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Transportation and Telecommunications Committee  
October 24, 2007

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[LR67]

SENATOR FISCHER: Good afternoon and welcome to an interim study by the Transportation and Telecommunications Committee. My name is Deb Fischer. I am the Chairman of the Committee and I am Senator for District 43. At this point I would like to introduce the senators who are with us today. On my extreme right we have Senator Greg Adams from York. Senator Adams is not a member of the committee, but we are very happy that he was able to join us today for this study. Our next Senator, Senator LeRoy Loudon, Senator Loudon is from Ellsworth, Nebraska. To my immediate right is our Committee Counsel, Mr. Dustin Vaughan. To my left is our Committee Clerk, Mrs. Pauline Bulgrin. Next we have Senator Ray Aguilar from here in Grand Island, and he is a member of the committee. And on my extreme left is Senator Annette Dubas, she is from Fullerton, and she is not a member of the committee, but here, again, we are very pleased that she can join us today. With that I would like to take care of a few housekeeping items before we start. LR67 will be the only resolution that is heard today. There is a green sign-in sheet at this smaller table back here. Please fill in this form only if you actually testify before this committee. Please sign your name, your complete address, and indicate who you represent regarding this legislative resolution on which you wish to testify. When you have completed that form and it's your time to come up and present information to the committee, we would appreciate if you would hand that form to our Committee Clerk, Mrs. Bulgrin, before you testify. There is also a yellow sign-in sheet at that table, and that's for those of you who wish to indicate your presence regarding this legislative resolution here today without publicly testifying. And this will be labelled as an exhibit and will be part of the official records of this committee. If you have a prepared statement, please make it available before you testify so that the committee members can follow along. And that too will be inserted into the official record. Written materials may be distributed at the hearing to committee members only as exhibits while that testimony is being offered. And if you are following other testifiers I would ask that you please listen to their comments and not do a lot of repeating of different information. With that, I would also ask that you turn off any cell phones that

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you may have. We don't allow cell phones at a committee hearing. And we will open the hearing on LR67. Mr. Vaughan will be giving the introduction to the resolution. [LR67]

DUSTY VAUGHAN: Good afternoon, Senator Fischer, members of the committee, Senator Adams and Senator Dubas, thanks for coming. For the record my name is Dusty Vaughan, spelled V-a-u-g-h-a-n and I am the legal counsel for the committee. Today we are discussing LR67, a study that was introduced to analyze the issues brought forth by LB676 last session, the bill introduced by Senator Dubas. The bill would prohibit a train from blocking a crossing for more than ten minutes. Fines would range between \$500 and \$5,000. Nebraska currently has a similar statute on the books, prohibiting a blocked crossing for more than ten minutes. However, it only applies to unincorporated towns or villages and the fine is significantly smaller, \$10 to \$100. In addition, many municipalities have similar provisions in their city codes. Cities such as Fremont, Lincoln, Grand Island, and Norfolk have such a law. During the public hearing last February, testimony was introduced by the railroads that such a law is preempted by federal law. I wanted to give you a little background today into that argument. The preemption argument is based on the supremacy clause of the U.S. Constitution, which basically says a federal law takes precedence over a conflicting state law. In this case, the argument is made on three federal laws. The Federal Railroad Safety Act, the Interstate Commerce Commission Termination Act, and the commerce clause of the U.S. Constitution. Based upon these laws, it has become well-settled that the federal government has jurisdiction over train speed, length, and air-break testing. Consequently, the argument goes that a railroad might have to adjust either its speed or the length of its train in order to comply with a state or local provision, both of which are governed by federal regulations. Therefore the law conflicts with federal law and is preempted under the supremacy clause. The majority of courts throughout the United States have ruled that laws providing a time limit on the blocking of a crossing are preempted by federal law. I did find a few cases where the state or local law was upheld, but they are few and far between. Nebraska is part of the Eighth Circuit Judicial District. If there has not been a U.S. Supreme Court ruling on the subject matter, then

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each Circuit's Court of Appeal's rulings are the law of the land. Because the Supreme Court or the Eighth Circuit has never ruled on a blocked crossing statute, we cannot be sure whether such a law is preempted by federal law here in Nebraska. However, it can be assumed that the court would lean heavily on other circuit opinions, the majority of which rule that state and local laws are preempted. It is a strong probability that the Eighth Circuit would rule that statute, such as the one that we have on the books now, or the one proposed in LB676, would be preempted. In addition, one Nebraska court has recently ruled in favor of preemption, it was a case based on the Fremont ordinance in Dodge County. The Fremont...the judge ruled that the law was preempted, because it has the inevitable effect of regulating a train's speed and length. I tell you this, not because I think it should deter the committee from going forward, I just wanted to have it out there for your information. Like I said, the Eighth Circuit hasn't ruled on it, so we don't know whether...how they would rule, whether the law actually would be preempted. But I thought you should have that information. In addition, there are some ways that you can make the bill stronger against a preemption argument, certain language that you can use that I put in the memo that I handed out to you last week. So with that, if you have any questions, I'll try and answer them. [LR67]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there any questions? I see none. Thank you very much. When we have interim study hearings, there are no proponents or opponents, the committee is here just to gather information. So at this time I would ask that anyone who is interested in providing us with information to please step forward. Thank you. And we can make that table the on-deck table then. Good afternoon and welcome. [LR67]

DALE BRAY: Good afternoon, Senator. Senator Fischer and committee members, my name is Dale Bray, B-r-a-y, and I'm director of public safety for Union Pacific Railroad. I accepted this position about a year ago and prior to this position, for four and a half years I was Director of Homeland Security for Union Pacific, and prior to that I helped develop and then was the Director of Union Pacific's critical incident center. And I'm

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here...also I have 33 years in law enforcement. And I've dedicated my life to public safety, and I'm here to assure this committee that Union Pacific is absolutely committed to public safety in the communities in which we operate. It is very important to us that we conduct safe movements of our trains through your communities. And within the last year, since taking this position, we've worked hard to establish public safety service unit teams that are specifically designed to work with communities on public-safety issues. We also have an extremely strong communication center or critical incident center that also is specifically designed to handle emergency calls and manage the response to critical incidents. And I want to talk a little bit about blocked crossings. When we do have a blocked crossing in a community, we have our 800 numbers at each of the crossings, and we also have an emergency police number. If citizens, law enforcement officers, or employees call one of these numbers to report a blocked crossing, our critical incident center immediately contacts the dispatch center and advises them that there is a blocked crossing. If there is a call for an emergency, if we have an ambulance, a police emergency, or a fire emergency, we have direct contact with that corridor manager's hot line. We get immediately in touch with that corridor manager, stress that we have an emergency, and if the train does not have a mechanical failure or is not derailed and can be moved, we immediately move that train. We've had great success this last year working with communities on public safety issues, trespassing issues, crossing accidents, blocked crossings. I can tell you that I'm very happy to report that this year we're doing better than we've ever done when it comes to crossing accidents and trespasser incidents. I feel that our public safety initiatives and our public safety program is going forward. And I would like to offer the committee an invitation to come to Union Pacific to our headquarters and visit our critical incident center. If you would like to do that and specifically talk about issues concerning Nebraska, we are definitely here to work with you. It's important to us. And with that, I'll close and open it to...if there's any questions. [LR67]

SENATOR FISCHER: Thank you, Mr. Bray. Are there any questions? Senator Louden.  
[LR67]

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SENATOR LOUDEN: Yes, thank you for testifying today. When you're talking about blocked crossings and the safety issues, are you talking about public crossings or does that include private crossings? [LR67]

DALE BRAY: Sir, that includes both public and private in a community. And working with a community, we would engage with that community and work with them to figure out what is the best thing to do. We'd like to close private crossings, but in closing private crossings, we want to make sure that those citizens have good access to their property and that it's done in a proper fashion. We have changed our processes in this last year on the crossing closure program. And my public safety team has taken a much more active role in ensuring that we do the best thing for the community. [LR67]

SENATOR LOUDEN: If you have a private crossing blocked, and you call this 800 number, do you get the same response as if it was public crossing? [LR67]

DALE BRAY: Yes sir, we do. Now as you know, we've got a lot of crossings out there and this is the busiest corridor in the world. And there's times when we have to stage trains between public crossings and occasionally that's going to be blocking these private crossings. But when that citizen calls in and reports that to our critical incident center, we handle that the same way. We get a hold of train management, and we tell them that someone is reporting a blocked crossing. Now every call that comes into our critical incident center, a report is done and all those calls are recorded. So if any citizen is ever mishandled or feel that they are mistreated or not handled in a proper way, we certainly can investigate, listen to the voice tapes, and react properly if that was the case. [LR67]

SENATOR LOUDEN: Do you park trains, you know, you'll have either empties or full ones, either one, that are not being used, and you park them for a length of time on some of those side tracks or some of those places sometimes, double tracks, and if that

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is across a private crossing, do the train crew go down there and break that train or...before they leave it parked? Or do you wait until somebody calls in to want to cross that crossing before you break it? [LR67]

DALE BRAY: Senator, first of all, you know, I'm sure the committee understands that our business is to move traffic. We want to keep commerce moving, we want to keep our trains moving. That's how we make money. So we don't like trains to be stopped or staged. And we also, if permitting, if we're able to, we want to break that crossing and make sure that the public can get across that crossing. It depends on the circumstances involved; it depends on how long those cars are going to be there. But when you're asking about storage, if you're asking do we store them on blocked crossing, that is not our process or...our policy is to store cars that block private crossings. If that is happening, again, I welcome a call to our center and we'll manage getting that corrected or rectified. And again, also, if that's a problem in a community, I certainly invite that community to get in touch with me or get in touch with the Union Pacific. Let's discuss those issues. Let's figure out what the root problem is, and work on fixing that root problem. [LR67]

SENATOR LOUDEN: Well, usually the problem is, is you'll maybe store those trains for maybe a day or something like that. And they go off and leave them and they won't necessarily split them for that crossing, and of course, whether you're talking about blocking that crossing for an hour or 30 minutes, but if you're blocking it for an hour and somebody has got to come through there and they want to get through, then they're delayed for an hour. And that's what I was wondering what your policy was. If the train crew was supposed to go down and break that train for any crossing, public or private, that's what I guess my question is. [LR67]

DALE BRAY: Yes, if a train is going to be stopped in an area and we know that it's going to be stopped for any length of time, our policy is to cut the crossing. [LR67]

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SENATOR LOUDEN: And if your train crew doesn't do that, do you have some kind of reprimand on them, or what do you do? [LR67]

DALE BRAY: Yes sir, there is disciplinary action taken when a crew disobeys or does not follow Union Pacific policy. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

DALE BRAY: You're welcome, sir. [LR67]

SENATOR FISCHER: Thank you, Senator Louden. Senator Adams. [LR67]

SENATOR ADAMS: Maybe you've already answered it, but in the discourse here you continue to refer to community, and I'm assuming your referring to inside of corporate limits. Does the same policy, the same number work in the rural environment, particularly now during harvest time? [LR67]

DALE BRAY: Yes, sir. [LR67]

SENATOR ADAMS: Okay. [LR67]

SENATOR FISCHER: Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Bray, for being here. What's the amount of time that would lapse between a phone call, like if you got an emergency personnel calling, saying I need to get across this track? What's the time lapse in getting that crossing opened? [LR67]

DALE BRAY: It depends on the circumstance, Senator, but I can tell you that we're talking to train management within one minute of them calling in. We take the

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information, once we have that information we're immediately calling the dispatcher or the corridor manager and giving them information that this crossing is blocked and that we have a citizen reporting that it's blocked. When the caller calls in, we usually ask them, well, our protocol is to ask them, can you identify a car number or the locomotive? What's the location? And how long has it been stopped there? And we give that information to train management and ask them to take actions to move the train. Now if they can move the train they immediately start moving that train. If, for some reason, there are mechanical failures, they're derailed, or if they're making a train meet and cutting the crossing would be impractical to go back...it would take really longer, to go try to cut the crossing and put the train back together and get it moving. Then they will tell us, many times, that it'll be moving in five or ten minutes. Many times they'll tell us that it's in mechanical failure, or for some reason they can't move the train, and we like to call the local police and advise them, this train is derailed or this train is having mechanical failure. We're hoping to have it moved in 30 minutes, 45 minutes, or whatever the situation may be. [LR67]

SENATOR DUBAS: Are you able to give them alternative routes to take if for some reason that crossing can't be opened? [LR67]

DALE BRAY: You know, Senator, that's a great question and I appreciate you asking me that, because in our center, we do have mapping software. And when we identify a location, we can, working with train management, also reroute or redirect emergency services, police, ambulance, etcetera to an incident. That's what that center does all day long, every day, that's their sole purpose, is to manage emergency situations and the response to critical incidents. So yes, we have the technology, we are trained to do that and many, many times we direct locals into an area that we need to help them with, or around the train. [LR67]

SENATOR DUBAS: Are the calls prioritized as far as, okay, this is an emergency situation, or this is a commerce situation. Maybe you've got a farmer waiting to get



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across the tracks and it's been there for an extended period of time. Do you prioritize the calls or are they just all handled... [LR67]

DALE BRAY: Yes. Now our emergency calls, when the emergency calls come into the center, they come in through a phone-management system. All our phone...all our numbers and the time that it takes us to answer the phone, the time we talk on the phone, all of that is managed and these calls come in and open that call to the available critical incident manager that is there. I will tell you that our answer time is less than two minutes, which is exceptional to answer these critical incident calls. Now on the support side, if it's a support issue, if the call comes in through an emergency line, we may transfer that over to support staff to handle that. And again, all of this is managed. We're able to look at it each day. And I feel very comfortable in...that's why I invited the committee, if you'd like to come down, I'd be glad to give you a tour and let you look at the processes and how we manage these type of calls. [LR67]

SENATOR DUBAS: Do you feel that law enforcement has an understanding of what is available to them through your call center? Do they know that they can... [LR67]

DALE BRAY: You know, Senator, we have worked extremely hard, and I think that we have a very strong communication system out there. And over the years we've developed a great network. Does every single rural sheriff's office or police department understand how we manage this? Probably not. But we continue to work through our special agents, our police department, and through emergency services, our hazardous material responders, and our operating personnel to educate, you know, all the communities that we travel through. [LR67]

SENATOR DUBAS: Thank you. [LR67]

DALE BRAY: You're welcome. [LR67]

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SENATOR FISCHER: Other questions? Senator Louden. [LR67]

SENATOR LOUDEN: Yes, I have one more, and you talk about your...in the rail safety, what I'm wondering about, is you have more double track and single track coming online now, on your railroad crossing are you...how do your engineers that level off the railroad tracks, are they leveling off these tracks so that when you have a crossing, both tracks are level so that when someone drives across they're not driving over a big hump, or there's semi's that drag or low wagons that drag and stuff? What is your policy on that with Union Pacific? [LR67]

DALE BRAY: You know, Senator, of course we would like for all of our crossings to be perfect. And sometimes when we go in and we put in a crossing surface, because of terrain, they may not be perfectly level. But that doesn't mean that you can't call and report. The same emergency number that you call, that says, if you're reporting a rough crossing, press, I think it's three. And that call is also recorded and that information is shared with our engineers and our maintenance personnel. And that is put on their agenda, to go out and fix that rough crossing. And on a public safety side, I, personally, of course, want these crossings to not be rough. I want the travelling public to be able to go across these crossings efficiently and safely. [LR67]

SENATOR LOUDEN: When you construct some double track or another track, what is the process? Do you plan on having that track level with the other one, especially at crossings? Or do you lay it wherever the good Lord made the ground level for you? (Laugh) [LR67]

DALE BRAY: Well, Senator, I'm not an engineering expert, that's not my field. But I know that our engineers...that it makes good common sense that they would like that to be as level and as sound as possible for that area. [LR67]

SENATOR LOUDEN: Okay, thank you. [LR67]

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DALE BRAY: You're welcome. [LR67]

SENATOR FISCHER: Mr. Bray, about how many miles of track does Union Pacific have in the state of Nebraska? [LR67]

DALE BRAY: Oh, gosh, I don't know... [LR67]

SENATOR FISCHER: That's not on the tip of your tongue? (Laugh) [LR67]

DALE BRAY: No, its not. I don't know the miles of track we have. I know that we have about 1,500 crossing in the state. [LR67]

SENATOR FISCHER: About what is the average on far apart those crossings are? [LR67]

