

think we had an influence at the federal level. In addition, even with the amendments that I am proposing to 1172, and if the bill is advanced, I will urge you to adopt those amendments later on, what's left of the bill after you adopt the amendments is a provision which is almost identical to the law that you passed in 1986 when cabooses came off trains. And, in fact, it is identical with the exception that we would provide that those provisions would be in force only in specific areas of the State of Nebraska, identified as local hazard areas. Now you may ask yourself why would we be bothering to reenact what we did in 1986. Well, in 1986, when cabooses were removed, the statute required that the railroads have an operable device on the train to carry out the functions that are specified in 1172, and those are exactly the same functions we had in 1986. We also provided, in 1986, that if the federal government adopted regulations in the area that our statute providing for the devices would become inoperable. The federal government did adopt regulations but the regulations did not exactly parallel what we had in Nebraska law. The devices still did the same things that we required in Nebraska law but the federal rules did not require that the devices be operable. And that word was in our 1986 statutes. The devices had to be operable in the State of Nebraska. Now you may wonder to yourself why does it make any sense that you have these devices and not cause them to be operable. Quite frankly, it doesn't make any sense to me either. If you have these devices, it seems to me to make sense that they should work and that they should be operable, not only, in my view, when they go through specific areas of the State of Nebraska, but at all times. But I am advised that the federal regulations do not require them to be operable. I can't imagine such a circumstance. That is one of the reasons why I think that the bill, if it is passed, will not run afoul of federal preemption, because if the federal regulations, in fact, do not require these devices to be operable, I cannot see that anybody can make a very good argument that requiring them to be in operation is incompatible with the federal regulations or that causing them to be operable would represent an undue burden on interstate commerce. I can't imagine that the regulations would have been enacted without either one of those intentions at the federal level. There is also one other provision in 1172 that I would call to your attention and that is the provision requiring two crew members in the cab of an engine. Now, that is not a matter of federal regulation at the current time. Largely, that is a matter for contract negotiations, but there has been consistently a movement in contract negotiations for