NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

AGRICULTURE COMMITTEE

Wednesday, February 27, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Terry M. Wanzek, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Terry M. Wanzek, Bill Bowman, Duane Mutch, Ronald Nichols, Harvey Tallackson; Representatives James Boehm, Michael Brandenburg, Thomas T. Brusegaard, April Fairfield, Rod Froelich, C. B. Haas, Phillip Mueller, Jon O. Nelson, Dennis J. Renner, Arlo E. Schmidt, Ray Wikenheiser

Members absent: Representatives Joyce Kingsbury, Edward H. Lloyd, Eugene Nicholas, Earl Rennerfeldt

Others present: See Appendix A

It was moved by Senator Bowman, seconded by Representative Nelson, and carried on a voice vote that page 1 of the December 14, 2001, minutes of the Agriculture Committee be amended to provide that 17 percent of all gasoline used in this state contains ethanol and that Minnesota gets back about $10 for every dollar it invests in the ethanol industry.

It was moved by Senator Bowman, seconded by Representative Nelson, and carried on a voice vote that the amended minutes of the previous meeting be approved.

Chairman Wanzek recognized Mr. Stevan Bobb, Group Vice President, Agricultural Products Marketing, Burlington Northern Santa Fe (BNSF), who presented testimony regarding rail transportation of agricultural products. Mr. S. Bobb distributed a document entitled *Enabling the Future Through Change.* A copy of the document is on file in the Legislative Council office.

Mr. S. Bobb said from the BNSF perspective, the issues being addressed by the committee represent additional steps in a continuing process of change. He said elevators, producers, and multinational corporations had originally opposed many of the initiatives introduced by BNSF over the last 20 years. However, he said, as the individual initiatives played out over time, they proved themselves to add value to the marketplace.

Mr. S. Bobb said the rail industry was deregulated in 1980. He said railroads had been regulated much like utilities are today. He said railroads are not guaranteed a return on invested capital. He said railroads like BNSF make their decisions based on profit motives. He said they have stockholders who expect them to continue in that vein.

Mr. S. Bobb said in the early 1980s, Burlington Northern did a study regarding how it was running its grain business. He said there was serious consideration given to exiting the grain business. He said Burlington Northern was not making money on huge portions of its grain business. He said Burlington Northern decided to make some fundamental changes by moving from long-term contracts to a public transparent pricing environment. He said Burlington Northern stopped using a mileage-based-cost-plus approach for transportation rates and implemented a market-based approach. He said that caused some consternation, especially among the large multinational corporations that had been the beneficial holders of those contract rates.

Mr. S. Bobb said a farmer's cooperative that ships a single car or a shuttle train pays the same transportation rate from point A to point B as does Cargill. He said large shippers are not given favorable positions. He said BNSF gives rate differentials as a function of the efficiency of the product that a shipper elects to ship. He said BNSF does offer different rates for different efficiency programs. He said a single-car shipment is more expensive than a 26-car shipment, which in turn is more expensive than a 52-car shipment. He said a 52-car shipment is likewise more expensive than a shuttle train of 110 cars.

Mr. S. Bobb said in the late 1980s the certificate of transportation program was put in place. He said the program was controversial when introduced. He said the grain industry had sued the railroad over the introduction of the program. He said the railroad wanted to have the marketplace allocate capacity. He said the program provided customers with an opportunity to lock in rates. He said customers can still choose to lock in a rate with a certificate of transportation. He said it provides guaranteed service and a guaranteed car supply. He said despite having sued the company in the late 1980s over the program, most grain companies today view the program as being very beneficial. He said there would probably be a suit if BNSF stopped offering certificates of transportation.

Mr. S. Bobb said other changes were introduced in the 1990s. He said BNSF standardized unit train sizes and started investing in high-capacity cars. He said high-capacity cars allow for the handling of 10 percent more product per car. He said BNSF customers have benefited from having standard size cars. He said the cars are of higher quality and handle more product.

Mr. S. Bobb said during the last decade BNSF invested $600 million in equipment. He said that does not include the $70 million that BNSF spent to maintain its fleet of covered grain hoppers.

Mr. S. Bobb said BNSF believes its customers want BNSF to distinguish itself from its competition. He said the customers do receive benefits from the actions BNSF takes. In the last 10 years, he said, BNSF has made a substantial capital investment in the grain industry. He said no other railroad in the last 10 years has matched the BNSF investment in covered grain hoppers. He said BNSF is very focused on getting a return on its investment. He said BNSF's primary competition in North Dakota is the Canadian Pacific Railroad. He said investment in the Canadian Pacific Railroad is made by the Canadian government.

Mr. S. Bobb said BNSF has downsized its grain fleet since 1988. In 1988, he said, Burlington Northern had 35,000 cars in its grain fleet. He said the current grain fleet is approximately 29,000 cars. He said while taking cars out of the fleet, BNSF has actually increased its carrying capacity. He said the new cars carry 10 percent more product. He said BNSF has broadened its product offering from having only single-car, 26-car, and 52-car opportunities to also offering shuttle train capacity. He said this has created efficiencies in the network. He said in the fall of 2001 approximately 5,500 of BNSF's 29,000 cars were in shuttle service. He said those 5,500 cars were generating nearly 40 percent of BNSF's carrying capacity. He said the cars are high-capacity hoppers and they turn an average of three times a month as opposed to 1.4 times a month for a traditional grain fleet. He said the difference is not in transit time. He said the difference is in the end points. He said the difference comes from the amount of time it takes for customers to load and unload and in the amount of time it takes the railroad to put trains together. He said the other reason there is a faster turnaround is that shuttle trains are 110 cars long. He said for every such train moving throughout the network, more grain is being delivered.

Mr. S. Bobb said overall system performance has improved dramatically. He said the major reason is the company's willingness to invest capital in its operations. He said BNSF spent $11 billion in capital investment over the last six years.

Mr. S. Bobb said there is a disconnect between what their customers say about service and what the recent customer satisfaction survey has concluded.

Mr. S. Bobb said over time BNSF service to the grain shipper has improved, especially with respect to providing capacity to the marketplace. He said when grain is to be moved, that puts a demand on hopper cars. He said it would be impossible for BNSF to buy and maintain a fleet large enough to ensure that everyone who wants access to a grain hopper can have one during harvest. He said by making the investments in capacity and service improvement, BNSF has been able to dramatically shorten the number of days late. He said BNSF has also managed to narrow the gap between its guaranteed products and its tariff products. He said the nature of those two products will never be the same. He said a customer who chooses to buy a guaranteed product is going to get guaranteed service. He said a customer who chooses to buy a tariff product is going to get capacity available service.