DALE BRAY: Oh gosh, that... [LR67]

SENATOR FISCHER: I know it varies on which area of the state you're in, but if you're just...if you're outside of an incorporated town or city... [LR67]

DALE BRAY: Senator, you know, that has a lot to do with, you know, as this country developed.... [LR67]

SENATOR FISCHER: A road every mile, or in my country you have two roads in 6,000 square miles. (Laughter) [LR67]

DALE BRAY: That's what I was going to say. It depends on the location. I've seen crossings every half-block, you know, to every block. And then I've seen, like you say, where there's very few crossings. [LR67]

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SENATOR FISCHER: About how many calls did you receive this year with complaints that a crossing was blocked? [LR67]

DALE BRAY: In Nebraska, in...I can tell you in the last 60 days, I went back and just took a snapshot, and the last 60 days we received about 200 calls in the state. For Grand Island there was 15 reports of blocked crossings, let's see, I think that there was probably...six citizens called in and about nine calls from a PD reporting blocked crossings. [LR67]

SENATOR FISCHER: How does that compare to last year, or year to year, what's the average? Have you seen an increase in calls since you put the numbers up, or... [LR67]

DALE BRAY: Senator, I would think that, you know, as we have urban sprawl, you have more vehicles out there, we're running more trains, that blocked crossings have probably increased somewhat. I would not say significantly. I don't, you know...I didn't break those numbers down year to year. But I don't think that there's a significant increase. But I believe that there is an increase, just because of our population and the growth of our country. [LR67]

SENATOR FISCHER: Did I understand you correctly, that you said that Union Pacific changed their policy this year? [LR67]

DALE BRAY: We didn't change the policy, I accepted this position and we're just approaching our policies more aggressively, and specifically working closer with communities. I think that that's key, and I think that's important. And I think that's the right way to address public-safety issues, not through legislation, but through cooperation and collaboration and working with the community, because each community is different. And they have different needs and different situations, so that's been our approach and I'm very excited about this approach. And I think that we're

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being very successful moving in this direction. [LR67]

SENATOR FISCHER: Okay. Thank you very much. We appreciate you being here today. Oh, I see Senator Aguilar would like to ask a question. [LR67]

SENATOR AGUILAR: Thank you, Chairman Fischer. Just a follow-up on what Senator Louden was asking questions about as far as maintaining the level of crossings throughout a community: Grand Island just recently went through that where they pretty much redid all of our major crossings throughout the city at a huge inconvenience to people wishing to transport across the community from side of town to the other. And I have to say, it was worth the inconvenience. They did a great job. Those crossings are extremely level, extremely smooth, much better than they ever were. And, you know, I'm just really pleased that they went the extra mile and did such a great job in getting that accomplished. It's really nice. [LR67]

DALE BRAY: Senator, thank you. I appreciate that. [LR67]

SENATOR FISCHER: Thank you very much, Mr. Bray. [LR67]

DALE BRAY: Yes ma'am. [LR67]

SENATOR FISCHER: Next person who wishes to testify please. We need the green sheet up here, please. Good afternoon. [LR67]

MICHAEL NOLAN: Good afternoon, Senator. Senator Fischer, members of the Transportation Committee, my name is Michael Nolan, it's spelled N-o-l-a-n. I'm the City Administrator of Norfolk. And I want to bring you an economic development perspective from, I hope, kind of a macro viewpoint. And if you follow the demographic map that DED creates and puts on their web site, you'll see where all the colored counties are along the interstate and where the UP mainline and the Burlington mainline are. That is

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the economy of the state. So this, what I'm going to suggest to you, is just an idea that is in rough form. But it's an economic development idea as well as a safety idea. And by the way, I transposed this from a piece of e-mail that I sent to Beth Ryan a couple of months ago, so this was fresh off my printer before I drove down here today. I've also shared this idea with the Department of Roads, and they were open to it. And I've talked to the League of Municipalities about it, I just gave the representative from NACO, Larry Dix, a copy of it. So we'll see what happens with it. But we're going to be having a caucus on this here, I think, before too long, and I'm hopeful that the Transportation Committee might be receptive to this idea. And basically the way it works is we take an incentive concept, using railroad safety transportation districts, which have a statutory restriction on the amount of tax that they can levy, and give some incentive to create these districts by enhancing the train-mile tax fund or some other fund that you folks would authorize. The railroads would impose upon themselves a voluntary occupation tax. And the way you would access the pot of cash, whatever one you would decide the number would be--I think it needs to be at least \$10 million, because there are a significant number of infrastructure problems out there. And the railroads don't have any more money than we do. We all serve the same customers and we all have a shared interest in making sure that Nucor Steel and other major industries get the kind of transportation and rail service that they need. And Nucor is at the other end of that short line that Union Pacific owns that is now leased to Nebraska Central Railroad. And that is what has given me pause to think about this on multiple occasions. As we have gone through the process of closing railroad crossing because we have shared interests with Nebraska Central and UP on that, as a consequence of LB79 that the committee reported out and was approved a couple of sessions ago. And we are now looking at other infrastructure issues, when quite frankly we are constrained by money. We have a huge railroad bridge that goes across the Elkhorn River and nobody has a clue how we're going to do the major improvements on that. We have not only economic development interests that are shared, but we have safety interests that are shared with the railroads on this. Now how this thing...as far as I know, there are only two of these railroad safety transportation districts in the state: one of them in Lincoln-Lancaster, and

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one of them in Norfolk-Madison. And I think that...I would...you could ask the folks from Grand Island why they don't have one, but I think the reason they probably don't have one is because property taxes are high all over anyway. But the...what I think the ideal of a concept like this would be that 50 percent of something is better than 100 percent of nothing, and you could leverage some incentive for the railroads to work with us by creating these districts and solving some of these problems. Now I have kind of outlined how I can think it could work. I don't have...I'm not wedded to any particular ideas about this. But everybody I've talked to has not, at least on their initial impression, conceptually become antagonistic to it. So, if you have any questions I'll do the best to try to answer them, but I think it's an idea worth looking at. [LR67]

SENATOR FISCHER: And Mr. Nolan, thank you for being here today. Do you think your idea would take care of blocked crossings? [LR67]

MICHAEL NOLAN: I think...I'll tell you what I think it would do. I think there are some instances when the best way you deal with that conflict that occurs between people trying to get from one side of town to another, is to reconcile yourself that maybe you got to have a signalized crossing. And there are plenty of them across the state on short lines that don't have signals on them that create just as much aggravation as they do in Grand Island to people. And, I mean, each one of them has to be evaluated on some merit, but that's one of the reasons why the railroad safety transportation district was created, was to help solve problems like that. And I think it could be used in those situations. I'm really looking at it, quite frankly though, for the huge things that we don't have any money for. Because it makes so much sense that we shouldn't be finger-pointing, and we ought to be giving the railroads an incentive to work with the communities. And the communities have shared interests at working with the railroad. And this idea...I haven't seen anybody else come up with one that is any better, I'm not trying to claim any pride of authorship in it, but I think it's worth looking at. [LR67]

SENATOR FISCHER: Thank you. Any questions? I just have one question for you. You

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brought up LB79 that was enacted in 2006. [LR67]

MICHAEL NOLAN: Right. [LR67]

SENATOR FISCHER: Have there been crossings that have been closed... [LR67]

MICHAEL NOLAN: Yes. [LR67]

SENATOR FISCHER: ...in Norfolk? [LR67]

MICHAEL NOLAN: And I've got the teeth-marks all over me. [LR67]

SENATOR FISCHER: Well, my next part of that question was, have there been problems when a crossing was closed? [LR67]

MICHAEL NOLAN: You know, the biggest problem is explaining to the people that have...are used to using that route why that's in the community's interest to do that. And I want to tell you one thing. If the members of the committee have not done this, I want to suggest that you either work with the UP, or if you want to come up to Norfolk and climb up in the cab of the Nebraska Central, we'll give you a ride. Because you ought to look at what it's like from their perspective. You have that huge locomotive that weighs an enormous amount, I don't care if it's only going five or ten miles an hour, and you come up, sometimes even to crossings that are signalized with full gates on them, and somebody who is a candidate for the Darwin Award will try to meander around those gates and go right out in front of the train, when they're...I mean, they just can't stop on a dime. So every time they go through a crossing, they're pulling the horn, because, in fact, every one of those is a potential lawsuit for them waiting to happen. And it's...I understand why they want every crossing closed. And I also understand why we can't close every crossing. But we need to be having a dialogue about how we decide which ones are closed and which ones aren't. I have to tell you, you know, you negotiate with



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everybody when you do a crossing. We even had to negotiate with the Department of Roads, who initially didn't think these short line crossings were nearly as important as the ones along the mainline. And obviously the Nebraska Central Railroad has a different perspective than that. So we persuaded the Department of Roads to close them. We actually got three of them closed now. And we have probably sunk a half million dollars into improving the safety at another one that goes into a residential neighborhood. So we... [LR67]

SENATOR FISCHER: When you say "we" do you mean the city of Norfolk? [LR67]

MICHAEL NOLAN: The city...the city of Norfolk; but I'm not going to leave the county out. I mean, we've been having long-term working relationships with both the UP and Nebraska Central. And we had this trestle south of town, and we put a million dollars of public funds into that. Five hundred of it came from the railroad safety transportation district. And five hundred of it came from the local sanitary district, because this trestle goes across a corporation gulch that's a huge drainage way from the cities. It's over 100 years old. Some place, I don't know, ten or fifteen years ago, a saboteur went down there and torched a big hole in the center of it. So as Nucor has continued to grow, that has been problematic for them to do their switching and whatever. So we...as I've told the Revenue Committee on a couple occasions that, if it wasn't for Nucor Steel, Madison and Stanton Counties would be a developing country. So we feel a very strong incentive to help the railroad get that thing fixed, and the county has been involved in that very much with us. [LR67]

SENATOR FISCHER: Okay. Thank you very much. Next person please. [LR67]

KENNETH SCHLEIGER: These are just my notes, you don't want to see them. [LR67]

SENATOR FISCHER: (Laugh) You do not have to hand in a testimony. Welcome.  
[LR67]

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KENNETH SCHLEIGER: Thank you. And Senators, thank you for the opportunity to testify before you today. My name is Ken Schleiger and I'm Deputy Chief with the Union Pacific Police Department out of Salt Lake City, the northern region. And that encompasses 12 different states, Nebraska being one of those. And I just want to emphasize, I'm not going to repeat Dale Bray's testimony, but I agree with him 100 percent that you don't legislate this type of issue away, you really work with the communities in regard to where the problem occurs, to try and resolve it as both the railroads and the communities themselves. But I just wanted to speak real briefly. I want to talk about what the Union Pacific Police Department does, because I'm sure there are some of you that are not aware that there's actual police officers that work for Union Pacific. One of those is sitting behind me in uniform, Todd McKeeman (phonetic). In the state of Nebraska there's three people in Omaha and three people in North Platte that work for our office. And part of the responsibility, besides solving crimes that occur against the railroad is working unison with the public agencies here in Nebraska and making sure that any issues or concerns that they have are brought up and attended to, not only from a law enforcement perspective but also from a public perspective. Why I know that is for ten years as a special agent I worked here in Grand Island. So I'm very familiar with that. In fact, I graduated in 1968 from this...Grand Island Senior High, so I'm very familiar with this whole community. And I want to emphasize, as I worked here, and as my officers work, key on their mind is public safety. And we do a lot of that on a daily basis and a regular basis. And it's interesting enough, right now our department, my region is involved in inspecting all of the crossings on the Union Pacific to make sure that they're up to standards, so that on a public safety sense, that they're always presented to the public, put into regulations, and Union Pacific policies as far as how they're supposed to be. And that includes private crossings, because private crossings are also marked and should have the 800 contact number for any individual that has a problem at the private crossings. So it's just not public crossings. But when I talk about public safety I'm going to say one other thing that maybe is not part of this committee hearing, is that this bill is just not...blocking crossings is just not whole ball of wax about

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public safety. Really blocking a crossing is a concern, and we don't like to see that occur, but I really shudder when the crossings are open, because the motoring public often or not does not obey the law or follow the rules and regulations at open crossings. And when I talk about how we're involved in public safety, we work with the local law enforcement and various different programs along the line, Operation Lifesaver, Grade Crossing Collision Investigation, where we instruct the public agencies on how to investigate grade crossings accidents. We also have trains that go through where we put an officer on the train so that they can see from their perspective what are railroad crews are seeing. And so it is all about public safety, and as far as we're concerned on the Union Pacific, we hold that at a very high level. Anyway, that's my comments that I have, and if there's any questions I'd be pleased to answer them as best I can. [LR67]

SENATOR FISCHER: Thank you, Mr. Schleiger. Are there questions? Senator Louden. [LR67]

SENATOR LOUDEN: Thank you for coming all the way from Salt Lake City, I guess, to testify on this. When you talk about...I live on along the railroad, this is Union Pacific, Burlington Northern, but when we have the trouble with blocked trains, it's more a problem with, what would you say, contact between the trainmen and the dispatcher some place. They either don't allow him to pull through a red light so that they can get the tail end of their train past a crossing and the train crew don't want to walk down there that mile and a half, because I mean, you're pulling 7000-foot trains now, is that correct, or a little longer? [LR67]

KENNETH SCHLEIGER: A mile and a half, yeah. [LR67]

SENATOR LOUDEN: Seven thousand feet...because I've seen them, you're putting two units on the tail end and two on the front and the whole bit. So consequently there always seems to be more where the problem is. I don't think the problem is in management and your policy. The problem is making it work out there on the railroad

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lines, and there's times when you'll talk to those trainmen and they'll say, well, I can't get a hold of the dispatcher, because he's talking to somebody else. So there they sit, waiting, and what they want to do is pull through a red light a ways so they can get a crossing unblocked. What is your policy on that? Why are we having the problem at that level? [LR67]

KENNETH SCHLEIGER: Well, first I guess way that I can answer that, there's many reasons in my experience--I have 35 years with the railroad--that trains stop out there. An example that happened recently was there was a crossing accident and it stopped traffic for seven hours, because of the investigation that went on. Now that's a little long, but it did occur. And the railroad, when there's an investigation ongoing on the track, doesn't run trains by, behind it or in front of it. So if you have a... [LR67]

SENATOR LOUDEN: Yeah, but they could have went back down and split that train. I mean... [LR67]

KENNETH SCHLEIGER: So if you have trains that are blocking the crossing, that could relate to several miles of trains blocking the crossings, and...or a derailment, or whatever, but there is the RNPC database, or RMCC 1-800 call number where they do take that type of information, as Mr. Bray testified and it's handled through that matter if there is a crossing that is blocked. [LR67]

SENATOR LOUDEN: You mentioned your public safety and we're...in my district they're having a lot of problems with these horns on these trains now, going through these towns, honking all the time, you know, day and night and all hours of the night. What is your policy for, say you have workmen on the track and this train comes up there? When he starts honking, are they required to cover their ears or are they required to wear ear hearing deflectors, or what are...do they do, because I noticed they pretty all near cover their ears and turn their heads when they honk the trains. But yet the public that lives nearby doesn't have that...isn't... [LR67]

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KENNETH SCHLEIGER: Well, the railroad crews are governed by rules and policy and on Union Pacific they're required to wear safety equipment, and so that should be including ear plugs, eye protection, hard hats and like that. And so as far as the public, they're sitting in a car with the windows up, I would assume they wouldn't hear the train whistle as much as our people right down on the tracks. [LR67]

SENATOR LOUDEN: This is people that live close to the railroad tracks. I guess what I'm wondering is, does Union Pacific consider being in front of train that's honking a safety factor for their employees? [LR67]

KENNETH SCHLEIGER: Could you rephrase that question, please? [LR67]

SENATOR LOUDEN: Okay. If employees are on the ground and you ring the bell, and you got men on the ground, but you also have to honk for crossings or something like that. [LR67]

KENNETH SCHLEIGER: Correct. [LR67]

SENATOR LOUDEN: Is that...when they're doing that full-blast horn honk, is that considered a safety problem for the workers on the ground with that horn at...what is it... [LR67]

KENNETH SCHLEIGER: Well, I think it's a safety issue to blow the horn to let them know that the train is coming. There is also... [LR67]

SENATOR LOUDEN: But is it a safety issue for the health or the hearing of the people that are on the ground, I guess? [LR67]

