I'm sorry?

DAVID PURDY: Locust--

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

GEIST: Locust, OK.

DAVID PURDY: --like the insect.

GEIST: OK. That's all, thank you.

FRIESEN: Thank you, Senator Geist. Any other questions from the committee? Seeing none, thank you for your testimony.

DAVID PURDY: OK.

FRIESEN: Welcome.

ROBERT KUZELKA: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. I'm pleased to be able to present today in favor of LB12. I'm going to-- I've given you a handout and I'm going to skip a lot of it because some of it's repeat and some you can read. Just to point out that I do have an academic background in city planning and that my first job as a planner-- actually, my second job was from '69 through '79 as the transportation coordinator for Nebraska State Office of Planning and Programming, now known as the Policy Research Office, and I am vice president of ProRail Nebraska. Both Richard and David have already talked about the study that was issued in 2003 related to looking at a bus and rail system between Lincoln and Omaha, so I won't go back into that, except that as part of that study, they did recommend a follow-up study within five years and we now have 17 years since that study came out. So LB12 would require this study, which I think is long overdue. I just learned this morning about the fiscal impact note related to this particular bill and I'd like to point out three things that I think would reduce the impact it might have on state funds. And I would question the, the figure they used, but I have no idea how it was developed. First of all, that 2003 study has a lot of formulas, a lot of tables, a lot of background work that could be used again that would not have to be reinvented. In May of 2020, just this past year, Nebraska Department of Transportation released what they called the Omaha/Lincoln intercity bus feasibility study. I was on a steer-- or an advisory committee for that, so I'm pretty familiar with it. And that study also would provide lots of updated information about traffic flows, population centers, population changes, and it, it actually came up with the recommendation that such a bus system should be put into effect. And it hasn't been for a variety of reasons, but

it's high on the burners, I think, at the Department of Transportation. Finally, given this day and age we're in, there should be a variety of sources from federal programs, which would be available and could be used to offset the state funds. I can't give you specifics because of between when I saw the thing and this, I didn't get a chance to research it, but there are a lot of state funds available for planning, particularly if you take our advice in the next bill you're going to hear. The findings of the 2020 feasibility recommended that the then-available federal support for an Omaha/Lincoln intercity bus system could be operational within a year. The study proposed such a system, once in service, would further increase the need for a commuter rail system. In many places, they found that once they put in some sort of a better bus system along certain routes, that the next step to move it into a rail system is quite-- it almost follows suit. We'll see in, for instance, in Omaha, whether the ORBT system eventually leads to a rail system. The study proposed in LB12, now undertaken, would provide the essential first step in the creation of such a commuter rail system and thereby shorten the time that could be used to promote the economic development of Nebraska's eastern urban region. In other words, if we would start now while we're just getting on the threshold of starting a bus system, by the time that bus system has built up a pattern of transit use, we could put in a rail system that would increase and, and provide even more reasons for it to go. And if any of you have ever been in Kansas City and traveled on their streetcar system, which is-- follows the same principles of, of either a bus system or a commuter rail system, the property values along that route have increased immensely. I expect that we'll see, in Omaha where the ORBT system is in place, we'll see huge econ-- in fact, we're already seeing what, what's this-- Gateway? One of the shopping centers has been torn down and is being vastly redeveloped because it's there. Thank you.

FRIESEN: Thank you, Mr. Kuzelka. Any questions from the committee? Seeing none, thank you for your testimony.

ROBERT KUZELKA: Thank you.

FRIESEN: Anyone else to testify in favor of LB12? Seeing none, anyone wish to testify in opposition to LB12? Seeing none, anyone wish to testify in a neutral capacity? No position letters, no in-lieu-of letters. No one wishing to testify in a neutral capacity? Senator

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

Blood is not here, so we will close the hearing on LB12. Next, we will open the hearing on LB575. Welcome.