Mr. S. Bobb said the shuttle program is a set of symmetrical commitments between BNSF and its shuttle customers. He said BNSF dedicates power, a covered hopper fleet, turn times that provide efficiency payments, and trip incentives to customers who take risks and put on forward freight. He said shuttle customers commit to having an appropriately efficient facility. Instead of having to break up trains, he said, BNSF can drive in with empty trains and drive out with loaded trains. He said shuttle customers commit to loading and unloading the trains within 15 hours at both the origin and destination. He said shuttle customers also commit to providing BNSF with logistical information. He said before BNSF spots a loaded or an empty shuttle train, the owner of the certificate of transportation has indicated where the empties will go next. He said this customer commitment to providing logistical information gives BNSF savings in the form of equipment costs and operating costs because shuttle trains use locomotives optimally. He said 110 cars, each loaded with about 110 tons of product, use about three locomotives over most of the BNSF network. He said shorter trains result in wasted horsepower. From a service perspective, he said, shuttle service has fewer moving parts. He said it is an intact train from origin to destination. He said there is not as much variability or risk of failure. Under the current shuttle network, he said, there are 73 origins and approximately 35 destinations across North America. He said those include destinations in Mexico and both origins and destinations on other railroads--both short line and Class I railroads. He said the BNSF shuttle network is not an BNSF-only product.

With 26- or 52-car service, Mr. S. Bobb said, BNSF has to wait until it gets a bill of lading from the customer indicating where those cars are going. He said the grain desk in Fort Worth, Texas, has to piece together the puzzle. He said BNSF does not run 26- or 52-car trains on rail lines because the economics are not there to do that. He said BNSF instead matches four 26-car trains or two 52-car trains or some other combination thereof. He said the time it takes to do that can average four to four and one-half days. He said shuttle trains get much better cycle time because they are not waiting to be matched up.

Mr. S. Bobb said BNSF had only one nonterminal elevator capable of handling shuttle trains in 1996--South Sioux City. He said in the early 1990s Burlington Northern tried coloading comprehensively across the network. He said under the program, Burlington Northern gave its customers incentives for providing information about coloading in advance. Upon evaluating the program, he said, it was found that customers did not see any service improvement, there was no enhancement of capacity for the network, there was no decrease in cycle time, there were no cost-savings, and there was a loss of market share to the Union Pacific because Union Pacific outperformed Burlington Northern. He said BNSF determined the coloading program was not something that ought to be continued and in its place developed the shuttle program.

Mr. S. Bobb said the Canadian rail network has undergone an even more dramatic change than the American rail network. During the last five years, he said, the Canadians have gone from a wooden car-single crib environment to a steel and concrete 112-car environment. He said the Canadians load a 112-car train more quickly than Americans load 110-car trains. He said the Canadians can load a car in 12 minutes. He said the grain is cleaned, graded, and ready to go before it hits the car.

Mr. S. Bobb said BNSF has had a shuttle product since 1996. He said BNSF still provides single-car service, 26-car service, and 52-car service because the marketplace demands differentiated service. He said one size does not and will not fit all. In 2001, he said, well over 40 percent of BNSF shipments were below 52 cars in size. He said about five shuttle facilities in North Dakota are presently owned by local cooperatives. He said that is the dominant type of shuttle facility ownership. He said two are owned by regional cooperatives, two are owned by multinationals, and one is a privately owned facility. He said over 20 of the 73 shuttle facilities across the BNSF network are owned by local cooperatives and 20 are owned by regional cooperatives.

Mr. S. Bobb said there are a lot of macroeconomic forces affecting rural America. He said those forces have been playing out for decades. He said BNSF is not driving the change in rural America. He said small elevators have a role and they will continue to have a role. He said there are markets that are not going to ship shuttle train quantities. He said examples are barley, canola, certain varieties of milling wheat, and identity-preserved grains. He said the single-car and 26-car trains provide transportation for these products. He said the 26-car rate is higher than the shuttle rate. He said one would presume that the niche markets provide higher value as well.

Mr. S. Bobb said the shuttle network will take trucks off the highway by reducing long-haul trucking on both outbound grains and inbound fertilizer. He said the highways are competition for BNSF. If it is cheaper to gather grain by truck than by rail, he said, the grain will be gathered by truck. He said that is what is happening on many branch lines. He said if highway economics are the better option, branch lines will disappear.

Mr. S. Bobb said BNSF is not a regulated utility that is guaranteed a return on invested capital. He said BNSF is not earning its cost of capital. He said BNSF can earn its cost of capital by one of three ways. He said BNSF can increase and has increased the volume of product it transports. He said BNSF takes and has taken tremendous cost out of the network. He said the shuttle train program is one such way BNSF has managed to take cost out of the network. He said the third way BNSF can earn its cost of capital is by increasing prices. He said the grain transportation business is tariff-based and the transportation rates therefore move with the market.

Mr. S. Bobb said BNSF has not done a good job of increasing grain transportation rates. He said the North Dakota car rates going to the Pacific Northwest have stayed about the same as they were in 1981. He said if BNSF were a utility or a good cost-plus pricer, it would have passed on the incurred costs of inflation and the rates would be $1.08 per bushel higher. He said if BNSF tries to raise its rates above that which the market will support, the grain will be trucked rather than shipped by rail. He said if BNSF rates are too high, the grain does not move into the destination markets. He said BNSF has managed to raise rates a bit on grain going west but not on grain moving east to the Minneapolis domestic market.

Mr. S. Bobb said there are four parts to the economics of a shuttle train. He said the rate spread between a 52-car wheat train and a shuttle train is $100 to $150 per car. He said in the world of grain, that is a narrow rate spread. He said in some corn markets the rate spread approaches $600 per car. He said the rate spread will probably widen in the future. He said the present rate spread is too narrow to reflect current economic benefits. He said the elevator at the point of origin has the opportunity to earn $100 a car for loading the train in 15 hours or less. He said the elevator gains or loses that loading incentive on every train. He said the destination has an opportunity to earn $100 per car for unloading the train within 15 hours. He said they can also lose it by doing what many of the exporters do with the 26- and 52-car trains, i.e., mix and match them on the way.

Mr. S. Bobb said BNSF offers an additional incentive of $100 per car to customers who take a risk position and commit to running a train 24 consecutive times. He said that way BNSF does not have to take cars in and out of storage. He said BNSF has locomotives and crews available and it knows how long a commitment it has.