KENNETH SCHLEIGER: That's right, because we don't want to hit our employees or

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anybody as far as that goes. We also have trespassers that come up on our property that we remove on a regular basis too. [LR67]

SENATOR LOUDEN: I'm talking about their hearing, you know. What is it, 100 decibels now the horns have to be? [LR67]

KENNETH SCHLEIGER: Well, they are required to wear ear protection...the employees... [LR67]

SENATOR LOUDEN: Okay. That's what I was wondering. [LR67]

KENNETH SCHLEIGER: That's the safety department that sets those guidelines, and there's regulations and rules and policy that they follow in regards to that. [LR67]

SENATOR LOUDEN: They are required to wear hearing...hearing... [LR67]

KENNETH SCHLEIGER: Eye protection, hearing, and hard hat too. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

SENATOR FISCHER: Other questions? Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer, and thank you for coming today and sharing your information with us. [LR67]

KENNETH SCHLEIGER: Thank you, Senator. [LR67]

SENATOR DUBAS: And I really appreciate hearing you and Mr. Bray talk about communication, because I think that's what I wanted to get going from the very beginning was opening up lines of communication. This was an issue that was brought

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to my attention and I was just looking for ways that we could address and find remedy, whether it's statutorily or otherwise. But what I very often have heard is when people have made these phone calls that they either didn't get a live person to talk to, weren't treated very well, or didn't feel like their call was responded to appropriately. And, you know, I could understand maybe a few people not being handled well, but I heard this more than just a few times, so to me it was sending me a message that there's obviously some problems with communications. So I don't know if this is necessarily a question you can answer, but I guess I'm looking at, how do I help the public understand that you do want to open up lines of communication and you do want them to feel like they can call you with their concerns? [LR67]

KENNETH SCHLEIGER: Right, and as you heard Mr. Bray testify, it's recorded, so we could deal with that issue if it does come up. The police officers that we hire today are really from your own communities, Tom McKeeman used to be with the North Platte police department. We have people in Omaha that were with the sheriff's office, so that's a way to communicate with the railroad if there is somebody that's rude or call the railroad direct on their 800-line too. But that's how I would handle it is if there's a reoccurring issue and a reoccurring problem, we certainly do not want that to occur. And so if you deal with your local agency, the police or the sheriff, or the state, they know how to get a hold of us, or we also go around and talk to them all the time. That's how you can deal with that. If it's not...if it's filtered. In other words, things get filtered in today's world, we know that. We don't want that to be filtered, and hopefully we have enough avenues for people to approach and take care of their problem. And by hiring people that work in your own community, that work on the Union Pacific, they not only understand the railroad side of it, they understand the community side of the issues also. And I think that's a big plus. So... [LR67]

SENATOR DUBAS: Thank you. [LR67]

KENNETH SCHLEIGER: Any other questions? [LR67]

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SENATOR FISCHER: Mr. Schleiger, I don't know if you can answer this or not, do you know, on average, how long a crossing is blocked? [LR67]

KENNETH SCHLEIGER: No, I can't answer that. [LR67]

SENATOR FISCHER: Do you know how long it takes to...I don't know if I'm using the proper term here...to decouple the cars? [LR67]

KENNETH SCHLEIGER: Sure. I can...I'm not an operating official but I've been around the railroad long enough. If you have a train as Senator Louden talked about that's a mile and a half long, there's two crew members on that train. And one is the conductor, he has to get off and walk back to wherever they're going to make the cut for the crossing. They open up the train and then there's a required distance that they have to...you're probably aware of that...that they have to cut, stay back there at the crossing, and then that's setting the handbrakes necessary so nothing rolls away. And then we have an accident on the railroad. And then when it's time to couple it back up, then they have to put together, airhose it, and do a required air test to get the air pressure back up. And I would say that that is a long time-frame that could probably be worse than the issue we're addressing in given circumstances. But I would say to couple and then recouple, if you're uncoupled for five minutes, maybe the whole process is 30 minutes or more, probably 30 minutes at the best. [LR67]

SENATOR FISCHER: Thirty minutes at best? [LR67]

KENNETH SCHLEIGER: Sorry, I hope I didn't say too much right there. [LR67]

SENATOR FISCHER: No, that's good. If anybody...if anyone else has an answer to that, when they come up I'd be interested to know that. Would you know on a train that's a mile and a half long, if you have the middle of it blocking a crossing... [LR67]



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KENNETH SCHLEIGER: Three quarter mile... [LR67]

SENATOR FISCHER: ...and it's at a complete stop. How long does it take for that train to get going and move so the last half of the train then passes through that crossing? [LR67]

KENNETH SCHLEIGER: Well, they don't accelerate like a car, and I guess... [LR67]

SENATOR FISCHER: You can't just point your toe to the floor and go. [LR67]

KENNETH SCHLEIGER: No, I would have to defer that. I have put a lot of officers on trains to give them experience and I'm going to have to defer that to somebody that's... [LR67]

SENATOR FISCHER: Okay. [LR67]

KENNETH SCHLEIGER: ...an engineer or in the operating department, because I can't really honestly give you a good answer on that. [LR67]

SENATOR FISCHER: I appreciate you being here today, and welcome back to Grand Island. Senator Aguilar. [LR67]

KENNETH SCHLEIGER: Thank you. [LR67]

SENATOR AGUILAR: As a follow-up to what she was just talking about, and I've heard this before, that many times it does take longer to decouple, hook back up, recouple it again, check the air breaks and do all that, and test the air breaks, make sure that everything passes code, and in the winter time it's even longer because of colder temperatures. [LR67]

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KENNETH SCHLEIGER: Correct. [LR67]

SENATOR AGUILAR: So many times there could be an instance where somebody calls the 800 number, complains about a train being blocked and all this process could be already started, could be going, before they ever got the train moved and cleared and blocked and the whole spiel. And very possibly the railroad is doing exactly what's asked of them. But because it didn't move exactly when they made that phone call, of course they're going to feel that that's an unsatisfactory response, are they not? [LR67]

KENNETH SCHLEIGER: Yes. And I think that's a very accurate assessment. [LR67]

SENATOR AGUILAR: That's the way I understand this as well. [LR67]

KENNETH SCHLEIGER: And it could take ten minutes just to walk back to make the cut from the time that they stop the train, to get back there to really make a cut, and then go through the whole process of doing that. [LR67]

SENATOR AGUILAR: The point that I think was most important, I think Mr. Bray made, and that was, the railroad doesn't make a dime while those cars are parked. [LR67]

KENNETH SCHLEIGER: Actually, if I could just add to that a little bit, when we have crossing accidents or when trains are stopped, we're actually losing money. There's a formula, which I don't have with me, but when trains are stopped it can be hundreds of dollars a minute or thousands of dollars a minute, depending on the train. So it benefits the railroad not at all to stop a train, have it stopped out there. They want to really have them moving, and that's what we use when we have crossing accidents, is we use a formula to come up with how much the cost is. [LR67]

SENATOR AGUILAR: Thank you. And thank you for being here today and welcome

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home. [LR67]

KENNETH SCHLEIGER: Thank you. [LR67]

SENATOR FISCHER: Senator Louden. We're not going to let you leave quite yet, Mr. Schleiger. (Laugh) [LR67]

SENATOR LOUDEN: Yeah, when you talk about breaking these trains and then having to check the air again, if that train isn't broke for only a certain period of time, you don't have to go back and check the air on the rest of that train, do you? I mean, it's got to...is it 45 minutes or an hour that you can leave it sit without having to go back and check the air? [LR67]

KENNETH SCHLEIGER: Well, they have to pump it up, they have to get the air...see, they're breaking the train in two, and so... [LR67]

SENATOR LOUDEN: Yeah, but you don't lose all the air on the other end of the train. [LR67]

KENNETH SCHLEIGER: No, you shouldn't. [LR67]

SENATOR LOUDEN: Sometimes you have locomotives on the other end, so you really don't have to check the air on every train just because you break the train, is that correct? [LR67]

KENNETH SCHLEIGER: You have to get your air up on the head...on the air gauges, as I understand it, before you can move it. [LR67]

SENATOR LOUDEN: Well, that's true. But if...when you pop them loose, you don't necessarily lose your air, because that front train is moving. [LR67]

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KENNETH SCHLEIGER: Not if you bottle it. [LR67]

SENATOR LOUDEN: Okay. I was just...wanted to make that clear, that you don't necessarily have to go back and check the air on every car like you do when you first pick up a train that's been sitting on a side track. [LR67]

KENNETH SCHLEIGER: No, sir, that's correct. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

SENATOR FISCHER: And Mr. Schleiger, one more question. How many employees does Union Pacific usually have on a train? [LR67]

KENNETH SCHLEIGER: Normally it's a conductor and an engineer, two. [LR67]

SENATOR FISCHER: Where does the conductor ride? [LR67]

KENNETH SCHLEIGER: Up on the head end. [LR67]

SENATOR FISCHER: Okay. Thank you very much. Oh, another question. [LR67]

SENATOR DUBAS: One last question, please. [LR67]

SENATOR FISCHER: You cannot leave yet. Senator Dubas. (Laugh) [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. I do definitely understand and appreciate the comment you made as far as the railroad makes no money when the train is stopped, and so I do that you want to keep those trains moving. But the people that I'm hearing from are also telling me that they're time is money too. So when you

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have grain farmers stopped at crossings, who are in a semi or a tractor with wagons, and not able to turn around and find another crossing, who are losing an hour...the weather this last couple weeks, with all the rain has definitely cost farmers. So they're looking to make up time. And so when they...when I get these calls from people who are saying, you know, I'm losing time and money too, you know, what's my response to them? You're working on it. [LR67]

KENNETH SCHLEIGER: Well, we, just as Mr. Bray testified, there's a number that you can call to deal with that. And I agree with you, nobody needs to lose money over any of this. And we don't, as a railroad, want to block crossings either. And I think the best course is to work with the railroads. If it's a certain issue in a specific area...because I still have contacts here in Nebraska and I know it's not an issue in other communities, as far as blocked crossings. But I think you call the 800 number and work with the railroad to resolve that. [LR67]

SENATOR DUBAS: Thank you. [LR67]

KENNETH SCHLEIGER: Okay. Thanks. [LR67]

SENATOR FISCHER: Thank you very much. Next testifier, please. Good afternoon. [LR67]

GREGG AHLERS: (Exhibit 2) Good afternoon. I'm Gregg Ahlers, I'm a captain with the Sheriff's Department here in Hall County, Grand Island, Nebraska. I am here today on behalf of Sheriff Jerry Watson to read into the record testimony. He was not able to be here, he's taking some federally mandated training today. Are you ready for me to proceed? [LR67]

SENATOR FISCHER: Were you planning to read his testimony into the record? Or are you... [LR67]

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GREGG AHLERS: Yes, if that's necessary. [LR67]

SENATOR FISCHER: No, you can just pass it out and we make copies for all the members of the committee and it is entered in full into the record then. [LR67]

GREGG AHLERS: All right. [LR67]

SENATOR FISCHER: So you don't need to read it, but you did fill out a green sheet and we will put that on record too. [LR67]

GREGG AHLERS: All right. Thank you very much. [LR67]

SENATOR FISCHER: So thank you, Sheriff Ahlers, appreciate it. [LR67]

JERRY STILMOCK: (Inaudible) [LR67]

SENATOR FISCHER: As you should. Good afternoon. [LR67]

JERRY STILMOCK: As I should have, yes. Jerry Stilmock, appearing on behalf of the Nebraska State Volunteer Firefighters Association, registered lobbyist on behalf of my client, I couldn't help but stop and listen. I was fortunate enough to work on the railroad when I was in college, and you know how to get the ire of you foreman on the railroad is when you come up to a crossing and you don't bleed off that brake at the proper level and you shoot the brake and then you're standing at that crossing for quite a while. When you're a young college guy and you're looking at your sixty-year-old supervisor, and in the city of Omaha you tend to get growled at a little bit. But that was the operator's problem, not necessarily the railroad's. In listening this afternoon, we've talked about, and you've heard testimony about ten minutes or a half hour of time in which to move from that railroad. But in the emergency medical services, in that care,

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we look at terms of 3.5, 4 minutes, 5 minutes. Now that may be in a community, in town, as compared to rural travel, but we know that time is of the essence. And we know that it's a critical need in order to be able to get from point A to point B. So when ten minutes or a half hour, even the extreme of longer than a half hour takes place, we very well could be looking at a terrible, terrible situation. We have the opportunity as citizenry in Nebraska to have you tell us what the policy of the state should be. And frankly, the Transportation Committee...I went back, I reviewed my notes. Senator Schimek, Senator Wehrbein, we've been at the table, so to say, before. And the response has been, by the railroad industry, we're working on it. There are things that can be done. But we keep coming back to the same issue. Is it an issue of common sense? Parallel it to another situation where there's an emergency vehicle out on the highway and an emergency vehicle has its lights on, and part of the response by the Transportation Committee members was, we really can't get into, Jerry, can we get into legislating common sense? When doesn't this just make sense on your own, without passing a law, to slow down if you're on the highway with that emergency vehicle pulled off, and giving assistance to a situation? Doesn't it just make common sense to slow down, pull over if it's safe? Do we really want laws saying that we should have to legislate common sense? I bring it up because I don't think this is an issue of legislating common sense. I think this is a public safety need that I hear from our volunteer firefighters and the volunteer emergency rescue personnel. Men and ladies throughout the state, that they need to have these railroad crossings open. And it's not a matter of convenience. It's not a matter of common sense. It's not a matter of making a phone call to say, you know, the rail crossing is blocked, that we need to have this moved ASAP, because of a life call or a fire call. And I truly do...the railroads and what they do in the fire and rescue service with Operation Lifesaver, I've visited with those folks. They come out, they present at our annual fire school here in Grand Island on an annual basis. But this is an area that we've talked about, you know, for a long time. And if it's not happening to the satisfaction of the people of the state with the measures that are in place, then maybe those measures should be changed by looking at an increase of the monetary fines. I feel like it's almost rebuttal, and I don't mean to sound that way to the gentleman prior to

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me, the police officer from the railroad. But when he said, you know, railroads are losing money when they're stopping, they're not moving. Well, the reason why they're stopped is because another train is moving and coming toward them. We would just, as the representative of my client, we'd ask this committee, you know, come back and be able to move forward on the underlying bill this upcoming legislative session. Thank you, Senators. [LR67]

SENATOR FISCHER: Thank you. Any questions? Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Stilmock, for being here today. Has your...the organization that you represent, have you had any organized meetings or communication with the rail industry as to: okay, we've got this issue of blocked crossings, what are things that you can do as firefighters or EMS providers to open those lines of communication or get those crossings opened or... [LR67]

JERRY STILMOCK: If there have been I'm not aware of them. I've not been involved with that in the 15 years that I've represented the fire and rescue volunteers. [LR67]

SENATOR DUBAS: I just...in glancing through the testimony that was presented on behalf of Sheriff Watson, he just says his crews have learned to improvise, and they come to a blocked crossing and it's okay, we don't have time to call this number, we've just got to go this way or that way. Do you feel like you can respond? And is that how your organization members are feeling like, okay, we've got to move? [LR67]

JERRY STILMOCK: The only thing I can picture is a fire rig, whatever size of truck that we're...whether it's a pump or a tanker, trying to manipulate and make that turnaround. It's...number one, it's going to be very difficult, and I would like to think that communications are happening, but we still have the problem. [LR67]

SENATOR DUBAS: You referenced how important time is to your members and to



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those providers and so making a phone call, if we're looking at the very least ten minutes to get a crossing open, is that time that your members have to give? [LR67]

JERRY STILMOCK: No. I mean, if I'm the receiving end I sure don't want to wait another ten minutes. I don't think any of us in the room would want to wait another ten minutes if it's you or if it's your mom or your father, you child. I don't want to wait. [LR67]

SENATOR DUBAS: Thank you, appreciate that. [LR67]

SENATOR FISCHER: Other questions? I have a couple, Mr. Stilmock. [LR67]

JERRY STILMOCK: Yes. [LR67]

SENATOR FISCHER: If that's all right? Did I understand that you haven't been involved in working with the railroads on looking for solutions to this problem? [LR67]

JERRY STILMOCK: I have not personally, no. [LR67]

SENATOR FISCHER: Are there representatives from your organization that have worked with the railroads in this state in looking for solutions to this problem? [LR67]