NATHAN JANULEWICZ: Thank you, Mr. Chairman. My name is Nathan Janulewicz. That's N-a-t-h-a-n J-a-n-u-l-e-w-i-c-z. I'm the legislative aide for Senator Eliot Bostar. Senator Bostar is presenting two other bills this afternoon and has asked me to open for this important piece of legislation. LB575 reinstates Nebraska as a member of the Midwest Interstate Passenger Rail Compact or MIPRC. The MIPRC was conceived by Midwestern state legislators in the late 1990s through the Council of State Governments' Midwestern Legislative Conference and was developed with input from federal and state officials. Nebraska was one of the first states to join the compact after then-Governor Mike Johanns signed the enabling legislation in 2001. The compact brings together Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, North Dakota, and Wisconsin in order to coordinate and advocate for passenger rail improvements across the Midwest. In addition, the MIPRC works with public and private sectors in the federal and-- federal, state, and local levels to ensure coordination among the various entities having an interest in passenger rail service. MIPRC has also taken the primary role in advocating for federal government collaboration with states for passenger rail development, similar to the partnership it has with states on other modes of transportation. With its bipartisan mix of gubernatorial, legislative, and private-sector delegates from each member state, MIPRC has been successful in protecting long-distance passenger rail service, including the California Zephyr line service through Nebraska as a valuable transportation option for many Midwesterners. During fiscal year 2019, Amtrak had 49,674 boarding and [INAUDIBLE] passengers in Nebraska stations. It's important for Nebraska to have a voice in current and future passenger rail development that will bring significant transportation and economic benefit to our state. Thank you for your consideration of LB575.

FRIESEN: Thank you for introducing the bill for Senator Bostar. With that, I'd ask for any who wish to testify in favor of LB575. Anyone wish to testify in favor of LB575?

RICHARD SCHMELING: I knew-- I thought I lost my green slip of paper, so bear with me just a second here. Once again, my name is Richard Schmeling, R-i-c-h-a-r-d S-c-h-m-e-l-i-n-g, and I am still the

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

District 1 director of ProRail and nobody's told me I've been removed yet and--

FRIESEN: You can fill that out after you're done.

RICHARD SCHMELING: OK.

FRIESEN: Go ahead, go ahead and testify.

RICHARD SCHMELING: OK. MIPRC is important and it kind of fits hand in glove with LB12. MIPRC gives us a collective voice in the Congress of the United States. Now funding for a commuter rail or for increased rail passenger service in Nebraska is likely to come from something called the Federal Railroad Administration. They administer rail grants throughout the United States and they-- the, the grants, of course, are somewhat competitive. If we get back into MIPRC, then we not only are one individual state seeking funding, we're a group of nine or ten states. We've been told by Derrick James, who is a regional Amtrak representative headquartered in Chicago, that our chances of getting funding for any Nebraska rail projects will in fact be much better if we're a part of MIPRC. So I think it's important that, that we get back on board with MIPRC. In addition to commuter rail, something that will be possible if we're part of MIPRC is that they are looking at a system of spokes coming out of Chicago and going out in all sorts of different directions. One spoke would come from Chicago through the Quad Cities in Illinois and then through Des Moines and Ames, Iowa, and come to Council Bluffs, Omaha, and it could be extended down to Kansas City-- or not Kansas City-- to Lincoln. And currently the Amtrak trains serve the southern tier of Iowa. They miss Des Moines and Ames, so those additional trains would run on a totally different route than the current trains that are running through Lincoln. That would give us more options, more places that we could go by rail. So it seems to me very important that Nebraska get back in the fold. We get a lot of support from MIPRC in terms of technical advice and support. They want us back. This bill has been around for two or three sessions and somehow it always seems to kind of stall out the committee. And I certainly hope that this particular committee this session will go ahead and pass the bill out of committee and put it on the floor and then all of you will vote in favor of it. I-- my observation being a Nebraskan is that we used to have a department of the roads and they were very insular and narrow in their thinking. All they thought about was building more highways in Nebraska and they had

a small rail section and those people didn't do much, except occasionally they'd get a lot of money for fixing up a freight railroad. Now we have the Department of Transportation, but unfortunately, we're still thinking like we're a department of roads. We don't have a healthy, robust rail section. We don't even have our current plan for the state of Nebraska for a rail passenger. And we've been told, well, we're not doing anything because nobody told us to. This is a way for you people to tell the people at DOT let's become a true department of transportation. Let's look at all the modes. Let's see what we can do to have a complete transportation service in the state of Nebraska. That's all I have.