Mr. S. Bobb said the data does not support claims of a negative impact on small shippers. He said in 1995 the rate spread for the Pacific Northwest between a single-car and a 26-car train was about $300 per car. He said the rate spread between a 26- and 52-car train was about $300 per car. He said the current rate spread between a 52-car train and a shuttle train is about $50 to $100 per car. He said in 2000 the rate spread between a shuttle train and a single-car shipper was less than the rate spread between the 52-car train and the single-car shipper. He said while claims of impact on single-car shippers amount to interesting rhetoric, the claims are not supported by the facts.

Mr. S. Bobb said inverse pricing is another term for differential pricing. He said this is practiced in every business. He said when the rail industry was deregulated in 1980, it was coded in law as a way of allowing the rail industry to go from bankruptcy to potentially earning a return on invested capital. He said differential pricing is a way of doing business.

Mr. S. Bobb said in 1995 Burlington Northern had the opportunity to capture additional foreign business. He said there are two ways that southeast Asian customers can get corn from the United States. He said they can get it by transport down the river system to the Gulf or by rail to the Pacific Northwest. He said there were changes in ocean freight and barge freight. He said when barge rates went up, Burlington Northern raised its rail rates. He said when barge rates went down, Burlington Northern lowered its rail rates. He said in 1995 barge rates were up, ocean freight differentials moved, and Burlington Northern had an opportunity to take corn transport away from the barge system. To do that, he said, Burlington Northern had to price the corn off the river lower than the corn for the West. He said this is a great example of inverse pricing. He said some thought that Burlington Northern should have lowered all its rates. He said had Burlington Northern lowered all its rates and not engaged in differential pricing, it would have cost Burlington Northern more money than it would have made pursuing the additional traffic.

Mr. S. Bobb said differential pricing involves pricing to the market at every origin and capturing all the business one can. He said different customers pay different prices. In the 1995 scenario, he said, Burlington Northern realized a net benefit of $32 million by getting the additional corn. He said had Burlington Northern lowered all its rates to capture the corn market, it would have cost the company $42 million.

Mr. S. Bobb said the genesis of the westbound contract wheat program was that Montana had a bad crop and the Pacific Northwest export customers were indicating in early 2001 they were worried that they would not be able to source enough grain to backfill their wheat export plans. He said they were also worried that their customers would go to Canada. He said BNSF put in place rates that allowed the Pacific Northwest exporters to reach farther east than they traditionally would have to obtain the product. He said those rates were put in place in March 2001. He said BNSF does not believe that the rates have distorted the market.

Mr. S. Bobb said people said that BNSF flooded the Pacific Northwest with wheat, that the low-quality wheat was going to damage the Pacific Northwest's reputation, and that the low-quality wheat was going to distort the Asian markets. He said this issue is bigger than transportation. He said this is all about alternative markets. He said the domestic market, signified by Minneapolis, and the export market, signified by the Pacific Northwest, tend to move together. He said there is a market price relationship between those two market destinations and it has to do with the differing demands at those two destinations.

Mr. S. Bobb said during 2001 wheat prices in the Pacific Northwest were generally substantially higher than they were in 2000. He said the statistics do not bear out the charge that the Pacific Northwest was flooded with wheat that drove the prices down. He said the claim that there was lower quality wheat going to the Pacific Northwest is facetious as well. He said an exporter would not buy lower quality wheat and risk its customer relationships. He said wheat from western Minnesota and eastern North Dakota has been going to the Pacific Northwest for decades. He said the only difference is who is handling the wheat. He said if a Pacific Northwest exporter cannot go out and get an occasional bit of grain when needed, the exporter would risk losing customers because the customers could not be supplied with wheat.

Mr. S. Bobb said if a Pacific Northwest exporter wants to get grain away from the domestic market, the exporter would have to bid up the price to make it happen. He said bidding up results in more money going into the farmer's pocket. He said even at the closest spread point, Southwest Grain Cooperative has a three-cent advantage over everybody to its east. He said people need to look at more than just transportation rates. He said the grain industry is not that simple.

Mr. S. Bobb said about 4 percent of the wheat shipped out of North Dakota during 2001 moved under differential rates. He said 16 percent moved in shuttles. He said North Dakota's shipments are predominantly to the eastern mills, the western mills, Duluth-Superior, the Pacific Northwest, and Gulf-St. Louis. He said the Pacific Northwest and the Gulf-St. Louis are really the only shuttle destinations. He said even in those wheat shuttle destinations, the predominant shipments of choice are 26- and 52-car trains because that is what the market wants.

Mr. S. Bobb said BNSF has provided rate and efficiency discounts and multiple trip incentives. He said North Dakota shippers are given the same transportation options as are other shippers in North America. He said the shuttle network will continue to expand. He said there are probably about 30 origin and destination projects in the hopper. He said they should end up with approximately 200 origin and destination points on either BNSF or other rail lines.

Mr. S. Bobb said specialty crops and genetically modified organisms will result in more single-car shipments. He said BNSF will continue to offer single-car service to support that segment of the market. However, he said, single-car rates cannot be the same as the shuttle rates because the economics to support that are not available.

Mr. S. Bobb said until there are genetically modified crops with traits that create consumer-perceived value, it is unlikely the consumer will pay more for those crops. To date, he said, most genetic modification has resulted in value for the producer--disease resistance, insect resistance, and herbicide tolerance--through lower production costs. He said when the next wave of genetic modification hits and consumer-perceived value is added, then the consumer will pay more and that higher payment will address the enhanced segregation and transportation costs necessary to move the product. He said government intervention is always a risk. He said capital flight is a risk. He said Wall Street does not get excited when a company spends lots of money on investment and does not get an appropriate return on its invested capital. He said BNSF will be doing whatever it can to increase its return on invested capital.

Mr. S. Bobb said the macroeconomic forces in rural America have been coming for decades and they are going to play themselves out. He said rail service in North Dakota is better than it was 20, 10, and 5 years ago. He said customers can get access to guaranteed service and to guaranteed railcar supplies. He said rates have not gone up. He said BNSF has absorbed a lot of inflationary costs. He said both railroads are getting market share back from trucks. He said the facts are evidenced by statistics from the Upper Great Plains Transportation Institute.

Mr. S. Bobb said the biggest risk is not going for change. He said capital invested 20 years ago or 10 years ago might not be the right capital investment today. He said producers have trucks today. He said they have the ability and the opportunity to bypass the elevator network and go directly to market or to processors themselves. He said while change is uncomfortable, it is necessary for the future.