JERRY STILMOCK: Not to my knowledge, no. [LR67]

SENATOR FISCHER: You spoke of past Transportation and Telecommunication Committees and that it's been asked in the past, what should the policy of the state be? Do you have suggestions? You mention that, you know, we should change the fines, we should up the fines. I guess I'm thinking if your organization hasn't entered into any conversations with what you view as the offenders here, what's your suggestion? Just that they pay more? [LR67]

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JERRY STILMOCK: The legislation and idea of increasing the fines, you know, was something that was submitted and was supported by our association. I mean, you ask a fair question. IF you have a problem... [LR67]

SENATOR FISCHER: I mean, you asked us. You said...you said to us, what should the policy of the state be? So I'm just asking you, what's your suggestion? What should the policy of the state be? [LR67]

JERRY STILMOCK: Given that, you know, with the passage of time, Senator, that's occurred, and the problem remains, then maybe the policy of the state should be increasing fines. [LR67]

SENATOR FISCHER: I guess I would think the different parties involved, I would have to agree with Senator Dubas and hope that there would be more communication between the parties involved in this and open up those lines of communication and work together, instead of having the state just step in and slap a higher fine on. I don't think putting a higher fine on this is going to solve the problem. That's where I'm coming from on it. I don't think that that is going to solve the problem. [LR67]

JERRY STILMOCK: The...and I don't know what is...I don't know what else would solve the problem and I certainly appreciate your encouragement to get on board and talk. And I...who makes the phone call? And I'm not in an arrogant situation, well I'm not going to talk to them until they talk to me. But the way it's been case, it appears like, well, if you have something to talk about to the other side, why don't you do that? And I suppose it's fair to say that should be reciprocated as well. If we are a part of the issue, then there maybe is an obligation on us to try to go to the table and talk instead of, as characterized, well, take it to the state, let them take care of it. [LR67]

SENATOR FISCHER: And I don't disagree with you. I think all parties involved in this need to be open and not just talk about policy, that they have a policy that's open and

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willing to communicate. But I think all parties need to step forward and work on it. So, thank you very much for being here today. [LR67]

JERRY STILMOCK: Okay. Oh. Senator Louden. [LR67]

SENATOR FISCHER: Oh, you're not...Senator Louden. [LR67]

SENATOR LOUDEN: Thanks, Jerry. When you talk about different alternatives and that sort of thing, as we had, of course, there was written testimony from the Hall County Sheriff, but he mentioned in there that they have problems with the accountability of sometimes the train crew. What is your position? What would your position be that perhaps the railroad should be held liable for some of their...if they block these crossings for a length of time. I mean, one gentleman testified how much money they lose when they're not moving trains. And when someone is sitting there at the crossing, they also are losing money, waiting for that train to get through. If they go out and burn part of the country up, well the railroad has to pay the damages. Should there be something along that line that if they block a crossing for a length of time, people can file some liability against them? [LR67]

JERRY STILMOCK: You know, I don't know if I have a response to that. If I understand your question, Senator, it would be the party that's blocked in an economic situation has somehow lost out monetarily and should the railroad have to pay damages if that person that was blocked can prove that they lost out on some economic benefit. And given the client that I have, I don't have any ability to try to answer your question, Senator, being that... [LR67]

SENATOR LOUDEN: Well, you're the ones with the firemen and that sort of thing. I mean, yeah, if you hold a fire truck on the other side of a railroad track and there's something burning down on the other side, there's a liability issue there. That's the reason I was... [LR67]

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JERRY STILMOCK: Oh, thank you. [LR67]

SENATOR LOUDEN: ...my line of questioning went that way. And that's what I was wondering: if you or your organization had any kind of a position or had thought anything along those lines? [LR67]

JERRY STILMOCK: I had not, Senator, no. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

JERRY STILMOCK: Yes, sir, thank you. [LR67]

SENATOR FISCHER: We are not going to let you leave yet. Senator Aguilar. [LR67]

SENATOR AGUILAR: I was just going to point that in previous hearings I think I've understood that there's many situations the railroads are liable. If something goes afoul that was definitely their fault, they are liable. And that's another one of the reasons that they don't want to stop the trains. They're opening themselves up to liability every time that happens. [LR67]

JERRY STILMOCK: Okay. [LR67]

SENATOR FISCHER: Other questions? All right. I see none. Thank you, Mr. Stilmock, for being here today. [LR67]

JERRY STILMOCK: Thanks, Senators. [LR67]

SENATOR FISCHER: Next person, please. Thank you. [LR67]

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LEON CEDERLIND: (Exhibit 3) My name is Leon Cederlind, C-e-d-e-r-l-i-n-d, my address: 807 West 15 Road, Phillips, Nebraska. I'm testifying for myself. I am retired state patrol officer and can speak from my experience there. The first testifier stated they have direct contact with dispatchers regarding blocked crossings in emergency situations. I can state from experience that that does not work. When they say they will get the train moved in five or ten minutes, half an hour to an hour is much more likely. I also can state from experience that I'm proof that some things that were suggested do not work and other things do work. Since I retired from the state patrol, I'm now a farmer. And the only access to my farm home during inclement weather used to be blocked all the time by a train. And I would call them repeatedly. I would contact the dispatchers, the trainmaster, the superintendent of operations, the division superintendent and so on: everyone I could think of, constant communications, as has been suggested. And at first they would deny that they ever blocked it for more than ten minutes. I started documenting by writing down every time I'd see the train block...the train number, the direction of travel, what time they stopped, what time they moved again, and there are numerous situations where it was parked there for more than three hours. And I also state that they were always coal trains. I never saw a grain train or a general freight train, just the coal train that always did the blocking. I would call them and they'd say, well, why don't you just back up to go around it? Well, if you're familiar with farming, you cannot back up a short-tongued lowboy hay trailer. You cannot back up double-wagons full of corn. You have no choice but to sit there until the train moves. This was a continual problem until Senator Dubas introduced LB676 and it does work. Just the threat of these increased fines made it work. And I can state very thankfully, that for six months now my crossing to access to my farm has not been blocked, thanks to Senator Dubas. This will work. [LR67]

SENATOR FISCHER: Thank you, Mr. Cederlind, for being here today. Are there any questions? [LR67]

SENATOR AGUILAR: I'll take one. [LR67]

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SENATOR FISCHER: Senator Aguilar. [LR67]

SENATOR AGUILAR: Just to ask, Mr. Cederlind, Leon, do you think possibly that the reason they're not blocked yet any more is possibly because of the education and questions brought forth by Senator Dubas and negotiations that have gone on between that time, not so much as the threat of a higher fine. []

LEON CEDERLIND: No, I do not believe so, because they do not block that particular crossing, because they know that I'm going to raise a fuss about it. They still block it a mile down the road. And you drive up highway 2, from here to Broken Bow or whatever, and you see numerous trains parked on crossings. You drive from North Platte to Fremont along highway 30, you see numerous crossings blocked with parked trains. They've just moved their place where they're parking them. I don't want to be selfish. My situation is taken care of. Like I said, I'm very thankful for that. But other citizens of the state of Nebraska have a right to have emergency services, have a right to cross the crossings without having to drive four miles or more around the crossing. It is a continual problem. []

SENATOR AGUILAR: Thank you. []

SENATOR FISCHER: Other questions? Senator Dubas. []

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Cederlind, for presenting your personal experience and so far it sounds like you've had some success and are able to get to where you need to go. But as I've been talking to some other people, former state Senator Elaine Stuhr from the Bradshaw area, submitted a letter and talked about communicating with the railroads, sitting down, working with them, trying to get this issue addressed. And maybe get some temporary resolve to it, and then after a short amount of time, things are kind of right back to where they were

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before. Do you see that probably? Is that something that you've experienced in the past? Or... []

LEON CEDERLIND: I'm concerned for the future. I...as I said, I'm very thankful that I can get in and out of my farm now. But I'm concerned for the future that if LB676 is not passed, for whatever reason, that they'll be back the way where it used to be. []

SENATOR DUBAS: Thank you. []

SENATOR FISCHER: Other questions? Again, thank you, I know you came before the committee when we heard the bill this past session in February, and I appreciate you coming today to speak to us. So thank you very much. []

LEON CEDERLIND: Thank you. []

SENATOR FISCHER: Next person, please. []

JAMES REITER: (Inaudible)...I have to go on some jobs, and I'd like to present my deal and leave. []

SENATOR FISCHER: Okay. If you're going to testify we need you to fill out a green sheet though. []

JAMES REITER: Okay. Could I testify now or... []

SENATOR FISCHER: You can testify first and then bring a green sheet up when you're done, that will be fine. []

JAMES REITER: My name is Jim Reiter and I live in Wood River... []

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SENATOR FISCHER: Could you spell your last name please? []

JAMES REITER: R-e-i-t-e-r. []

SENATOR FISCHER: Thank you []

JAMES REITER: 1401 Marshall Street, Wood River. But I have a locksmith and safe service business in Grand Island. My concern a little bit is for my inconvenience of trying to get across the railroad tracks. But my main concern is where one of the prior gentlemen about fire and ambulance is one of my main concern. But coming in to town this morning, if the train would have pulled ahead 20 more cars, there would have been two crossings blocked instead of three on highway 30. And that...they was closed from Webb Road west for a long time. Okay. So I'm wondering if we could ask the railroad if they're signals are set up any more for a mile and a half train? And I heard about possible two-mile trains. Do they need some signals repositioned so they can accommodate that, you know? I've drove a semi in the fall in the past and you commit yourself to a road with a loaded truck, and then you can't back all the way out of there on soft shoulders and everything and then the train comes. Okay? I watch it as I'll do when I come to town, a semi commits himself to go across to go down to the interstate, and then the signal comes down. While he's watching traffic and he's turning, and then the signal comes down. Of course he's going to stop. But he can't back out of there. Okay? That's impossible for him to back on highway 30 and then a car, they'll try it or they'll get several cars and then there's double lanes of cars and it's just a great big mess, you know. I'll go on to my short statement here. Also a little bit selfishly, if I did a job for so much and then I got to go clear to Alda to get halfway back, then the cost of doing business by my bid I made is way out of whack and I still got to do it for that amount of money. I'll read my statement right quick then I have to go back to work. Dear committee, thank you for coming and taking the comment about the impact of the blocked train crossings. I traveled from Grand Island to Wood River one to four a times a day on highway 30. I see many trains blocking crossings for long periods of time.



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When a semi-trailer truck commits to a crossing, he cannot back up to the...on to highway 30 and it's just as dangerous for a car to try it. Trouble then starts. I suggest that railroads have roving vehicles to help the train engineer stop sooner or pull ahead--maybe, a lot of the time, just a few train cars' length--to clear the crossings. The railroads profit from the longer trains. We all suffer with time and income lost. A few five or ten thousand dollar fines may help. But charging the railroad by the minute might be even more effective. Now I don't know whether any of them things are effective. But I suggest that the old American way, to set down with us citizens, listen, jointly with the railroads as you are doing. In this modern day of communications there has to be a way to solve this problem. It will need some give and take on all sides. Passing a law and getting it to work through the courts after violations by the railroads will not work. The railroads know how long their trains are. They can just use better judgment where they park. This is a very serious problem and I thank the committee, the railroads, and the citizens for working together. The only other thing I can add is I flew crop-sprayer airplanes for forty years. In the last eight or ten we had GPS. And so we knew exactly what we was doing on our field, or somebody could know exactly where we...(inaudible)...whatever, and so I think something like this could be integrated in there for faster communications between the dispatchers, instead of just a radio, you know. That's just a suggestion, but that modern technology is out there and I'm just...thanks for your listening and your time. And if you have any questions about anything I mean or said... []

SENATOR FISCHER: Okay. Thank you, Mr. Reiter. Are there any questions? Senator Louden. []

SENATOR LOUDEN: You mentioned having roving vehicles to help train engineers stop sooner, later, something like that. Are you aware that there's a measuring device in those engines so they know exactly how many feet they go every time? So that when they go past a crossing, they can see how many feet they've travelled and they know the length of the train. They don't have to leave part of the train hanging over a crossing,

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because they know how many feet back there that was. Are you aware that those devices are in those engines now and have been for a long time? []

JAMES REITER: No, I'm not aware of that and thank you for telling me. But I also wonder why that train has three or four cars hanging over the crossing and it looks like if they could have moved up three or four cars' worth, that crossing would be clear and the next crossing is clear, and there's lots of room between the front of the train and the next crossing. Why couldn't they go up three or four, or in this case, I counted the cars on the way by this morning, it was 20 cars. There was 60 cars' worth of room ahead, before the Webb Road crossing. You know, so that's the reason I bring up the deal about whether the signals are in the right place or not. So I'm behind in everything. This is a learning experience for me, and I have to go get busy on my work again. But I see a lot of things happening on the railroad. If I have a shop by the railroad, if I hear a rail pounding or I see a crossing while I'm sitting there and the rail is sinking up and down, I call them right away. And it's amazing how fast they get out there to start working on that, you know. So that communications work good, but if the excuse about can't get through to a dispatcher...I can't accept that excuse. There's something better we can do. []

SENATOR LOUDEN: Well, that goes along with, I think asked one of the other gentlemen, is our problem the communications between the train crew and the dispatcher? Is that where our problem lies in order to get these crossings blocked? I mean, they have...the railroads have different rules, they have regulations and everything on what to do. But if those rules and regulations aren't followed then we have a problem somewhere along in mid-management. And that's what part of our hearing is about today, to find out if there are some problems in other places. []

JAMES REITER: If you're asking me the question, do I think that's where the problem is, was between the train crew and the dispatcher? Yes, I think that's a big part of the problem, because I've walked all the way from the grain truck to the engine to ask when

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I thought they was going to move, they said, well, it will probably be ten or fifteen minutes. An hour later I was still sitting there and the guy that was wanting to dump in my truck, he is just madder than hops and I can't get that load unloaded, see? So they move when they can move. The train crew, they have no control of it, of course, you know. But are their signals in the right place, you know? []

SENATOR LOUDEN: Okay. Thank you. []

SENATOR FISCHER: Other questions? I'd like to thank you, Mr. Reiter, for coming today. I appreciate your suggestions and I appreciate that you took the time to give those to us. So thank you very much. []

JAMES REITER: You're welcome. Thank you for all coming. []

SENATOR FISCHER: Next please. Oh, Mr. Reiter, we need the green sheet, please. []

JAMES REITER: Yeah, I'll do it now. []

SENATOR FISCHER: Okay. []

CINDY JOHNSON: Good afternoon, Senator Fischer, Senators, members of the Transportation Committee. My name is Cindy Johnson, I'm the president of the Grand Island Are Chamber of Commerce, and I'm here today to support the initiative that has been proposed under LR67. Grand Island has been a city for over 130 years, and this city, like many in the state of Nebraska, was formed as a railroad community. We understand the importance of the railroads to commerce in Grand Island, Nebraska, and we appreciate their work in moving product, services, and people across the state of Nebraska. Most of us who have lived in Grand Island have grown up with or become accustomed to the trains that travel through our community on a day-to-day basis. We have approximately 135 trains that move through Grand Island on any given day. So

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you understand that there's quite an impact of the trains on our community. You've heard about the public safety issues, you've heard about from the previous two speakers, they've actually done some counting of the cars and the amount of time that the crossings had been blocked. I don't have that type of testimony for you. I, as a parent, am concerned about the crossings that are closed when school gets out. Grand Island is separated by the railroads. We have our high school on the north side of the tracks. There are about 2,000 students that attend that high school and many of them are making a race for home at 3:30, 3:45. And when those tracks are closed or blocked it's very, very difficult for those students to think of alternate routes. They're not in the process of doing that quite yet. From a business perspective, which is actually why I'm here today, we know that the impact of blocked crossings has an impact on businesses. It can prevent deliveries, it can delay appointments, it can prevent commerce from being conducted or business from being transacted. Those of us who are aware or are knowledgeable about the different paths around the community can adjust. If we're driving a car we can adjust. But it's an inconvenience and there is a cost. It is difficult, however, to quantify what that cost might be, as...has raised earlier. Certainly the legislative bill and the legislative resolution that have been introduced have raised awareness. And in and of itself that might be enough to prompt the railroads to improve on this situation. We are optimistic, cautiously optimistic that that will be the case. Additionally, if the fines were increased, the county attorney's office could be inspired to pursue collection of those fines on a more rigorous basis, which then could also impact the railroad and encourage them to take a closer look at the number of blocked crossings and the amount of time that those crossings are blocked. We believe that both of those outcomes, the awareness and the potential for increased fines, are more palatable, and would certainly have a better result than doing nothing. If you have any questions, I'd be happy to take those. []