FRIESEN: Thank you, Mr. Schmeling. Any questions from the committee? Seeing none, thank you for your testimony. Any other proponents?

ROBERT KUZELKA: Are you ready? OK, I forgot to spell my name the last time. And I do know it--

FRIESEN: You can take the mask off and yes, spell your name.

ROBERT KUZELKA: Robert, R-o-b-e-r-t-- harder the second one-- Kuzelka, K-u-z-e-l-k-a-- not an unusual name up in your district, right, Senator Bostelman? I'm not going to give my whole testimony because a lot of it was covered by Richard and I don't want to have you repeat what you had to go through this morning. So I would just say that in the early years of our membership, we learned a lot about passenger rail service in both the legislative and executive branch, perhaps more on the legislative. Part of this came through the annual use of dues, which are used to pay for the four commissioners that are part of the compact commission to attend meetings, annual meetings. So a lot of the money that we put in with dues, which are pretty minimal, comes back to us to send our legislators and the executive representatives to the meeting to learn. Rejoining the MIPRC would put Nebraska's legislative and executive branch back into an information and learning loop about this most important growing sector of transportation in our Midwest district. As Richard has pointed out quite effectively, our Department of Transportation now has not moved forward into a full multimodal transportation operation. And we're the only state of the ones that are part of the Midwest Interstate Passenger Rail Compact that do not have a specific rail planning section within their advanced planning. So we need that and, and until we get that, this is one way of getting information because passenger

rail is an advanced, moving thing. In my, in my testimony, I've attached two comments that were sent to us by people who could not come because of illness or because of bans on travel from out of state. One of them is former State Senator DiAnna Schimek, who served from 1989 through 2009 and was the cointroducer for the legislation for Nebraska to initially join MIPRC. She also served as a commissioner and during her tour of duty as that, I think we actually held a annual meeting of MIPRC in Omaha. I think Nebraska would be missing the boat-- and I've substituted a train-- if its voice and influence are not heard and felt within the compact. She asked that the committee advance LB575 to the General File for consideration. Another attachment I made is from Laura Kliewer, who-- some of you who have been on the Transportation Committee before have-- remember her coming. She's the director, the staff director of the MIPRC and she has put together written testimony and a fact sheet about why Nebraska should rejoin. She points out it would be very timely to do it now because MIPRC has been working very hard-- diligently in keeping our cross-country train, the California Zephyr, on, on-- in operation because there have been various times where we thought we might lose it completely. So being part of that organization, we're helping-- we're adding further support to keeping long-distance train and also, of course, we'll once again be learning from other states and planning how to strengthen this important transportation op-- operation for our citizens. So in conclusion-- oh, and finally, we have a letter-- and did Nathan give you a copy of the letter to pass out from Derrick James? Derrick, Derrick James, as Richard pointed out, is with Amtrak. He's the senior manager for state local relations and he's been here a couple of times. Did you get that letter? Good. That letter is very important too and I-- and it shows how Amtrak views states participating in regional organizations. So in conclusion, I would ask that this committee not sidetrack LB575, but rather switch to the mainline for the entire Legislature to consider. Thank you.

FRIESEN: Thank you, Mr. Kuzelka. Any questions from the committee? Seeing none, thank you for your testimony.

ROBERT KUZELKA: Thank you.