In response to a question from Senator Nichols, Mr. S. Bobb said the way the rate structure is designed, the Pacific Northwest has to bid up the price of grain slightly over the Minneapolis market. He said the Pacific Northwest's ability to bid up much higher is a function of the world market because of Canadian Wheat Board exports.

In response to a question from Representative Brandenburg, Mr. S. Bobb said BNSF spent a fair amount of time looking at the Edgeley situation in terms of the origin free on board value. He said Edgeley still has a better free on board value going east than Jamestown has going west. He said Edgeley also has elevator facilities on the Canadian Pacific and the area farmers therefore have an option to ship that way as well. He said BNSF has looked at its rates very carefully and it does not believe that its rates have had an impact on the Edgeley facility.

In response to a question from Representative Fairfield, Mr. S. Bobb said BNSF experiences a fair amount of competition across its network. With the trucks on the highway, he said, BNSF has had a lot of competition and has had to respond. He said the rate structure is designed to make wheat available to the Pacific Northwest. He said if a rate is already moving grain to the Pacific Northwest, a company would have no reason to lower the rate. He said the goal is to have a rate structure that puts more wheat into the Pacific Northwest, not a rate structure that degrades BNSF revenue.

In response to a question from Senator Krauter, Mr. S. Bobb said the bushel decrease mathematics is fairly close. He said the exporters did not use the differential rate as much as BNSF had expected them to use it. He said with respect to the three-cent differential rate, one must take into account not only the transportation rate, but also the destination market that French, Minnesota, has in Minneapolis. He said French, Minnesota, gets a net-back by selling to the Minneapolis market and that amount needs to be factored into an equation as well. He said one needs to know how much a Pacific Northwest exporter has to pay in order to pull the grain away from the domestic market.

Mr. S. Bobb said BNSF has very close working relationships with the grain exporters but those relationships do not impact the price of grain. In general, he said, freight is paid by the origin shipper. He said the choices of where to buy the grain and how to transport the grain are generally made by the destination. He said the majority of BNSF's revenue comes from the shipper, not from the receiver.

In response to a question from Representative Mueller, Mr. S. Bobb said BNSF's experience with coloading is that it does not increase capacity or create operational savings or improve service. He said economic and operational experience has caused BNSF to determine that coloading is not a comprehensive answer for the network. He said the reason that BNSF would not want to coload at certain select points along its railroad is that it would have an economic impact on those people who have made an investment in BNSF efficiency. He said BNSF has broadened its product line and given customers more options from which to choose. He said those people who have invested in the shuttle template have in effect earned a lower rate that is based on shared economics.

In response to a question from Representative Mueller, Mr. S. Bobb said there are some branch lines and single-car service issues that are the root cause of many of the comments on the Public Service Commission's customer satisfaction survey. He said other issues within the survey reflect philosophical differences regarding the shuttle program and demurrage.

Mr. S. Bobb said beginning in early 1996 and extending through early 1998, BNSF had a team that worked on designing the shuttle train program. He said the team was composed of people from various disciplines within BNSF and customers. He said people from elevators were on the design team.

Mr. S. Bobb said the issue is about economics. He said BNSF does have tremendous pressure from its investors. He said there are also customer pressures that are imbedded in the decisions that BNSF makes. He said the programs that BNSF puts in place are at the request of customers to meet the customers' opportunities. He said there are always a few people that believe something BNSF did was to their detriment. He said for each person who did not like the decision, there are probably 8 to 10 people who profited from the decision. He said shuttle trains drive up the origin value of grain.

Chairman Wanzek recognized Mr. Bob Stevens, Regional Manager, Southwest Grain Cooperative, Gladstone, who presented testimony regarding grain transportation rates. Mr. Stevens said Southwest Grain Cooperative has a shuttle loading facility between Gladstone and Taylor. He said Southwest Grain Cooperative is also in the process of building another shuttle facility in Lemmon, South Dakota. He said Southwest Grain Cooperative is a cooperative representing about 5,000 people. He said it has facilities in 12 communities.

Mr. Stevens said BNSF has transferred southwest North Dakota spring wheat markets that had been developed over the past 20 years to producers in the eastern Dakotas and western Minnesota by using inverted rate systems. He said BNSF has displaced millions of bushels of spring wheat raised in the western Dakotas. He said even though inverted rates have been in effect since last spring, the effects were not felt until after the 2001 harvest. He said the facility at Boyle is losing about a shuttle train a month to the eastern markets. He said the eastern grain does not have the same milling characteristics as western North Dakota grain. He said Asian markets will be lost to Canadian producers if those types of milling characteristics continue to move to the Asian markets.

Chairman Wanzek recognized Mr. Jim Bobb, Grain Division Manager, Southwest Grain Cooperative, who presented testimony regarding grain transportation rates. Mr. J. Bobb said the shuttle concept with respect to spring wheat is something about which people can get very excited. He said the problem arises when facilities are being built and there is the realization that there are not enough markets. He said the Pacific Northwest is the only real market right now. He said when you start looking at the facilities in the Red River Valley, you have to ask where they are going to ship the grain. He said there is no competition and the grain is held hostage unless the producer decides to move the grain first east and then west. He said the volume at Southwest Grain Cooperative is down about 20 percent at the current rate. He said Southwest Grain Cooperative will be down about 3.5 million to 5 million bushels of spring wheat this year. He said BNSF has not lost that volume. He said a lot of that volume is being loaded east at a lower rate. He said Southwest Grain Cooperative has invested about $6 million in the facility to be able to load shuttles. He said a long-term inverse rate will place Southwest Grain Cooperative in jeopardy.

Mr. J. Bobb said he does not understand why he needs to pay $120,000 more for a wheat train that has the same specifications for loading and unloading into the same marketplace as another product train. He said the Pacific Northwest market is 25 cents lower than it was a year ago. From the middle of November 2001, he said, the Pacific Northwest has lost value against last year. He said the export market is sluggish this year.

Chairman Wanzek recognized Mr. Craig Fisher, farmer-trucker, Richardton, who presented testimony regarding grain transportation rates. Mr. Fisher said he normally hauls all his grain to the southwest corner of the state. He said this year he is hauling 70,000 to 80,000 bushels to Jamestown. He said his credibility with the local elevator will be hurt this year when he goes to buy fertilizer.

In response to a question from Senator Wanzek, Mr. Fisher said the net price per bushel difference that exists when he trucks his grain to Jamestown is 33 cents when contracted. He said that amount gives him a dollar a mile to drive.

In response to a question from Senator Krauter, Mr. Fisher said the road from Bismarck east is terrible. He said the truckers are the ones who are breaking up the roads. He said the truckers are using fuel and wearing out tires. He said he should not have to haul his grain east.