SENATOR FISCHER: Thank you, Ms. Johnson, are there questions? Senator Aguilar. []

SENATOR AGUILAR: Just one: the city of Grand Island pretty much depends on the

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railroad to deliver coal to the power plant... []

CINDY JOHNSON: Absolutely. []

SENATOR AGUILAR: ...probably one of the biggest customers for the railroad in this area. If we were to increase fines to the railroad, who do you realistically think is going to pay that at the end of the day? []

CINDY JOHNSON: You mean will the railroad pass that on to the consumer? []

SENATOR AGUILAR: At the end of the day. []

CINDY JOHNSON: (Laugh) I would not be so naive as to think that the railroad would not pass that on to the consumer. However, my belief would be that if there's enough hurt in the process there might be some desire to fix the problem. []

SENATOR AGUILAR: Thank you. []

SENATOR FISCHER: Other questions? Senator Dubas. []

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Cindy, for being here. In your capacity as the head of the Chamber in Grand Island, does your office get calls saying, you know, this railroad is blocked, or because it's blocked it's causing me this problem? Do you hear those? []

CINDY JOHNSON: We get calls about the railroad crossing being blocked, and we get calls about, obviously, the number of railroads and the noise with the train horns. I don't believe that we're in a mind-set as a business group or even as business owners or workers to think about...that it could be anything different than how it is. We've grown up with the trains and the blocked crossings and the noise and so this generation is pretty

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used to it. We will find another way, we will move, we'll go a different route. But there does seem to be an increase in the number of people who are not as accepting of that, and who are demanding differences, demanding change. So I would say that yes, I believe that there are people who are no longer accepting of this is just what happens in a community that has two railroads through it. And at the same time, just a little bit lack of understanding as to what can be done about that. The railroad is seen as a difficult entity to take on and so most of us just find other ways of going about our business. []

SENATOR DUBAS: Is their frustration due to economic impact on their business? []

CINDY JOHNSON: There would be. Any time there's a significant blocked crossing, there is, absolutely. There's no doubt about it. []

SENATOR DUBAS: Thank you. []

SENATOR FISCHER: Other questions? Senator Aguilar. []

SENATOR AGUILAR: What's the distance between the overpasses and underpasses in Grand Island? []

CINDY JOHNSON: We have two underpasses downtown. What is it a mile, 12 blocks? Probably. Steve was here earlier. Steve, really, with public works... []

SENATOR AGUILAR: So the economic impact to businesses, if you're talking a matter of blocks out of their way, probably wouldn't be all that great, would it? []

CINDY JOHNSON: I wouldn't want to speak on...to that, on what it would be. []

SENATOR AGUILAR: You just did. []

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CINDY JOHNSON: I don't know what it would be in dollar amounts, wouldn't have a clue. []

SENATOR AGUILAR: Thank you. []

SENATOR FISCHER: Other questions? Senator Louden. []

SENATOR LOUDEN: When you talk about fines, who do you think should pay the fines? If there was some law enacted, should it be the railroad to pay the fines or the crew members? []

CINDY JOHNSON: I don't have an idea on that either. I would assume that the railroad is responsible for their crew members, so the railroad would be the entity that would receive the bill. That might not be a correct assumption though. []

SENATOR LOUDEN: I just...at the present time in some towns, why, it end up the crew members have to pay the fine and that's the reason I'm wondering. And they're not very when the dispatcher won't let them move and they...something like that comes out. []

CINDY JOHNSON: I did not know that. []

SENATOR LOUDEN: Thank you. []

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here. Next person, please. Good afternoon. []

TOM MICEK: Good afternoon. I'm Tom Micek with Burlington Northern Santa Fe Railway Company. Our competitors, Union Pacific spoke a little bit earlier about their crossing safety program. And I would like to touch a little bit on what we are doing on BNSF. Since the merger in 1995 our grade crossing collision rate has declined 65

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percent. In 2006, BNSF has spent more than \$91 million on programs relating to crossing safety, with \$20 million to maintain crossing surfaces. In 2006 BNSF also spent \$46 million on crossing signal maintenance and repair. And we also treated over 33,000 acres of right-of-way for vegetation control. In 2000, we started out grade crossing closure program, at the end of 2006 there were already 3,500 crossings closed on Burlington Northern Santa Fe's system, with over 200 crossings closed in the state of Nebraska. And that includes both private and public crossings. A good example of working together: I heard some people talk about communities working together with the railroads. Last year Burlington Northern Santa Fe and the Department of Roads made a proposal to Hamilton County. It was a closure of four crossings, installed new active warning devices at three, in other words, gates and lights at three crossings with concrete surfaces; new concrete surfaces at five additional crossings. This was at no cost to Hamilton County. This project was over a million dollars in cost. And the county voted it down. So I just wanted to bring that to the table, that this is something that we wanted to do with the state and us and try to work with the counties. Thank you, Senators. Any questions? [LR67]

SENATOR FISCHER: Thank you very much, Mr. Micek. Are there any questions?  
Senator Adams. [LR67]

SENATOR ADAMS: Speculate, and maybe you don't have to speculate, why did Hamilton County vote it down? [LR67]

TOM MICEK: I think one of the reasons was, was there was three people in the room in favor of it and there was about 100 people in the room against it. And I think it was maybe...I guess I can't say, verbatim, but maybe political pressure. You know, the people are going to their commissioners and saying, no, we don't want this. And so that's how the commissioners voted. [LR67]

SENATOR ADAMS: Do you have a...UP talked about a phone number that can be



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called if crossings are blocked. Burlington have the same policy? [LR67]

TOM MICEK: Yes, sir. [LR67]

SENATOR ADAMS: And it applies to outside of corporate limits as well as inside of corporate limits? [LR67]

TOM MICEK: That's correct. Every, yes sir, every public crossing. [LR67]

SENATOR ADAMS: Okay. Thank you. [LR67]

SENATOR FISCHER: Senator Louden. [LR67]

SENATOR LOUDEN: While we're on the subject of this telephone number, I'm kind of familiar with that. You changed that number or else you don't always answer it, is that correct? [LR67]

TOM MICEK: I'm not aware that we changed it, Senator. [LR67]

SENATOR LOUDEN: Because that goes down to Fort Worth, Texas, is where we call, is the dispatcher in Fort Worth, Texas. [LR67]

TOM MICEK: Yes, sir. [LR67]

SENATOR LOUDEN: And sometimes you can get a hold of him and sometimes you can't, because we have problems up in Sandhills with the trains blocking...I didn't know if you're aware of it, but you may be now and you can pass that along if you want to. [LR67]

TOM MICEK: I certainly will, Senator. [LR67]

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SENATOR LOUDEN: That doesn't always answer. One thing that I do think when you talk about crossing safety and railroad safety, that's probably helped, and I have to praise the railroads for that, was when you went and put these two lights on these engines that at times will blink when you come to a crossing. It's a lot easier to recognize a train engine when those two lights than when you had the one big single one, because when you're close to the railroad track and looking down a track, you know, a train is only what, eight feet wide and twelve feet tall. I mean, it might be two miles behind him, but there isn't very much to see if you're very close to the tracks, so when they came out with those lights, I thought that was probably one of the better ideas that the railroad came up with for traffic safety. I think that's a very good idea. When you talk about Hamilton, now, the reason they voted that down, were you going close some...you were going to do this work, but you were going to close some of the crossings in the process? Was that a whole package? [LR67]

TOM MICEK: Yes, Senator, it was. [LR67]

SENATOR LOUDEN: And so you don't know if that got voted down because they didn't want to crossings closed or because they didn't want the gates in, which was it? [LR67]

TOM MICEK: It was the crossing closures, because after the fact I received a letter about a week later from the county commissioner that thanked us for the proposal, they would like to see the proposal go into effect, but they didn't want the crossings closed. [LR67]

SENATOR LOUDEN: Now when you have your gates and lights put in, the railroad...does the railroad put up any money to do that? All they do is do the work, don't they? That was federal and state monies that put those lights and gates down, is that correct? [LR67]

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TOM MICEK: Right, we put in the cost estimates to the state and we go from there, but then after they're installed we maintain them for the life of the system. So, like I stated earlier, just last year alone we spent \$46 million just on the maintenance and repair of crossing arms and signals at our crossings. [LR67]

SENATOR LOUDEN: Well, true, but you had people that had to be out there anyway. I don't know how you figured it, but I'm sure you maintain those. But when you talk about what you were going to spend in Hamilton County doing that, that wasn't all your money was it, that you were going to spend? [LR67]

TOM MICEK: No, sir. No, Senator, it was not. [LR67]

SENATOR LOUDEN: That was part of it was federal monies... [LR67]

TOM MICEK: Correct. [LR67]

SENATOR LOUDEN: That was a federal project, because I'm familiar with putting in gates and that sort of thing up in the area I live, and that was one of the things I wanted to point out when you talked about what you have done. While we're talking about railroads and crossings, what are you doing about these horns honking through these little towns all the way across Nebraska? Very loud horns, nearly rattle the windows, you know, when they go through every one of these towns. Now I know that federal guidelines are, you got to have a...you got to honk what, 20 seconds before about a quarter mile before you get to the crossing, you got to have one long and then you got to have another long, and then you got to have a short, and then you got have a long as you go through the crossing. I'm familiar with that. Why you have to have the long going through the crossing is more than I know, but that isn't my question. Is there something that can be done to get away from this continual loud honking as you go through these towns across the state of Nebraska? [LR67]

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TOM MICEK: We've been approached by quite a few communities about quiet zones. In other words, places where we relieve the duty of the engineer to blow the whistle if there are safety things or appliances or upgrades like signals and that type of thing. I can direct you to the proper person, Senator, within BNSF to contact about that if you like. [LR67]

SENATOR LOUDEN: I've already been there. [LR67]

TOM MICEK: Oh, okay. [LR67]

SENATOR LOUDEN: What I'm wondering is why you're not working...why didn't you tell me about wayside horns, why did you go with this quiet zone? Why didn't you tell me about wayside horns? [LR67]

TOM MICEK: Well, that is another option that a city does have. I mean, they can look at that possibility. I'm not sure if Grand Island has that particular system or not, Senator Aguilar, but... [LR67]

SENATOR AGUILAR: I think they're looking at it. [LR67]

TOM MICEK: They are looking at it, okay. [LR67]

SENATOR LOUDEN: But a wayside horn is considerably cheaper than a quiet zone, because any place where there's lighted gates that come down, you could put a wayside horn in there, is that correct? Do they work off those gates? [LR67]

TOM MICEK: Yeah, I'm not a signal person, per se, but I think Kearney, Nebraska has a similar installation there. [LR67]

SENATOR LOUDEN: Well, yeah, Gering, Nebraska has wayside horns. And I'm

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wondering why the railroad isn't promoting that a little bit more, just because of public relations or public policy, because my observation has been that at the present time the railroads enjoy quite little public support. I mean, you know, yeah, you block crossings and people cuss about it, but as they state over and everybody over, the railroads have public support. We had an instance last summer in Dalton with Burlington Northern where they were starting to lose public support, because they blocked a crossing with a couple of trains when people were trying to deliver wheat to an elevator. And of course, you have radio traffic, and people pick up this radio traffic, and the dispatcher told the train crew to break the train. And they said, no, they wanted to pull forward. And he said, no, you can't pull forward, break the train. Well, they didn't want to walk back there and do it, so they didn't do nothing. So while these combiners from wherever they was from were waiting, they pulled the pins, so when the trains pulled out then they were broke, and of course red lights on the track and the whole bit like that. Now that is a case where you're losing public support. And I'm wondering if you realize that if you don't do something and come forward with some better ideas, that you will probably end up with more devilment than you could ever believe. [LR67]

TOM MICEK: That's a good point, Senator, and I think a few other speakers previous to me said, that you know, we need to work together on this, and I agree with that. What that train crew did there is irresponsible. It's not the way our train crews should operate. [LR67]

SENATOR LOUDEN: I agree. And was there a reprimand done with that train crew? [LR67]

TOM MICEK: That I don't know, but there's some of my colleagues behind me that will address some...how we deal with our employees in regards to blocked crossings and discipline and type of thing. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

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TOM MICEK: You're welcome. [LR67]

SENATOR FISCHER: Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you for being here. Do you have a number as to how many calls you received specifically on blocked crossings? [LR67]

TOM MICEK: No, I do not, Senator. [LR67]

SENATOR DUBAS: Okay. Are there any federal regulations that you're aware of that put a time limit on a blocked crossing with a train that's at a standstill? [LR67]

TOM MICEK: Not that I'm aware of, Senator. [LR67]

SENATOR DUBAS: Thank you. [LR67]

SENATOR FISCHER: Thank you very much for being here today. [LR67]

TOM MICEK: Thank you. [LR67]

SENATOR FISCHER: Next person, please. Good afternoon. [LR67]

TOBIN ZERFAS: Good afternoon. My name is Tobin Zerfas, Z-e-r-f-a-s. I'm the division train master for the Burlington Northern Santa Fe. My territories begins at Lincoln and ends at Ravenna. My hope here today is just to shed some light on exactly what a normal day is for myself as the trainmaster, but also what the territory really looks like and how it transverses through that 125 miles. In 125 miles I have 119 crossings throughout that 125 miles, so that's roughly, bad math, but, you know, about a crossing

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every mile. The number of calls that I've had personally on my business line, I've had four calls in the year that I've been here. I've been here for one year--four calls from the Grand Island area. And I've had two calls from the area of...Seward, Milford area. And that's--other than one individual--that is the calls I've personally received. We do receive calls--and one of my constituents will speak to it--we do receive calls on the 800 numbers that you'll find at all the grade crossings. And at times some of those calls...we may receive 13 calls a day, or 13 calls in the course of one month, but some of those are multiple calls: three, four people sitting at one crossing, all calling about the same crossing. And that crossing may, in fact, be a train that's currently moving, just at a slow speed. And they're calling to state that they're being blocked. So, like I said before, 125 miles with 119 crossing, roughly a crossing every mile, the current length of the train is over a mile, and in fact in some areas we run trains that are 10,000 feet long. I'd heard discussions about cutting the size of the trains. And all that really would do is increase the amount of traffic on the subdivision from Ravenna to Lincoln. It seems a little bit, maybe, difficult to understand. But if you think about it, if you increase the train length, that's the...that decreases the actual amount. Out of the port of L.A., that I worked prior to being in...out here in Nebraska, we increased our train size from roughly a 6,500-foot train to 8,000-foot train and now to 10,000-foot train and we decreased the amount of train starts, that's the number of trains that left those locations, by a third. So it really does...train length actually improves...decreases the amount of trains on...which then improves velocity or the movement of the trains, decreasing the amount of times that they stop. Currently through the Ravenna to Lincoln line, we see on average 60 to 65 trains through in a day. So any time that a train would stop, it really impedes our ability to move those...move our traffic. Now a couple of the pinch points that we see are of course, right outside. Underneath the 281 highway in Grand Island and then when you come out to Phillips, right at Phillips, coming into Grand Island, and then further down we have another area down near Tamora where there is also a single main. So any opportunity for us to travel on double main track is obviously beneficial for our fluidity through here. I guess the way that I'd like to close is that I am a resident of Grand Island, and many of my...of the 200 or so employees that I supervise are all residents of

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the towns throughout this line: in Milford, in Grand Island, in Ravenna. And all of these employees, because they're residents, they do everything they can to try to minimize blocked crossings. Whether its...what we've done to make sure...is we do identify certain crossing that just are never to be crossed: obviously those that are high-traffic areas are crossings that we make sure that are never crossed, even if it may be a five or ten minute stop, we do everything we can to minimize the time that we stop on a crossing. Any questions? [LR67]

SENATOR FISCHER: Thank you, Mr. Zerfas. Any questions? Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Zerfas, for being here. I've heard the term train master used a lot and I never have heard...what are the duties of a train master? [LR67]

TOBIN ZERFAS: My responsibility--and I have been a trainmaster in three different locations: in New Mexico, in Los Angeles, and here--and my responsibility is to oversee the movement of the cars and the trains. I do that by supervising the conductors, the engineers. I also work cohesively with maintenance of way to make sure that the maintenance way is done and the rail is kept in good order so the trains can continue to move, make sure that our customers are being serviced, they're getting their cars. That's a snapshot, I guess. [LR67]