FRIESEN: Anyone else wishing to testify in favor of LB575? Seeing none, anyone wish to testify in opposition to LB575? Seeing none, anyone wish to testify in the neutral capacity? We do have some position letters in support and opposition. OK, go ahead.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

ERIC THOMPSON: My name is Eric Thompson. I am a, a faculty member at the University of Nebraska in our department of economics. The folks at ProRail Nebraska contacted me about this particular issue with the, the Midwest compact and I told them that I'd be happy to come and talk briefly about what I know about the role of intercity transportation options in the growth and success of cities and states, so that's all I'm planning to do today and that's, that's why I said neutral.

FRIESEN: Could you spell your, spell your name?

ERIC THOMPSON: Sure. It's Eric Thompson, E-r-i-c T-h-o-m-p-s-o-n. So-- and I-- it's interesting, just, just a few weeks ago, I was mentioning this in my class on urban and regional economics to the students about the important role intercity travel has in, in the life of successful cities and regions. It's, it's part of-- it's one of the things that causes self-reinforcing growth in local economies. You get bigger, you get more transportation options for intercity travel, and, you know, in the case of airports, you get more direct routes. That's how it-- you might get more passenger rail routes and as a result of that, the city grows, which, of course, increases the customer demand and then you get more options. So expanding your intercity travel options is important for the growth of regional economies, cities, and, and towns as well, so that was the first point. The second point, as I thought about it some more, is I suppose passenger rail travel was part of a portfolio of options. So you have auto travel, obviously-- probably the most common get-around between cities-- train travel, air travel, and bus travel. And so I certainly availed myself of the bus travel and train travel, certainly when I was younger, so having a, a robust system of these options can certainly increase the portfolio of trips or ways to get between specific areas, specific destinations and starting points. So, for example, the passenger rail through Amtrak does give us another way to get directly from Lincoln to Denver. I was also struck-- Lincoln to Hastings might be a route. I know that Lincoln-- Hastings College has a number of students from the Omaha area and the Lincoln area and that may be a convenient way to get to college. I know when I was young, growing up in Buffalo, New York, I took the Amtrak to college in Chicago all the time and it certainly saved my parents a lot of money. But, you know, I don't think you can fly from Lincoln to Hastings on a commercial, commercial jet. Perhaps I'm wrong about that, but that would be an example of having an additional, an additional option. Rail travel is also a better match-- OK, I'm running low on time here-- for certain types of tourism

activity, certainly train touring, bicycling touring, sometimes ski trips because it's hard to drive around the mountains in the winter. What I would lastly say is sometimes people just prefer rail travel. So certainly relative to air travel, rail travel, there's less time and commotion sort of with the check-in and checkout, which I think sometimes is certainly the most painful part of traveling by plane. There's more scenic beauty, unless you like looking at clouds-- I guess you can look at clouds out the window of an airplane-- and more freedom of movement while you're traveling. So, you know, on air travel, you got to sit in your seat. Train car, you can wander around in the viewing car and the, the dining car and so forth and then some people also have fears about air travel. Relative to auto travel, at least until we have the self-guiding cars, you know, you can work a lot more easily with train travel than with auto travel and then there's also more freedom of movement relative to bus travel. Now, all this depends on having a robust, reliable route. So people earlier mentioned issues with the Amtrak service being on time, so I think it would be critical to have a better, on-time service and so forth. So those are the things I would add. It seems to me that this Midwest compact does offer an opportunity to have a seat at the table and see if it's feasible to have additional options. You know, you would have to look at anything that was proposed very carefully, but-- just like you do with any sort of highway investment and so forth, but at least you would be kind of a-- better kept up on what was going on. So I was asked by them to provide my thoughts and that's what I think.

FRIESEN: Thank you, Mr. Thompson. Any questions from the committee? Seeing none--

ERIC THOMPSON: OK, thank you.

FRIESEN: --thank you for your testimony. Anyone else wish to testify in a neutral capacity to LB575? Seeing none and since the senator isn't here, there will be no closing. That will close the hearing on LB575 and close the hearings for the day.