Chairman Wanzek recognized Mr. Vernon Mayer, farmer, Regent, who presented testimony regarding grain shipment rates. He said the majority of his wheat goes to the Southwest Grain Cooperative. He said Mr. S. Bobb presented a lot of overwhelming data regarding the economics of running a railroad. He said the average cost for BNSF to haul freight in the United States last year was approximately $18 a ton per thousand miles. He said BNSF's break-even costs are $15 to $16 per ton per thousand miles. He said that netted BNSF approximately $750 million in profit. He said to haul his wheat from Gladstone to the Pacific Northwest, it costs $26 per ton per thousand miles. He said that is $8 per ton more per thousand miles than the average of everything else that BNSF hauls in the country. He said if BNSF would just haul his wheat the average it costs to haul all other products in this country, the Southwest Grain Cooperative could pay 33 cents per bushel more for his wheat. He said there is a feeling of frustration out there, especially in the southwestern part of North Dakota. He said they feel they are being economically discriminated against by the railroads.

In response to a question from Representative Nelson, Mr. J. Bobb said the freight spread between a shuttle rate and a 52-car rate will vary depending on the barge rate through St. Louis. He said destination markets are very small for spring wheat right now. He said the Pacific Northwest is the primary market. He said he does not understand why all the new facilities are being built if there is no market. He said he is not saying there will not eventually be a market. He said right now they do not have any destination markets that can accommodate a shuttle. He said shuttle service to the Pacific Northwest has been profitable for the Southwest Grain Cooperative. He said the cooperative has loaded 33 shuttle trains since 1999. He said between the 2001 harvest and January 2002, the Southwest Grain Cooperative did not ship any grain to the Pacific Northwest. He said at that time the best market involved smaller trains going to Minneapolis. He said there are economic risks with shuttle trains. He said in order to get the incentives, everything has to click and that does not always happen.

In response to a question from Senator Wanzek, Mr. J. Bobb said it took everyone awhile to figure out why grain was moving the way it was. He said right now there is an unfair shifting of customers. He said everything west of the Southwest Grain Cooperative is a mileage rate and everything east is an inverse rate.

In response to a question from Senator Bowman, Mr. J. Bobb said BNSF holds a farmer's grain hostage until it is ready to ship it. He said BNSF will eventually ship everyone's grain.

In response to a question from Representative Fairfield, Mr. J. Bobb said the Southwest Grain Cooperative was built at Boyle because the two branch lines south had been abandoned, as had one branch line north. He said in 1999 the Southwest Grain Cooperative completed an addition to the facility which expanded it to two million bushels. He said the cooperative also completed an addition to its track to allow loading of the 110-car shuttle trains. He said the cooperative was told that inbound shuttle trains carrying fertilizer would become a reality and the cooperative therefore has a fertilizer plant. He said he has unloaded one such fertilizer train.

In response to a question from Representative Schmidt, Mr. J. Bobb said the elevator consolidation in southwestern North Dakota happened in the late 1980s. He said the Southwest Grain Cooperative also owns eight elevator facilities in the country.

Chairman Wanzek said a representative from the North Dakota Farm Bureau was not able to be present today. However, he said, he was given written testimony compiled by Mr. Eric Aasmundstad, President, North Dakota Farm Bureau. A copy of the testimony is attached as Appendix B.

Chairman Wanzek recognized Mr. Ron Raushenburger, Governor's office, who presented testimony on behalf of Governor Hoeven. He said Governor Hoeven has asked the Governors of neighboring states to join him in working toward a solution for the unfair grain prices. He said BNSF is using its power to offer discounted inverse rates. He said Governor Hoeven is asking BNSF to evaluate its rates and commit to making them equitable. He said BNSF practices are having impacts on the state's roads and the state's smaller elevators.

Chairman Wanzek recognized Mr. Tony Clark, Public Service Commissioner, who presented testimony regarding the role of the Public Service Commission in regulating railroads. A copy of his testimony is attached as Appendix C. Commissioner Clark said BNSF views North Dakota as being resistant to change. He said the problem is that North Dakota has a monopolistic imposition of will upon captive producers and elevators. He said North Dakota is against creating unfair and irrational advantages for a small number of shippers.

Representative Brandenburg said he wonders why there is a $1.08 rate in western North Dakota and lower rates farther east. He said it appears that the western part of the state has no competition; whereas, there is competition in the eastern part of the state and in western Minnesota.

In response to a question from Representative Mueller, Commissioner Clark said a rate complaint case would have to be taken before the Surface Transportation Board in Washington, D.C. Until a few years ago, he said, going before the board was not a realistic option. He said in order to prevail in such a case, one had to prove the rates are unreasonable and the railroad was market dominant. Before the recent rules, he said, the railroads were able to stymie anyone who brought a rate complaint case. He said a rate complaint case brought in Montana was bottled up by the railroads for 17 years, just on the issue of whether the railroad was market dominant. He said they never were able to get to the issue of whether the rates were above what a competitive market would allow. He said in western North Dakota the railroad is clearly market dominant. He said the standard rule of thumb is a 180 percent ratio of revenue to variable cost. He said the Public Service Commission has looked at some shipments and determined that the ratios were in the 200 to 300 percent range.

In response to a question from Senator Wanzek, Commissioner Clark said federal preemption applies to the rail industry. On the federal level, he said, we have seen what has happened to other network providers, such as the telephone industry and the electric industry. He said the competitive changes have not happened in the rail industry and would require federal intervention.

In response to a question from Senator Krauter, Commissioner Clark said the Public Service Commission has intervened in cases before the Surface Transportation Board. He said new rules issued by the board are much more favorable to states like North Dakota and get beyond the initial determination regarding market dominance and move to the issue of the rates themselves. However, he said, the rules are now bottled up in litigation because the railroads apparently challenged the rules. He said during the last legislative session the Public Service Commission asked for an appropriation of $100,000 so it could begin to explore whether filing a rate case was the appropriate thing to do. He said the commission still believes it would be appropriate to pursue such research. However, he said, the commission also understands it will take a lot more money than $100,000 to prevail in a rate complaint case. He said because the new rules are being litigated by the railroads, the new rules are not in effect.

In response to a question from Senator Wanzek, Commissioner Clark said the Public Service Commission would be the entity to pursue a rate complaint case against BNSF.