SENATOR DUBAS: Do any of your duties involve communicating or education with the public or law enforcement or... [LR67]

TOBIN ZERFAS: Yes. [LR67]

SENATOR DUBAS: Okay. Do you know are there any federal regulations that deal with the amount of time a train can...a stopped train can block a crossing? [LR67]



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TOBIN ZERFAS: Not that I'm aware of. [LR67]

SENATOR DUBAS: Okay, thank you. [LR67]

TOBIN ZERFAS: Thank you. [LR67]

SENATOR FISCHER: Other questions? Senator Louden. [LR67]

SENATOR LOUDEN: Did I understand your testimony right, then you are trying to say or you are trying to get across to us that the longer the trains are the less they're going to stop, they're going to keep moving more? [LR67]

TOBIN ZERFAS: What I stated was it's been proven that increased train length decreases the amount of starts, which decreases the amount of starts, or trains on the territory. [LR67]

SENATOR LOUDEN: Well, it isn't hard to figure out, if you take three trains and make two you've decreased it by a third. [LR67]

TOBIN ZERFAS: Right. And with that, yes, you are able to move... [LR67]

SENATOR LOUDEN: What I'm wondering, how about the movement of the train? Will that...if it takes you ten days to bring a carload of coal from Wyoming to down here in Nebraska City or wherever you don't have a contract, if you have a longer train, can you pull it through then in seven days, being as you have a longer train? [LR67]

TOBIN ZERFAS: Yeah. Our statistics prove that decreased...increased train length and decreased train-starts...less trains on the rail actually, we have a quicker...we're...a better ability to deliver our product to the customer. [LR67]

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SENATOR LOUDEN: You have a higher turnaround time then, with longer trains than you would if they were some shorter? [LR67]

TOBIN ZERFAS: Um-huh. [LR67]

SENATOR LOUDEN: Okay. Where is the control at for your...from Ravenna to Lincoln? Is it down in Texas? [LR67]

TOBIN ZERFAS: Fort Worth is...yes. [LR67]

SENATOR LOUDEN: Okay. Same as the rest of the line. [LR67]

TOBIN ZERFAS: That's correct. [LR67]

SENATOR LOUDEN: Now is that the same people that handle...what do you call it, the Powder River Basin in Ravenna or is it different people on different parts? [LR67]

TOBIN ZERFAS: No, it is all the same. [LR67]

SENATOR LOUDEN: All the same people. [LR67]

TOBIN ZERFAS: They all dispatch from the same location. There are other places within the system that may...in California, they dispatch in California. But generally speaking, they're in Fort Worth. [LR67]

SENATOR LOUDEN: If I'm calling the dispatcher then, because I have a crossing blocked up there in Western Nebraska at some place, could he maybe be talking to somebody down here in...between Lincoln and Omaha, or between Lincoln and Ravenna that has a crossing blocked? Would it be the same guy or would it be a different dispatcher? [LR67]

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TOBIN ZERFAS: I'm not sure if I follow your question. [LR67]

SENATOR LOUDEN: If I have to call a dispatcher and tell him I got a crossing blocked up, in Sheridan County, would he perhaps be the same guy that someone down here in Hamilton County would be calling to complain about a blocked crossing? Would that be the same guy? [LR67]

TOBIN ZERFAS: I'm not 100 percent certain on exactly how the dispatching center works in taking the calls. But my assumption would be that it would be a group of people working. And then they would...yes, then he may take the same call, depending on the time. [LR67]

SENATOR LOUDEN: Now is it possible to give people the phone numbers of those people in the engine? [LR67]

TOBIN ZERFAS: The conductors and the...I can't answer that, but I would assume not. [LR67]

SENATOR LOUDEN: You assume they wouldn't give it out, or you assume you couldn't get it. [LR67]

TOBIN ZERFAS: I would assume that we wouldn't be able to release that information. [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

SENATOR FISCHER: Thank you, Mr. Zervas. Other questions? Thank you for being here today. [LR67]

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TOBIN ZERFAS: Thank you. [LR67]

SENATOR FISCHER: Next testifier, please. Welcome [LR67]

LARRY DIX: Senator Fischer, members of the Transportation Committee, Senator Adams, Senator Dubas, glad to be here. For the record, my name is Larry Dix, spelled D-i-x. I'm executive director of the Nebraska Association of County Officials. And as I sat through these hearings, sat through a number of them now on railroads, and certainly learning more and more about the railroads and their operations, a couple of thoughts as we go through this, and a couple times I'll ask you to sort of follow with me. But in Nebraska we have--and it was stated earlier--the busiest corridor in the world of rail traffic. And when I think about that, I mean, when you have something that's number one in the world, you think we're going to have to take and place special attention on that, the fact that it is the busiest. It's busier than anywhere else. So the dispatch centers that these folks talk about must be fabulous places and I would assume the railroads have similar problems in other parts of the country. But I've got to assume ours might be the biggest problem, because it's the busiest in the world. And so maybe we need special attention, because we are the busiest in the world. And so maybe we look at it from that point of view. We talked about economic development, certainly we all understand that. I appreciate, NACO appreciates the railroad, what they carry across those rail lines, whatever we can keep off our roads, the weight off our roads and bridges, that...certainly we always appreciate that. But I'm here mainly from a point of view of the safety, the public safety. You've heard from some sheriffs, you've heard from firefighters, certainly the sheriffs within our group, or the group that I'm talking about. And we've heard...thus far we've talked a little bit about communication. And I want to tell you about the communication between NACO and the railroads; and hopefully the railroads will listen and take heart in this. About three years ago we contacted Burlington Northern and asked them to have someone attend our conference, so we as county officials could learn a little bit more about that problem, similar to what the gentleman, I think was talking about in Hamilton County. So we felt we made that first

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step and contacted them. And I would offer to the railroads, to Burlington Northern and Union Pacific, that that door is always open, that they can come back to our group at any time, and increase that communication. Because since that time, no one has come forward and said, to our association at least, and said, let's work on a plan. And I think that's what we have to do. We have to look at it as a really a plan across the state of Nebraska. Part of that plan, I think, Mike Nolan previously talked about some funding. I haven't completely read his information. I know he talks in there that counties can levy a certain amount. Certainly many counties that are at their levy limit, it doesn't make any difference how much they can levy, they're there. So if we really wanted this to work, we may want to take that outside the lid, to help some of those counties that are there. But...a couple of things that I think we do need to increase, and we do need to increase that communication between our association and our county boards and those railroads. And we relish in the fact that we want them to come forward and work through some of those issues so we can understand more of what we're doing. One of the things that everybody, I think, thus far has come up they've talked about: when I come up to the crossing it's closed. I got to call the 800 number. And we've talked about: gosh, we know how those trains are moving. Senator Loudon said they can track the exact distance of those trains. So we have the technology to sort of know where those trains are setting. We heard a gentleman talk about GPS systems. We know where those trains are setting on the track, so rather than--from a public safety point of view--worrying about when the sheriff comes pulling in and trying to cross those tracks, I'm certainly not saying this is how we...I don't want the railroads to get the wrong impression that I'm suggesting how to run their business or anything like that. But it might be a thought, is it feasible that if the railroads know that they're going to block a crossing, that as opposed to waiting for us--from a public safety point of view--to pull up to it, could they contact our public safety answering points in advance? So when a 911 call comes in to a public safety answering point, and the dispatch center, our dispatch center that is going to dispatch an ambulance or a police car out to that location would say, here's where you need to go. But, oh, by the way, you need to take a different route. Because we all have the mapping systems, we have that technology, but wouldn't

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it be a novel idea to know that that railroad crossing was going to be blocked before they got there instead of after they got there? And I think that can be solved with communication and technology. I believe that it's there. If we had some way so that the railroads--if they knew they were going to block a crossing for ten minutes or a half hour, whatever that time is--if they could communicate to our public safety answering points and then also notify our public safety answering point once that crossing has cleared. Just an idea, something that you might throw out there. Another one which is another novel idea, you see it all the time when, I know, when you travel in airports and you go underground, you hop on a train, there's always this little board that says estimated time that the next train is going to be there. Maybe it's something that we should start notifying the public, the estimated time out on the highway that that railroad crossing is going to be closed. We're not going to solve all the problems. Obviously the railroad and their economic plan, they're going to have to block crossings from time to time. But probably the best we can do is keep the public and our public safety officials informed. And I think if people are informed, sometimes they will accept some of these things a little bit better. One last comment: it was interesting, and I don't know why I thought of this as I left Lincoln this morning, but I thought: I'm going to do a little bit of a survey on the way out and the gentleman talked about, from Burlington Northern, he said he's got 125 miles and he's got 119 crossings. And when I talk about a plan, one of the plans that I think we just absolutely have to incorporate, we've got to figure out how we get grade separations built in significant places across the state of Nebraska. Because if we build those, that eliminates a lot of those problems. The county boards are a little happier to possibly close a crossing if we know that we can across it all the time. In the state of Nebraska, as we build more and more ethanol plants, we're going to have more and more truck traffic going to those ethanol plants, needing to cross rails. And we're going to have more railroad traffic on those rails to deal with the ethanol issue. But when I left Lincoln--it's 83 miles from Lincoln to the Grand Island exit--in that period of time, somebody had the foresight, when they built that interstate, to understand that we have to have overpasses: 83 miles, 48 overpasses over that interstate. And you can take the interstate and say it's similar to a set of railroad tracks

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going down there, but there are 48 places you can cross in 83 miles. That's almost an overpass every two miles. And when our sheriffs have a call they don't have a problem getting across the interstate, because we have so many overpasses built in. Somebody had the foresight to build a plan. And what I'm saying is: we've got the number one thing in the world, the busiest one in the world. So we need to develop or figure out a way or a master plan to get across this thing that we call the busiest corridor in the world. That's all my comments. I thought I'd throw those out, something to think about. I'd be happy to answer any questions that you may have. [LR67]

SENATOR FISCHER: Thank you, Mr. Dix, for being here today. Senator Aguilar, please. [LR67]

SENATOR AGUILAR: Thank you, Chairman Fischer, I just wanted to mention that we even have one overpass that doesn't go anywhere, (laughter) not in that geographic span you talked about, but we do. I like your ideas. I really think they have merit. I would point out though, that I think most of the time, that trains are stopped--and someone can correct me if I'm wrong when they get up to speak--it's not something they planned. But that still wouldn't prohibit them from making that phone call that you talked about to emergency officials, to 911 centers, and saying, we're going to be blocked for a while, bear with us, you know give alternate routes. I like that idea. Thank you, Larry. [LR67]

LARRY DIX: Well, we'd be happy to work with Public Service Commission and all of our PSAPs to...you know, really when you start talking about it, and I can't envision the Fort Worth call center. But if somebody from Burlington Northern would like to take me down, I'd love to see it. But I can't imagine that we couldn't put our public safety answering point maps where those locations are and what area they cover on top of the maps that they must have in that rail center, so they would know when they block that crossing where to call. I can't imagine that couldn't happen. [LR67]

SENATOR FISCHER: Other questions? Senator Adams. [LR67]

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SENATOR ADAMS: Thank you, Senator. Just a quick one, Larry: you said you invited Burlington Northern to one of your county officials' meetings. Did they take you up on the invitation? [LR67]

LARRY DIX: Absolutely, they did. We had someone in Douglas County who had a contact at Burlington Northern. They came; they made a presentation to our board, did an excellent job, did an excellent job and I think we need to do more of that. I think we need to further enhance that, and I challenge both the railroad companies to interact with us on that level. And we, with open arms, would want to have them there. [LR67]

SENATOR FISCHER: Senator Louden. [LR67]

SENATOR LOUDEN: Yeah, Larry, I think some your ideas are all right. I think we would do better if we were talking about prairie dogs than railroads on some of your ideas here. (Laughter) First of all, when you say the give the railroads the authority to call in and say the crossing is closed, in the area...in the part of the country I live, that's intolerable. Because once you close the crossing, there's no place else to go, so that won't work. I think you're right. I think the problem is probably it isn't between the top management and the railroad and so on, I think the problem lies between the trainmen, the dispatcher, and the fact that somebody isn't paying attention part of the time. Because like I've said before, they know exactly how long the train is, they know where that crossing was when they went across, and the same way when they're in this part of the country, if they block two or three crossings, then when they come in there they should know how long they're going to stay there. Now that dispatcher should be able to tell them, if they're going to be there for an hour, then I guess there's very much population then somebody should be out there doing something about blocking the train. They shouldn't wait until someone is waiting for it. And down in this part of the country, there could be alternate crossings, that could be. But where I live, if you block a crossing in Ellsworth, there isn't anybody is going to get across the railroad track. Let



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me tell you, from north to south, you'd just as well have the Royal Gorge there, because it isn't going to happen. But anyway, some of your ideas are fine, but I don't think letting the railroad call you up and tell you they're going to block it is your answer. Thank you. [LR67]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Dix. Next person please. If I could ask for a show of hands on how many people still plan to testify, please? So three more? Could you hold your hands up if you still plan to testify? Okay. Four more then. Thank you. Good afternoon. [LR67]

GREG GOLDEN: Good afternoon, Senator Fischer, and Senators. My name is Greg Golden, I'm with Burlington Northern Sante Fe Railroad. I'm the road foreman of engines out of Hastings, Nebraska. I'm representing the road foreman of engines of the Ravenna line here. My area of responsibility goes from Lincoln to McCook. And as Mr. Zerfas says, his counterpart the road foreman for the Ravenna line, his area of responsibility is Lincoln to Ravenna. My primary concern is...my primary duties are to supervise the train engine and the yard employees that operate on BNSF Railroad: the engineers, the conductors, and the people that work in the yards. My primary focus is locomotive engineers. And I think that through the course of the day there's been a number of questions that come up that might not have been answered satisfactorily. So I'd like to try to address some of those questions now, and then maybe answer questions that might come. Senator Fischer, you asked a question about train acceleration after the crossing was separated and they put it back together and how long it takes to actually clear that crossing. Well, that has to do a lot with just physics. I mean, we have some trains that might be 25 cars that had a crossing separated, and they're only a few thousands tons. And they'll accelerate very fast, as opposed to some of these 150-car trains that are going to be in excess of 20,000 tons. And they will accelerate at a very slow rate. So there's no real good answer to that. The heavier the train, the slower it's going to accelerate across the crossing. As far as the phone numbers we're talking about contacting the dispatcher when there's a crossing blocked,

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in reality what BNSF...that phone number on every one of the crossing posts on every one of the crossings on BNSF goes to what we call a resource operations center in Fort Worth, Texas. It's a center that's designed specifically for receiving that call. They in turn will call a dispatcher that's responsible for the territory that the person called in from. When they call in from Ellsworth, the resource operations center will call the dispatcher that's in charge of dispatching that territory from Alliance to Ravenna. So that's how that happens. You don't actually talk to a dispatcher. As far as giving the person that made the phone call the employee's cell phone number or anything related to that, I believe everybody would understand that that's probably not in the best interest of anybody, because that would be a privacy issue that we would not want to cross. And not only that, our rules prohibit them from using personal cell phones and personal electronic devices while they're operating the train. Any questions there on that? Okay. Whistle requirements, Senator Loudon you talked about whistle requirements. The Federal Railroad Administration has passed a federal law now that there are certain whistle requirements that we are absolutely, positively required to do. We must sound the whistle 15 second prior to occupying the crossing, and you're correct, two longs, one short, and one long is the whistle sequence that must be sounded. And if it needs to be repeated before the crossing is fully occupied, it has to be repeated. Between 45 and 60 miles per hour, our train crew start at the whistle post, which is 1/4 of a mile from the crossing, and they will blow that whistle sequence until the crossing is occupied. It's a federal law; we have no choice. As far as...you had a question about roadway workers, and blowing the whistle for roadway workers. We also have a rule that stipulates that we must blow the whistle any time we have roadway workers in close proximity to the tracks. And the federal government takes a very dim view if we do not comply with that properly also. We must...the whistle signal is basically one long and one short, prior to...when we first notice the roadway workers, and then two short whistle blasts at appropriate times as deemed necessary by the engineer until they're completely clear of those roadway workers. Air tests, there were a number of questions on air tests and air test requirements for trains that have separated. If the train is separated for more than four hours, the cars that are not attached to the locomotive, in other words, the cars we