In response to a question from Representative Schmidt, Commissioner Clark said before implementation of the Staggers Act in 1980, there were difficulties in the rail industry. He said there were a lot of bankruptcies. He said the rail industry was a very insolvent industry. He said the Act gave the railroads more ratemaking freedom and allowed them to streamline their abandonment procedures. He said it may be time to review the provisions of the Act and determine if changes are merited.

In response to a question from Senator Wanzek, Commissioner Clark said the Public Service Commission has the authority to initiate a rail case but without dollars to appropriately staff the effort, it would not be effective. He said rail rate cases are highly specialized. He said there is not the time to get involved in such an effort, given the number of staff employed by the commission and the statutory duties of the commission. He said a rail rate case would require specialized attorneys and specialized expert witnesses. He said such individuals can charge a premium for their services. He said the type of information that would have to be used in litigation would be above that which the commission is able to provide.

Chairman Wanzek recognized Agriculture Commissioner Roger Johnson who presented testimony regarding grain transportation rates. Commissioner Johnson said participants at the national meeting of agriculture commissioners passed a resolution urging all railroads to charge reasonable rates, offer fair and consistent rate spreads and service to all shippers, and treat all shippers equitably. He said the resolution also urged all railroads to offer coloading of trains and to implement reasonable loading policies that hold both shippers and railroads responsible for moving equipment promptly. He said the agriculture commissioners believe the federal government should increase its oversight over railroad issues, including issues pertaining to rates and services in areas where competition is not present. He said this is an issue that is beyond North Dakota. He said some of the states give their agriculture commissioners regulatory authority in this area. He said North Dakota does not do so.

In response to a question from Representative Froelich, Ms. Marcy Dickerson, State Supervisor of Assessments, Tax Department, said only the real property of railroads is subject to taxation in this state. Ms. Dickerson said the personal property of railroads used to be taxed too but the Railroad Revitalization and Regulatory Reform Act precluded discrimination in the way states tax railroads. She said because North Dakota does not tax the personal property of other businesses, it cannot impose a tax on the personal property of railroads.

In response to a question from Representative Froelich, Ms. Dickerson said to determine the taxation of a railroad's real property, the state begins by valuing the entire railroad. She said this is done via the cost, income, and stock and debt approaches to value. She said this is the method used by most states and it is known as unit valuation. She said a portion of that unit value is then allocated or apportioned to North Dakota. She said allocation factors include gross earnings, revenue traffic units, and car and locomotive mileage. She said the North Dakota figure is then taken and divided by the system figure to arrive at a percentage. She said the percentage of the unit value is then allocated to this state. She said the next step is to assign a value per mile of track to each rail line. She said all the value has to be allocated according to miles of track without regard to other factors. She said to arrive at the mile of track value, the Tax Commissioner asks the railroads for statistics on their income and their various activities on their miles of track. She said this enables the Tax Commissioner to determine which are the most valuable lines of track, as opposed to those that are less valuable. She said the Tax Commissioner calculates the relative value of each track. She said the railroads provide the Tax Commissioner with the number of miles in each taxing district.

In response to a question from Representative Brusegaard, Ms. Dickerson said when a railroad spur becomes nonoperating or abandoned, it becomes subject to local assessment. She said at that point it is not subject to the system assessment.

In response to a question from Representative Brandenburg, Ms. Dickerson said the Tax Commissioner does not collect property taxes. She said that is done at the local level.

Representative Brandenburg said elevators pay property taxes, fuel taxes, and other taxes that go to support local communities. He said when the local elevators close, somebody has to make up that shortfall in the local revenue stream.

Chairman Wanzek recognized Mr. Steven D. Strege, Executive Vice President, North Dakota Grain Dealers Association, who presented testimony regarding grain transportation rates. Mr. Strege said the issue of grain shipment rail rates is attracting national attention. He said the association has been accused of being adverse to change. He said in fact the association has a record of opposing changes that are detrimental to North Dakota. He said the inverse rates are in effect secret contract rates that will not be disclosed by BNSF. He said the shuttle packages are sold as 6, 12, or 24 packs. He said it is a large shipper's game. He said there is a discount for the 24 pack of $100 a car. He said the inverse rates go only to large shippers. He said it is not an even playing field. He said recently it became known that 52-car loaders east of Bismarck could also participate in the inverse rate. He said they get less of a rate break and it is only a temporary rate lasting through the end of March 2002. He said this move widens the discriminatory pricing in effect between the 26- and 52-car loads. He said instead of bringing rate levels down across the board, this brings a different fracture level to the program.

Mr. Strege said the shuttle program is claimed to be very efficient. However, he said, shuttle trains are given priority while other trains are left to sit for 7 to 12 days. He said the trains are loaded and ready to go but they are not picked up. He said the inefficiencies in the smaller shipments are created by the railroads. He said if BNSF would put as much effort into coordinating these smaller trains as they do into advancing the shuttle train concept, the efficiencies could be enjoyed by all.

Mr. Strege said BNSF says it had tried coloading and it did not work. He said that was tried in Union Pacific territory. He said all railroads in North Dakota, except BNSF, provide for the coloading of trains. He said BNSF has allowed its Red River Valley and Western Shortline to coload until June 30, 2002. He said the question to be asked is if the other railroads can make coloading work, why cannot BNSF. He said BNSF has made a decision not to coload and to instead push the single-loading shuttle station concept and to let other customers find their own way or simply go out of business.

Mr. Strege said in the eastern part of the state and particularly in the northern part of the state, the shuttle concept amounts to an elevator and branch line abandonment plan. He said if certain elevators are given a preferential rate and if those elevators have a circle of dominance that can extend out for 50 to 60 miles, the reality is that other elevators will close. He said that gives farmers in the area less marketing opportunities and it creates difficulties for rural communities.

Mr. Strege said there will probably always be single-, 26-, and 52-car rates on the books. However, he said, if the volume is pushed into the shuttle facilities, the smaller facilities will not be able to continue to exist. He said the scoots program is another indication that the 52-car loads are destined to be loaded only by the shuttle loaders.

Mr. Strege said Mr. S. Bobb stated that BNSF is not driving the change but rather the market is driving the change. He said the North Dakota Grain Dealers Association is not against efficiency and lower rates. He said the association would simply like to see those lower rates and efficiencies made available to everyone in North Dakota.

Mr. Strege said the eastern part of the state and the western part of the state should not get into a war. He said neither should shippers of different sizes get into a war. He said the common goal is lower rates for everyone. He said the Agriculture Committee could work with the National Conference of State Legislatures to bring attention to this matter. He said the committee could support remedial federal legislation, press BNSF for coloading on its lines, and investigate what it would take to file a rate complaint case. He said those efforts will put pressure on BNSF to be friendlier to all shippers.

In response to a question from Representative Brandenburg, Mr. Strege said a shuttle loading facility needs to have track on each side that can accommodate 110 cars, plus the necessary number of locomotives. He said that is two and one-half miles of track. He said, in the alternative, a facility could have circle tracks. He said the track needs to be able to accommodate 286,000-pound gross weight cars. He said the gross weight on hopper cars used to be 263,000 pounds. He said in the last 10 years, the hopper cars have increased to 286,000 pounds gross weight. He said one of the disadvantages of the increase was that it did create a problem for short line tracks that were not heavy enough to accommodate the heavier cars.

In response to a question from Senator Wanzek, Mr. Strege said there are nine elevators that are shuttle capable. He said some load 110-car trains but not within the 15 hours or they load for shipment to destinations that are not subject to the preferred rates. He said some elevators believe if they do not participate in the shuttle program, another elevator down the road will get the incentives from the railroad. He said it is not accurate to say the railroads are not pushing the shuttle facilities. He said the railroads could do more to work for the current system by encouraging coloading and by matching the 52- and 54-car trains.

In response to a question from Senator Bowman, Mr. Strege said the committee needs to determine whether this discussion is just about the efficiency of railroad transportation or whether it is about the efficiency of the entire food chain, from the elevator to the end consumer. He said the domestic milling market requires mainly 26-car trains or less. He said that market does not take 110-car trains. He said the railroad is creating a system that does not fit the domestic market. He said 52-car trains were serving the export market adequately and people had to spend money on the other end to gear up for 110-car trains. He said because there is the 15-hour unloading requirement, the exporters sometimes have to keep crews on even when they would otherwise not do so, simply so the exporters can be ready for the train and get it unloaded in the time required. He said the exporters also experience logistical problems, especially when they have other trains onsite.

Chairman Wanzek recognized Mr. Neal Fisher, Administrator, North Dakota Wheat Commission, who presented testimony regarding grain shipment rates. Mr. Fisher said most of the shuttle movement is much more applicable or adaptable to commodities other than spring wheat. He said the quality traits in the spring wheat markets do vary. He said there are different milling and baking attributes and performance within the spring wheat production regions. He said Asian customers have certain preferences. He said the commission is concerned about quality disruptions in key markets and the allocation of resources that might in the future dictate where wheat can be produced.

In response to a question from Representative Brusegaard, Mr. Fisher said the rates that do not make sense on a ton-mile basis are what is generating the concern about fairness. If the opportunity exists to lower rates in an area that requires longer shipping to the end market, he said, there must be enough margin to work with and still make a profit.

Chairman Wanzek recognized Mr. Keith Brandt, Manager, Farmers Elevator, Enderlin, who presented testimony regarding grain shipping rates. Mr. Brandt said BNSF seems to be ignoring branch lines that serve entities that have been BNSF customers for many years. He said more grain is being trucked on highways. He said North Dakota will probably lose $27 million in federal highway funds. He said the committee needs to determine who is going to bear the brunt of that. He said because BNSF has done a good job of reducing expenses, it should have the ability to reduce rates.

Chairman Wanzek recognized Mr. Todd Vogel, Manager, Marion Elevator, and a director of the North Dakota Grain Dealers Association, who presented testimony regarding grain shipping rates. Mr. Vogel said in the 1980s the railroad went to the 26-unit cars. He said the elevator incurred the cost and made the required change. He said in 1987 Red River Valley and Western Shortline took over the track from Burlington Northern but Burlington Northern still had a lot of control over the short line. He said in the early 1990s the certificate of transportation program came into existence. He said the North Dakota Grain Dealers Association opposed introduction of the program. He said the association thought it was not a decision that would help North Dakota. He said what Mr. S. Bobb did not explain was that under the certificate of transportation program, BNSF auctions off cars. He said in the auction process, the Marion Elevator had to pay the original $2,000 per car tariff rate and then had to go out and buy cars for $300 to $400 over that rate to get the cars to Marion. He said, as a result, the Marion Elevator started using trucks to move grain. He said in the past seven years there has been flooding in the Marion area. He said track in the area was under water. He said the railroad indicated that because the elevator did not ship cars in the past 5 to 10 years, the railroad would not fix the tracks in the area. He said the railroad blames the elevator for not shipping cars when the reality is that the railroads made it too expensive for the Marion Elevator to ship the cars. He said in 2001 the area tracks became abandoned. He said railcars will never be seen in Marion. He said the farmers in the area are shipping their grain by truck and that has a negative impact on roads. He said farmers are working land that was once owned by the railroads and the railroads therefore have a responsibility to service all the communities in North Dakota, and not to just pull out and say it is the community's fault or the elevator's fault that rail service is not provided or that cars are not loaded to make the rail service work. He said the circumstances are something over which the local residents have no control.

Chairman Wanzek recognized Mr. Dana Brandenburg, who presented testimony regarding his experience with BNSF. Mr. Brandenburg said all he heard today is how the railroad has used people, lied to people, and cheated people. He said in 1997 he had a business that involved picking up railroad ties from BNSF and reselling them to farmers and other entities. He said he had submitted a proposal to the railroad to develop a chipping facility in Mandan so he could chip the scrap ties, take the chips to the Heskett Plant, mix them with coal, and make electricity. He said he was told by the road masters that he would get the contract. He said BNSF had in fact given the contract to another entity. He said there should be an investigation into what BNSF did to him.

Chairman Wanzek recognized Professor Dwight Bauman, Pittsburgh, Pennsylvania, who presented testimony. Professor Bauman said his grandfather was involved in setting up the State Mill and Elevator and the State Bank. He said his grandfather was concerned that people in Minneapolis were trying to run North Dakota. He said that is happening now. He said farm people are driven by yearly cycles and city people are driven by economic cycles. He said in 1970 he convinced Carnegie Mellon University to buy a bankrupt taxi company to study the regulatory process. He said those who do not learn from history live to repeat it. He said the railroad is the model of the reregulation process. He said computer models have determined that 52 cars work and 51 cars do not work. He said the airlines had the same problem.
He said the regulatory process does not fit a nice model. He said Oregon and Washington formed a process to take over branch line railroads and run them. He said the main lines are selling to Amtrak and someone should find out how much they will charge to use the track. He said farmers could then ship their own grain. He said the State Mill and Elevator Act included this possibility.

In response to a question from Representative Froelich, Mr. S. Bobb said in 2000, $390,731,000 of revenue was generated by BNSF in North Dakota. He said total taxes paid in North Dakota by BNSF was $7,246,602.