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pull away from, if the train is separated for more than four hours, then what we call an initial terminal air brake test must be performed on those cars, by federal law, on those cars that are left standing. That means an inspection of each one of the cars and insurance that each one of the air brake systems on those cars operate properly. The length of time it takes depends on how many cars have been left standing. If the cars left standing less than four hours, then there is still an air brake test that must be performed. We must know that there is a continuous air brake system from the head end of the train to the rear end of the train. And we must know by use of that telemetry device that replaces the caboose and the person back there on the caboose, we must know that the air brake system is fully charged, that the air brakes apply, and that the air brakes fully release. So it does take some time from the time you couple up the crossing until the time that we're able to charge the system, make that air brake test, and make sure we can go. In that time that person that's on the ground that actually did couple up the crossing and release the mechanical braking system on the cars is traversing the territory back to the head end of the train. How long does it take him to get back there? Once again, that is only determined by physics. You know, how long is the train, how far back was the crossing that he cut, and how far does he have to walk back to the head end? What are the walking conditions? What are the weather conditions? Is it day or night? And, you know, how fast can you walk? I believe that addressed about every question that I saw come up that I wasn't satisfied and I thought I could do a little bit better job there. Are there any questions you have for me? [LR67]

SENATOR FISCHER: Thank you, Mr. Golden. Are there questions? Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Golden, for being here. You referenced several times federal laws that you have to follow, such as air brakes, that's correct? [LR67]

GREG GOLDEN: Air-breaking law, yes. [LR67]

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SENATOR DUBAS: Horns... [LR67]

GREG GOLDEN: Yes. [LR67]

SENATOR DUBAS: Is speed of train federally regulated? [LR67]

GREG GOLDEN: Not to my knowledge. [LR67]

SENATOR DUBAS: Okay. Like, do you have to slow down when you're in cities versus out in open country, nothing like...there's no regulations on speeds of trains or going through crossings or things like that? [LR67]

GREG GOLDEN: Not to my knowledge, no. [LR67]

SENATOR DUBAS: How about the length of the train, is there... [LR67]

GREG GOLDEN: No. [LR67]

SENATOR DUBAS: Okay. How about the amount of time that a train can be stopped and blocking a crossing? [LR67]

GREG GOLDEN: The amount of time? I don't know, no I do not know that. [LR67]

SENATOR DUBAS: Okay. Thank you. [LR67]

SENATOR FISCHER: Other questions? SENATOR LOUDEN [LR67]

SENATOR LOUDEN: Yeah, well, thanks for coming Greg. I don't get to see very many St. Agnes Academy graduates any more down in this part of the country. (Laughter)

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[LR67]

GREG GOLDEN: As a sidebar, I worked on that line between Alliance and Ravenna for twenty years. [LR67]

SENATOR LOUDEN: Well, I know you did, I knew your dad Gordon for years. [LR67]

GREG GOLDEN: Yeah [LR67]

SENATOR LOUDEN: Getting back to this...when these guys break these trains and test them now, and yes, if they set there for four hours you got to do a complete federal deal, but when they're broke for 30 minutes or an hour or something like that, when they hook them back up, if that FRED device shows that there's air pressure back there, they don't go back down that train to test for air brakes unless something shows up? [LR67]

GREG GOLDEN: They have to apply the brakes and release the brakes, yes. [LR67]

SENATOR LOUDEN: Right, but I mean, the FRED device will show that they've got...if they've got air pressure to the other end of the thing? [LR67]

GREG GOLDEN: That is correct, the end-of-train device will tell them if there is air pressure and if the system is properly charged. [LR67]

SENATOR LOUDEN: So they can be...a train can be split for a short period of time and hooked back up and it doesn't take that long, however fast the guy wants to walk back up to the head of the train probably requires more time than the coupling back up and that sort of thing. [LR67]

GREG GOLDEN: Right. [LR67]

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SENATOR LOUDEN: Yeah. Now getting back to when you say you used to work there, I suppose they probably had cabooses. Is that part of our problem, the reason we're getting more blocked crossings, is because we took the men off the back end of the train, so that that split the work up as far as breaking a train apart. (Inaudible) Or even if they were ten cars left over the crossing they could split that off and hook it back up when you had someone on the caboose. Is that...had an effect on our problem with the blocking crossings? [LR67]

GREG GOLDEN: I think probably train length has had more of an effect than that, in reality. Our trains, back when we had cabooses, were shorter trains. And the locomotives that we were operating at that time could not pull the amount of tonnage that the locomotives we are using nowadays can pull. So I think that it could have a minor impact, taking off the cabooses could have a minor impact. But I'm thinking that the train length is more of an impact. [LR67]

SENATOR LOUDEN: Then should we try to get some place along the line look into something whereas now usually you have an engine or two on the tail end with a radio-controlled unit on there, should there perhaps be a man riding on that if you're going to start pulling 10,000-foot trains then? Should there be a man on the back end of the train? [LR67]

GREG GOLDEN: One of the primary reasons we took the cabooses off was it created a situation where we could get employees injured. Slack action in the train...and the slack action moves back and forth at the rear end of the train greater than it moves in the front end of the train. Employees got injured back there, riding the cabooses, and so my answer would be no. [LR67]

SENATOR LOUDEN: Well, they was on cabooses for a long time, because the question...the adage always was: that everything moved but the paint back there. What I'm wondering is, you keep pulling them longer, I'll ask it again, should there be...you

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don't have that slack problem if you got units on the back-end now. I'm sure you don't jerk slack like you used to if you got units back there, do you? [LR67]

GREG GOLDEN: There is slack action back there, yes. [LR67]

SENATOR LOUDEN: As much as there ordinarily was before? [LR67]

GREG GOLDEN: I can't answer that, I've never ridden back there on a distributed power locomotive. [LR67]

SENATOR LOUDEN: Because I was going to say, a couple of 240-ton engines back there, you better not jerk the slack too hard, or else you'll go off and leave them set. And this is what I'm wondering is, is where our problems are, what is causing our problems, and if there is way that they can be addressed? I don't think raising fines and things like that...I don't think that will solve our problem. I mean, I think we have some kind of mechanism that needs to be worked out in order to solve our problem, and I'm... [LR67]

GREG GOLDEN: In certain locations on our railroad we have utilized that opportunity to talk to the dispatcher and have him notify the...well, police department in some areas, you know, the emergency response personnel in other areas, when we're going to block a primary crossing for any length of time. We've had very good cooperation in some areas when that happened. And we try to give them a good-faith estimate of about how long that crossing is going to be blocked. And they in turn make revisions to navigate around that crossing if they have an emergency that they need to respond to. [LR67]

SENATOR LOUDEN: Now is that...you blocked the crossing with a train or you blocked it because of maintenance on that crossing? [LR67]

GREG GOLDEN: I'll say yes and yes. [LR67]

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SENATOR LOUDEN: Okay. [LR67]

GREG GOLDEN: for any reason that the crossing is blocked. [LR67]

SENATOR LOUDEN: Well, I understand that, because when they...going to do maintenance on a crossings, yeah, we're notified that our crossing is going to be tore out for a length of time or something like that. We're also told that they do have machinery and mechanisms there that they can fix that crossing back up to get emergency vehicles across. I mean, that part is no problem. Thanks, Greg. [LR67]

GREG GOLDEN: You bet. [LR67]

SENATOR FISCHER: Other questions? I have just a couple. If a train has been decoupled for less than four hours, does the two-man crew still have to walk the entire length of the train in order to put it back together? Do they have to check the brakes? What do they do? [LR67]

GREG GOLDEN: If it's been uncoupled for less than four hours? Obviously one engineer...one person has to stay on the locomotive to operate the locomotive, and the conductor goes down and recouples the crossing. He'll have to...the portion of the...the cars that have been left standing, that are not coupled to a locomotive, we also secure those not only with the air-brake system but with mechanical breaks called hand brakes on each one of the cars. So depending on how many of these hand brakes he has to release, and, you know, depending on how steep the grade is, determines on how many brakes have to be applied or released. That is one of the time factors that he has to do. Once he couples the train together, then his responsibility will be to walk back to the head end. He'll make sure that there is, the break system is...goes all the way to the rear-end, and then he'll walk back up to the head-end. [LR67]

SENATOR FISCHER: Does the engineer leave the train ever to do work? [LR67]



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GREG GOLDEN: Not in that situation, no. [LR67]

SENATOR FISCHER: In other situations does the engineer leave the train cab? [LR67]

GREG GOLDEN: He will leave the train cab if the train is going to be secured at a location. He will also help secure that train. He will apply hand brakes to the locomotives and that (inaudible). [LR67]

SENATOR FISCHER: So there may be times when this two-man crew is out of contact with the dispatcher? [LR67]

GREG GOLDEN: Very, very seldom...no, in actuality no, because that conductor has a radio with him at almost...at all times. [LR67]

SENATOR FISCHER: Does the engineer? [LR67]

GREG GOLDEN: When he's in the cab of the locomotive. [LR67]

SENATOR FISCHER: But when he's out of the cab does he have a radio with him? [LR67]

GREG GOLDEN: No. [LR67]

SENATOR FISCHER: Okay. Thank you very much. Other questions? I see none. Thank you. Next testifier, please. Good afternoon. [LR67]

GORDON DEICHMANN: My name is Gordon Deichmann, 1894, 14th Road, Central City, Nebraska. [LR67]

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SENATOR FISCHER: Could you spell your last name for us, please? [LR67]

GORDON DEICHMANN: D-e-i-c-h-m-a-n-n. I'm testifying for myself as a farmer. I lived for 15 years right along Highway 30, about 4 miles southwest of Chapman. I observe trains all the time, (inaudible) with my chores being right close. The noise never bothered us after we got used to it. (Laugh) But on farms the trains being decoupled at that time I can remember, this is back in the 1970s, 1960s and 1970s, that they would bring a train up and stop, it almost immediately was uncoupled. And I don't ever...and I farmed on both sides of the railroad tracks, both sides of the highway. So almost everyday I was across there three, four times. I don't remember waiting more than three, four minutes to get across the track. And we have been hauling corn in Central City lately. And we've had double-wagons--you talked about--we'll pull up to a crossing and expect it to be open in a few minutes or five minutes. It's been over an hour. And you cannot back double-wagons up. I wonder if we could go back to having somebody in the caboose and they know they're going to be stopped. And they could stop that immediately and uncouple it, because I've waited...well, a week ago on Thursday I waited half an hour and my wife finally says, let's go around. So we went around with the horse trailer. I backed the horse trailer up half a mile, we went around and come in, come around on the other side to get the cattle, and it was still blocked an hour and a half later. Surely that could have been uncoupled. Now I needed to carry the railroad's telephone number so I could call. Now the gentleman, the farmer with the truck was talking about the crossings being plugged sometimes. And I've seen...the engines and two or three cars or the tail end and two or three cars sitting across a crossing, blocking the crossing, and on the other end they had room. So I can appreciate what he's running into. And at Central City we run catty-corner on the highway, everything is through the county. And the county has closed a lot of crossings. They got paid \$5,000 a crossing, but I don't think that covers the expense of the farmers and travel to go through there. Now the ambulance people in...I'll go back to crossing arms. Some of them stay down six seconds after the train leaves, and some of them are 30 seconds. I don't know what causes that. But I think that it would speed up traffic a lot, especially

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right through highway 30 on 14 and Central City...I've waited there more than 30 seconds and there's nothing there. You go two crossings down, it opens up right away. I have no reason for that. The ambulance people have problems in our town, because we...in our whole county, because we've closed the crossings, about 15 crossings. And everything runs catty-corner. So if you're coming at night with an ambulance or fire people, you're blocked. You can't cross. So you go up to the next one and you cross, you're a mile off where you want to be, where you're going to the fire. At night, if you're not familiar you can get disoriented. And we've had two cases where our fire people were a mile too far off getting to the tracks. Now this doesn't affect maybe the blockage so much as the closings. I wonder if I call on the phone will I get an option or will I get a person? Sometimes you get an option and how many choices do you get and do you get anything when you get done? I think we need to have a conductor, somebody on the back end of the train, and they know they're going to close, I mean, close the crossing, why don't they just go out and uncouple it? Why do we have to call them to uncouple the car? I mean, this is a safety factor for them and when you got rolling stock you want to keep it moving. Why would we want to have so many cars? And I've seen seven and eight between here and Columbus, and going the other way, as many on Highway 2 also. They need to keep them moving. There's a lot of crossing that are closed out in the western part of the state, a lot more than we have. I need to keep my stuff moving so I can make money. And I think the railroad needs to maybe keep their stock moving more than sitting. I guess that's all I got to say. Got any questions? [LR67]

SENATOR FISCHER: Thank you, Mr. Deichmann. Are there questions? I see none. [LR67]

GORDON DEICHMANN: Thank you. [LR67]

SENATOR FISCHER: Thank you very much for taking the time to join us today. Next testifier, please. [LR67]

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DAKE RADCLIFF: My name is Dale Radcliff, I am the York County Sheriff. I'm not going to take a lot of your time. [LR67]

SENATOR FISCHER: Good afternoon. Could you spell your last name, please? [LR67]

DAKE RADCLIFF: R-a-d-c-l-i-f-f. I've been listening to a lot of testimony. I want to just tell you a little bit about some frustrations we're having in York County. Several years ago, maybe one or two years, I met with one of my commissioners and Senator Stuhr down at Lincoln at her office. There was some other senators there. I apologize, I do not know who they were. And some representatives from the Burlington Northern. When we left that meeting we was under the assumption that if a train was going to block a crossing for 15 minutes to 30 minutes, that train would be broke. And for two, three weeks it was great. And then it's just right back to where it is now. Before I come over here, I had my office do me a study. I wanted to know how many calls we've had in our office for blocked crossings since January. Well, they went back to January 1, 2006 to yesterday: we've had 205 calls in our office for blocked crossings. What we do in our office when we get a call like this, we call that 800 number and I assume, I've been hearing it's in Fort Worth, Dallas-Fort Worth Area. The dispatchers I will have to say sometimes, they say the joke is before they call they're going to tell them that the train is going to move in five minutes. Okay. We can go along with that. Some of these calls, I will have to say, someone calls, we tell them. Okay. They say, five minutes it's going to move, we have constituents calling back saying, we called an hour ago and that train is still sitting there. That's frustrating to us. If we know that train is going to be sitting there, we wish they'd just tell us it's going to be sitting there an hour so we can tell these people. I'm going to tell you a story. Myself, I went out to a place, a train, we got a call, it was sitting there 30 minutes. I went out there personally, sat for 20 minutes. I seen a train down there so I drove as far as I could, because I didn't want to walk like everybody else didn't. I walked up to that train, it was full of coal, two engines on the front. I walked on both sides of that train engine and I never did see anybody. I made no contact there. I went to the other end, thought maybe somebody would be there,

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because I want to talk to someone. I could not find anybody to talk to. This was frustrating. Now if they had to break that train I don't know where they might have been. It's frustrating and I don't know if raising the fines are going to do anything, especially to the railroads. I was under the assumption that this Burlington Northern representative, I wish I knew his name, I tried to find it, said they had a policy: if they sit so long they break the train. If that's the case, then it looks like an engineer and conductor is not following policy and procedure, maybe an engineer and conductor should be reprimanded, fined, or dismissed. I don't know what kind of compensation they get. But to me, I think that would be...they're the bunch not following their policies and procedures, not the railroad. That's all I'm going to have to say. If anybody has any questions, I would sure answer them. It's just frustrating. It seems like it's been going on for five, six years now and nothing is getting done. And I do believe that the citizens of York County should...they do...should have a say-so, you know. They have a right to use these crossings too, I know. Let me say one more thing before I quit. I know that my Waco Volunteer Fire Department, and the Bradshaw, they're right along the tracks. They're concerned, you know, for if it's blocked how they're going to get through there. The daytime is not such a big item, because when they're going down the highway they can look and see, they can go another mile. But in the evening, if something is blocked, they'll turn and go at most a half a mile. If a train is sitting there, they have to back up. And we all know maybe two or three minutes for safety, especially for the rescue units, could mean a life. And what...maybe it would be possible, if they know a train is going to be blocked to call our office, but I don't want that just as an excuse so they can just sit there without blocking it if they don't have to. Okay. [LR67]

SENATOR FISCHER: Thank you Sheriff. Are there questions? Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Sheriff Radcliff, for coming. Have you ever tried to issue a citation to either the... [LR67]

DAKE RADCLIFF: Oh yes. I personally have contacted, I believe it was the conductor,

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he said he's not responsible for that train. We've contacted the engineer and he said he's not responsible for that train. So we don't know who to contact. So at that point we gave each one of them a citation. I know some of the other deputies have. And they've met some kind of resistance. And I've advised the deputies if they have that resistance again, to make an arrest for failure to...resisting arrest. We hear this... [LR67]

SENATOR DUBAS: So what has happened after you've issued the citation? [LR67]

DAKE RADCLIFF: I assume they've gone to court. I do not follow that. [LR67]

SENATOR DUBAS: Okay. [LR67]

DAKE RADCLIFF: I do not know. I'm assuming that we give them a citation for court for blocking a...we turn that over to the county attorney. [LR67]

SENATOR DUBAS: Okay. Thank you. [LR67]

SENATOR FISCHER: Other questions? Senator Louden. [LR67]

SENATOR LOUDEN: When you give your citations, did the...the county attorney is the one that prosecutes those? [LR67]

DAKE RADCLIFF: Yes, we turn them over to him. [LR67]

SENATOR LOUDEN: Did he follow through and prosecute them, or... [LR67]

DAKE RADCLIFF: I cannot answer that, because I do not know. I assume he did, but I can't say yes or no. [LR67]

SENATOR LOUDEN: Do you have a transportation taxi for crews that run out of

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time...is there a transportation taxi service that hauls those crew members up and down? When you said there wasn't anybody on the train, had they taken that crew off that train and...to leave it set for a period of time? [LR67]

DAKE RADCLIFF: Actually I do not know, because when I got back in my unit, I radioed York and I had them call that 800 number and tell them that train was there. I did not tell them I could not find anybody. We was advised the train was going to move in five minutes. I don't know where that crew was. Maybe they was walking down the line between cars. That's very possible. I do not know. [LR67]

SENATOR LOUDEN: Did the train move in five minutes? [LR67]

DAKE RADCLIFF: No. [LR67]

SENATOR LOUDEN: When did the train move? [LR67]

DAKE RADCLIFF: I think it was another hour. I think it was almost two and a half hours before that train moved. [LR67]

SENATOR LOUDEN: Then another crew could have came out and moved that train. [LR67]

DAKE RADCLIFF: That's very possible. Very possible. [LR67]

SENATOR LOUDEN: Because we see a lot of that now, with these crews...when they talk about they have to have these trains moving to make money, but yet they run out of time so they have a regular business, and it's located, I think, at headquarters out at Cheyenne, Wyoming, that hauls these crews all around... [LR67]

DAKE RADCLIFF: If that was the case they was changing crews, we was hoping they

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would break the train, because if they would have an emergency had to break it, you'd have to wait till a crew to get there. [LR67]

SENATOR LOUDEN: Well, that's a problem. They do...the crews will go off and leave those trains. [LR67]

DAKE RADCLIFF: I did not know that. [LR67]

SENATOR LOUDEN: Yes, they will, very many times, many times they'll go off and leave that train and not...and have crossing blocked and go off and leave them. And yeah, and you come along and you'd just as well have a big river across there, because you're not getting through. Thank you. [LR67]

DAKE RADCLIFF: Thank you. [LR67]

SENATOR FISCHER: Thank you very much. Next testifier, please. Good afternoon. [LR67]

BRAD WELLS: (Exhibit 5) Good afternoon. My name is Brad Wells from Central City, from the Central City Volunteer Fire Department. I know where the sheriffs crew was, what he's looking for. If--according to the coffee talk around Central City--the train crew was over at the convenience store. That's one of the comments I heard when we started out on this. After I caught the article in the paper, I thought this might be an opportunity to bring up some of the notes that I've taken down over the course of several years. I think most of mine involve not so much the trains blocking the crossing as the arms blocking the crossing. I think if there's a frustration in the community, it's looking down a few hundred feet at the engine. They're staring across at two gates down. And, you know, their way home is right across. And their option is to go around those arms. You're looking up in the crew. The crew is in the engine. And you're debating on what to do. Well, any more, what most of our locals do is they go around the arms. So it almost



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seems like it's...and I've gone along on several of the Operation Lifesaver units and I think it's great what the railroad put into that program. It's great. The kids love it, you know. I love it. They put a lot of time and effort into it. It almost seems like the action we get in Central City nullifies all their efforts and their time and their money. With, you know, their training...when I called it, and I (inaudible) a couple hundred calls a year to the 1-800 call, I swear half of those are mine. I don't get calls back very often with them. But I call it quite a bit. And a lot of times I make the comment that we are training our local people to go around these arms. I mean, at that point, even if there was a train there, at least these people aren't going around the arms. And being in town, a lot of times they're sighting (phonetic) traffic there too, and you know they're taking the chance not being able to see if that westbound or that eastbound is coming through it as well. So I think that's my biggest...and I don't know if you want me to read through those, or if you want read through those at your leisure [LR67]

SENATOR FISCHER: I think we could probably. I'm looking through them so... [LR67]

BRAD WELLS: If you can decipher my...mostly their just notes I jot down as I'm either on a phone calling or waiting for them. [LR67]

SENATOR FISCHER: Okay. Thank you very much. [LR67]

BRAD WELLS: But that's one of the frustrations, you know, as far as, you know, on a safety standpoint is they go through a lot of effort training people not to go around the arms, you know, that there's fines and penalties if you do go around the arms, but when you're sitting there and wondering what your options are, well, you go around the arms. And a lot of the crossings in Central City, it doesn't necessarily take a train sitting there to hold the arms down. I know the one crossing in particular road by 15th road in Merrick County, it spends a lot of time just down. I know they do a lot of work on it, but this is a year by year thing. It goes on for years. The arms are down whether it's the weather that puts them down, traffic goes by and they stay down, I call all the time. I go

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across that crossing all the time; I go around the arms all the time with the rest of the folks. And I know they're painfully aware that there's an issue with that particular crossing. It's especially that one crossing in Central City. I don't know what it takes. I've called UP Cop, I know I've usually transferred down to the crossing. I usually tell them I call UP Cop because I don't get a call back if I call the other numbers. So I'm looking for, you know, is somebody even paying attention to me when I do that? I mean on the fire side we have found one method of getting attention, if we have a problem with a fire call or something along the right-of-way, and if we're having trouble with getting train traffic bowed up so we can complete our operation, if we do call the deputies out, and once the handcuffs start coming out then we do get some reaction that way. I don't know if it's a train crew issue or what it is. Like I said, most of the time with the Operation Lifesaver stuff we've gotten a real good rapport with the railroad, but beyond that I don't know if it's a crew problem at that point or not. I've seen...a few things I've learned: I didn't know that there was an issue where they could gauge where the train was. I mean, if you'd have asked me before, I could have swore that they don't know when that train is sitting with two cars on the other side of the crossings. And when you look on down, they couldn't have pulled another, you know, 100 yards, open that crossing up, so we'd have at least one crossing in Central City open that the local traffic could go through. [LR67]

SENATOR FISCHER: See this is a learning experience for all of us then, Mr. Wells.  
[LR67]

BRAD WELLS: Absolutely, absolutely. [LR67]

SENATOR FISCHER: That's right. Thank you very much for being here. Any questions?  
Senator Louden. [LR67]

SENATOR LOUDEN: This is on the Union Pacific? [LR67]

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BRAD WELLS: Yes. [LR67]

SENATOR LOUDEN: Then the problem is is with the gates. The gates come down and they won't retract, is that right? [LR67]

BRAD WELLS: That's one of the problems. [LR67]

SENATOR LOUDEN: Okay. Is there some time the engine sitting close to those gates? [LR67]

BRAD WELLS: As a couple of those photos show, at times there are, yes. [LR67]

SENATOR LOUDEN: And is there people in those engines? [LR67]

BRAD WELLS: Yes, there are. [LR67]

SENATOR LOUDEN: Well, they're supposed to be able to push the button and make the gates go up, you know. [LR67]

BRAD WELLS: That's what I've been told. [LR67]

SENATOR LOUDEN: Yes, they can do that. [LR67]

BRAD WELLS: I think one photo will show you, and I think that's the instance, I'm not sure on that, where the train crew--there again, I'm just guessing, I'm not sure--dismounted the unit and went by the crossing and it appeared to me went down to the convenience store and we felt that they kind of left us sitting there wondering what was going on. [LR67]

SENATOR LOUDEN: Now then these are some faulty gates, or there needs to be some

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maintenance done on them, is that part of the problem then, if they're staying down all the time? [LR67]

BRAD WELLS: I'm not sure Senator, because like I said, this is...I think my first note here comes from 2001. I know it was before that time. But this is an ongoing...it's not a one-time fix. It's an ongoing situation. [LR67]

SENATOR LOUDEN: Have you contacted like the signalman or somebody that looks after that stuff to see if... [LR67]

BRAD WELLS: Constantly. [LR67]

SENATOR LOUDEN: Okay. Because I don't know if it's because my address is Ellsworth or what, but when that happens... [LR67]

SENATOR FISCHER: Or your last name is Louden. (Laughter) [LR67]

SENATOR LOUDEN: When that happens on the Burlington Northern, why we have a man out there right now taking care of the gates. In fact, a while back, they weren't working, and according to railroad rules they have to pull up and stop the train. The man has got to get out and stand there while they drive the train across the track. And I saw them do it here a while back. Can you believe that, stopping these 7,000-foot trains, you know, while a guy gets out and blocks that crossing so they can start across? So Union Pacific, you need to get after somebody on the Union Pacific and take care of that. [LR67]

BRAD WELLS: I will say that our local guys, once the call goes in, the local guys are pretty well johnny-on-the-spot, getting out there if we've taken down the arms or something like that. So I don't think it's the local workmen issue, any how at that point. So whether it's...and I don't know...I was told one time and I don't remember who said it,

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that if the trains stop they could either activate the arms back up or the conductor could get up and direct traffic around that. I don't know if that's the case or not. That's coffee-shop hearsay. So like I said, one of the coffee shop topics when the article came out was the local joke about we know where the train crew is, they're over getting coffee. So... [LR67]

SENATOR LOUDEN: Okay. Thank you. [LR67]

SENATOR FISCHER: Thank you, Mr. Wells. Oh, Senator Dubas. [LR67]

SENATOR DUBAS: Thank you, Senator Fischer. I just would like to clarify a comment that you made about...you have had to call local law enforcement if a crossing has been blocked? [LR67]

BRAD WELLS: Those instances weren't crossing blocks. Well, we've contacted the local PD and I know the local PD fights the blocked crossings in Central all the time. You know, the time frame stretched thirty minutes beyond that. I know they've written citations in the past. I don't know what the outcome of those were. The times that we've called law enforcement in as far as the fire department goes, is where we couldn't get cooperation or reaction out of the train crews themselves. We asked for the train traffic to stop while we performed our operation. And the train crews seemed really intent on proceeding through our operation anyway. So that's when we had to call law enforcement in. And that seemed to get the reaction that we needed in order to finish up our operations. [LR67]

SENATOR DUBAS: Okay. Thank you. [LR67]

SENATOR FISCHER: Other questions? Thank you, Mr. Wells [LR67]

BRAD WELLS: Thank you, Senators. [LR67]

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SENATOR FISCHER: Next testifier. I believe this is our last one. Is there anyone else who wishes to testify after this gentleman? Good afternoon and thank you for waiting through the testimony. You're our last one. [LR67]

RALPH WILHELMI: (Exhibit 6) Yeah, I've been here a long time. My name is Ralph Wilhelmi, that's W-i-l-h-e-l-m-i. And I live north of right on Burlington railroad between Toner's and Cairo. And I live on...I'm a farmer. And I live on Airport Road, but I farm my grain on both sides of the road, on Monitor. And I have trains sit out there four to eight hours. The other day it was eight hours. And the train went east, it moved after eight hours, then another one came west. Then they blocked it another four hours. So it was 12 hours they had that crossing blocked. And I got grandkids, you know, we talk about safety, we got grandkids on both sides of the railroad (inaudible) got to pick them up. They got to go all the way around the train six miles to get back around to their school area, and six miles sometimes going back home again. So we talking about safety for kids, you know. It's terrible in the wintertime. And I don't know what we can do. It's just ridiculous, because everyday they're blocking my crossing four to eight hours out there. And along with the county board about six years they closed two crossings for me. And that was supposed to take care of us blocking our crossings. That didn't do no good. They closed the crossings and still sat on our crossings. Where we have the main problems from Toner's to Grand Island, but from there it runs to a single track again. So we got a double track, then when you hit Toner's international out there it goes to a single track. And that's...you got all the trains coming west, and all the trains, you know, and that's where we're having our troubles. So I just hope we can get something done. I don't know. They're blocking my (inaudible) crossings. In Northwest High the same way, you know, kids can't get to school, because they're blocking that (inaudible) the same way. And the crossings they closed up is Abbott and 110th crossing, there down about three more miles west of Abbott. They closed those two crossings up, but that's all they supposed to use and they still close. That didn't do no good. They still blocked our crossings. And I guess that's about all. I'll just make it short. [LR67]

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SENATOR FISCHER: Okay. Thank you, Mr. Wilhelmi. How many crossings are you able to utilize? Do you have one main crossing from your residence to get...is it go get to highway 2 then, are you north? [LR67]

RALPH WILHELMI: Yeah, we live...our farm is right on the highway, right close to the track. And I live right across the track. [LR67]

SENATOR FISCHER: And how far out of Grand Island, you said it was west? [LR67]

RALPH WILHELMI: We live about three miles out on Monitor Road. [LR67]

SENATOR FISCHER: Do you just have that one crossing that you're able to use? [LR67]

RALPH WILHELMI: We could use those other ones. [LR67]

SENATOR FISCHER: And how far is that for you to drive? [LR67]

RALPH WILHELMI: The other day I talked to the mailman, you know, and mostly he's there by 12:00, he had to drive just about all the way to Cairo, they had four crossings. They had mine and three other crossings all blocked. And poor mailman, you know, he's got to do everything all...try to straighten his mail all out, and get back, you know... [LR67]

SENATOR FISCHER: But you had mentioned that you had to travel six miles in order to cross, or round trip? [LR67]

RALPH WILHELMI: He's got to go...like my grandson has got to go 3 miles, he's got to go one way, you know, then back down and back that way and back around to the

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highway. [LR67]

SENATOR FISCHER: Have you called the Burlington Northern Santa Fe to... [LR67]

RALPH WILHELMI: Yeah...don't do no good. And I was talking, you know, he was... [LR67]

SENATOR FISCHER: We have some people taking notes back there right now, it might do some good. [LR67]

RALPH WILHELMI: I would (inaudible) he was saying something before, he says, they'll take people out of trains and just leave them sit. [LR67]

SENATOR FISCHER: Have you gotten any reasons on why those trains sit there for eight to twelve hours? Have you gone to your county board on this? [LR67]

RALPH WILHELMI: Yeah and... [LR67]

SENATOR FISCHER: And what is their reaction there? [LR67]

RALPH WILHELMI: ...and the county board, I can't get nothing done, you know. They don't get nothing done either. [LR67]

SENATOR FISCHER: Okay. Thank you. Other questions? Thank you for waiting us out and taking the time to visit with us today, I appreciate it. [LR67]

RALPH WILHELMI: Thank you. [LR67]

SENATOR FISCHER: (Exhibits 7-12) Is there anyone else who wishes to testify? I see none. I do have some letters that I need to enter into the record. I have...and we will get



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copies of these made for the committee members, but they will be entered into the record. I have a letter from Larry J. Kelly from Grand Island. I have a letter from Jerry Hasselmann, from Marquette. I have a letter from Renee Seifert, the executive director of Grand Island Hall County Convention and Visitors Bureau. I have a letter from Gary Krumland, who is the assistant director and legal counsel for the League of Nebraska Municipalities. And I also have a letter from Elaine Stuhr from Bradshaw, Nebraska. Those will all be entered into the official record of this proceeding. I'm sorry, I also have a letter here that was handed to me from Monte Moss from Wood River from the city of Wood River, the utilities department director. So those will be entered into the official record. And with that, I will close the hearing on LR67. Thank you all for being here today. [LR67]