In response to a question from Senator Bowman, Mr. S. Bobb said BNSF sets transportation rates by capturing as much grain as it can at the various origins and by capturing as many destination opportunities as it can. He said in some origins, BNSF can set the rates higher and in some origins, it has to set the rates lower. He said the rate levels set by BNSF are a function of what the markets will bear. He said the question is how else would others suggest that BNSF set the rates. He said looking only at BNSF transportation rate impacts will give an incomplete equation. He said the elevation margins also need to be reviewed as well as export sales. He said during January, February, and March 2002, the wheat export market has gotten a lot softer and there is really only one entity that has exports. He said the question is from whom is that entity choosing to buy wheat and is that decision driving some of the other behaviors. He said is Jamestown simply needing to fulfill a commitment they made to supply bushels and are they therefore bidding flat to negative margins to avoid some sort of penalty. He said there is grain being trucked from the Dickinson area east and then moved west. He said BNSF will do the mathematics. He said if there are enough bushels moving, BNSF will have to do something to offset that. He said it would be a bad business decision for wheat to go from the Dickinson area east by truck to get on a lower rate moving west.

Mr. S. Bobb said BNSF has to make certain that this is a rate issue rather than a customer choosing to manage its elevator margins in this way. He said Minnesota producers have eastern domestic markets to which they are choosing to ship. He said producer marketing is driven by price expectations, tax purposes, and storage situations rather than by shipping rates.

In response to a question from Representative Fairfield, Mr. S. Bobb said testimony was offered about the trucking of grain from Dickinson to Jamestown. He said if people are trucking their grain instead of paying a premium for guaranteed cars, that shows there is competition. He said none of today's presenters has refuted the economic arguments he has made. He said there are opinions about future impacts and philosophical differences about what is right and wrong but no one has disagreed with BNSF's economic explanations. He said a question that needs to be asked is how many John Deere dealerships and Chevrolet dealerships have recently opened in rural North Dakota. He said those macroeconomic forces have nothing to do with BNSF but they are taking place.

Senator Bowman said the problem is that there is no profit left to the farmers. He said the farmers have been squeezed by everyone.

Mr. S. Bobb said farms are getting larger and the fact is that fewer farmers are therefore buying tractors. He said that is why there are fewer dealerships. He said farm income is derived from crop production and crop prices are very low. He said the railroads have not been able to get rail rate increases in part due to the fact that the destination market cannot pay more and still be competitive.

In response to a question from Representative Fairfield, Mr. S. Bobb said BNSF is charting its way through the macroeconomic forces. He said there is a perception that BNSF is causing consolidation in rural America. He said the reality is that BNSF is responding to the changes that are causing consolidation.

In response to a question from Representative Fairfield, Mr. S. Bobb said reprisals and punitive actions would not be acceptable in BNSF's corporate culture. He said if someone has a difference of opinion with what BNSF is doing, that person should express his or her opinion. He said some people have assumed that if the rates are lowered in western North Dakota, the rates will have to be raised in eastern North Dakota. He said the marketplace does not work like that. He said rates are set where the market allows them to be set. He said rates are not set as a result of reprisals.

In response to a question from Representative Renner, Mr. S. Bobb said BNSF is not a cost plus pricer. He said the rate per thousand miles is going to vary across commodity markets and across geographic origins as a function of each commodity's competitive environment. He said he does not know how BNSF agricultural rates compare to BNSF coal rates. He said BNSF agricultural business is 90 percent tariff-based. He said the agricultural rates are published on the web; whereas, coal rates are highly contractual.

In response to a question from Representative Brandenburg, Mr. S. Bobb said BNSF's shuttle program is both international and domestic. He said the largest growth in the shuttle program has been in Mexico and in domestic destinations. He said the scoots program was designed to fit the unique needs of some processors. He said the scoots program has been run primarily out of shuttle locations because they are capable of handling 58-car trains without any additional capital investment. He said because the nature of the domestic marketplace requires BNSF to partner with eastern railroads in offering the scoots program, it has taken a long time to achieve the appropriate design parameters for the program. He said the program started out at 58 cars and it is now at about 65 to 68 cars because that is what the eastern railroads want to run. He said the scoots program is in the developmental stages. He said today there are no wheat scoots running out of North Dakota. He said it looks like the scoots program's loading origination will not be confined only to shuttle elevators but it will be confined to the 286 network.

In response to a question from Representative Mueller, Mr. S. Bobb said he has been responsible for BNSF's agricultural products area for only four years so he does not know who said what to whom or who implied what prior to that time. He said he does not believe anyone could say that the 26-car or the 52-car arrangement is the only way to go. He said over 50 percent of the grain that left North Dakota in 2001 was shipped in 26-car shipments or less. He said in 1980 unit trains were introduced. He said in some markets, a shuttle is the best shipping method. He said shuttle economics is the way to get North Dakota grain to Mexico. He said the same is probably true of the Pacific Northwest. He said those customers who invested in 52-car facilities made that investment because it had an inherent set of capacity-creating and efficiency-creating service opportunities. He said the investment gave them a rate structure different from the single- and 26-car shippers. He said BNSF does not believe it would be fair to allow 26-car shippers to coload on the 52-car rate. He said given the investment made by facilities that have gone to 110-car facilities, it would not be fair to allow the same 110-car rate for 52- or 26-car shippers. He said not too many years ago no one would have been able to predict the kind of locomotive traction and horsepower characteristics in the marketplace today. He said a big new locomotive weighs 435,000 pounds and will literally squash a non-286 line when it rolls onto it. He said BNSF's coal fleet involves 315,000-pound cars. He said the coal trains are 117 to 135 cars. He said coal moves over a very dense network called the central corridor. He said there is less coal moving through North Dakota because the siting infrastructure is not in place to handle the trains. He said the grain network is never going to have the same density. He said if BNSF goes to a 315,000-pound railcar, six inches will be added to every railcar. He said that means that a train hauling grain in 315,000-pound cars with a locomotive consist would be longer than the typical siting infrastructure. He said BNSF therefore chooses to maintain a 286,000-pound grain car.

In response to a question from Senator Wanzek, Mr. S. Bobb said if one local elevator is already a 110-car facility and a second local elevator made the commitment to upgrade to a 110-car facility, BNSF would not discriminate against the second facility. He said both facilities would be offered the same rate. He said a single area might not, however, be able to support both shuttle facilities.

No further business appearing, Chairman Wanzek adjourned the meeting at 3:45 p.m.

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L. Anita Thomas
Committee Counsel

ATTACH:3