

January 16, 1981

LR 5

Taiwan, and to answer Senator Wesely's question, is it going to make Red China unhappy? Are they going to call me or Senator Remmers naughty names for voting for it? I don't think so but they are going to be aware of the fact, they are going to be aware of the fact that this particular state which they have to rely on for agricultural products, too, isn't going to play the game of, we want to be your friend so we stab our old friend in the back. We will export grain to any of them and food, but not on terms of tit for tat, stab old friends for new friends. I urge you to support the resolution.

PRESIDENT: The question before the House is the adoption of LR 5. All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 35 ayes, 3 nays on adoption of the resolution, Mr. President.

PRESIDENT: The motion carries. The resolution is adopted. Anything to be read in before we go into introduction of bills?

CLERK: Well one thing, Mr. President, your committee on Urban Affairs would like to have an executive session for Monday, January 19, 1981, upon adjournment.

Mr. President, your committee on Ag and Environment whose chairman is Senator Schmit gives notice of public hearing in Room 1520 for Friday, January 30. (See page 199 of the Legislative Journal.)

PRESIDENT: We are ready then for agenda item #5, introduction of new bills. Mr. Clerk, you may proceed with the reading of the new bills to be introduced today.

CLERK: Read title to LR 229-233 as found on pages 198-200 of the Legislative Journal. Mr. President, in conjunction with that bill we have a communication from the Governor advising the Legislature as to the intent of the bill and the supplemental appropriations required by various state programs. That will be inserted in the Legislative Journal. (See pages 203-204.)

Read title to LR 233-246 as found on pages 200-203 of the Legislative Journal.

Mr. President, your committee on Public Works gives notice of hearing for January 30 and February 6 and that is signed by Senator Kremer as chairman.

March 19, 1981

LR 26, 28, 30 - 32, 35 - 39
LB 116, 230, 245, 245A, 248, 351,
367, 381, 424, 463, 484, 511

PRESIDENT LUETDKKE PRESIDING

PRESIDENT: Prayer by Dr. Randall Sailors, First United Methodist Church, Waverly, Nebraska.

DR. RANDALL SAILORS: (Prayer offered.)

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: A quorum being present, are there any corrections to the Journal?

CLERK: There are no corrections to the Journal, Mr. President.

PRESIDENT: The Journal stands correct as published. Any messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 245 and recommend that same be placed on Select File with amendments; 245A Select File; 351 Select File with amendments. Signed Senator Kilgarin as Chair.

Mr. President, your committee on Nebraska Retirement Systems whose Chairman is Senator Fowler reports 424 to General File; 248 to General File with amendments; 463 to General File with amendments; 367 Indefinitely postponed. All signed by Senator Fowler as Chair.

Mr. President, your committee on Appropriations whose Chairman is Senator Warner reports LB 381 to General File with amendments; 116 as indefinitely postponed; 484 as indefinitely postponed. All signed by Senator Warner as Chair.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 230 to General File with amendments; and LB 511 to General File with amendments. Signed Senator Kremer as Chair.

I have an Attorney General's opinion addressed to Senator DeCamp regarding LB 245. That will be inserted in the Journal. (See page 1015.)

I have a series of resolutions ready for your signature, Mr. President, LRs 26, 28, 30, 31, 32, 35, 36, 37, 38, and 39.

February 4, 1982

All Senators that are in their seats, please check in. Will you all check in or shall I call out the names? Senator Sieck, Senator Kremer. All right, they are all here. Do you want a roll call vote? The Clerk will call the roll. They are all here.

CLERK: (Roll call vote taken. See page 545, Legislative Journal.) 27 ayes, 20 nays, Mr. President.

SENATOR CLARK: The motion lost. The next motion is to place #758 on General File notwithstanding the action of the committee. Senator Fowler. The Clerk would like to read in and the Call is raised.

CLERK: Mr. President, your committee on Revenue whose Chairman is Senator Carsten instructs me to report LB 819 advanced to General File with the committee amendments attached. That is signed by Senator Carsten as Chair. (See page 546 of the Journal).

Mr. President, Banking, Commerce and Insurance gives notice of cancellation of hearing. Signed by Senator DeCamp.

Mr. President, Senator Wesely would like to withdraw LB 237. That will be laid over.

Senator Vickers would like to print amendments to LB 230 in the Legislative Journal. (See pages 546 and 547 of the Journal). Senator Kahle to print amendments to LB 703 in the Legislative Journal. (See pages 547 and 548 of the Journal). Senator Schmit to print amendments to LB 421 in the Journal. (See page 549 of the Journal).

Mr. President, new A bill, 590A by Senator Kilgarin. (Read title).

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 255A and recommend that same be placed on Select File; 440 Select File with amendments; 314 Select File with amendments; 131 Select File with amendments; 287 Select File with amendments; 649 Select File; 571 Select File; 598 Select File and 646 Select File. Those are all signed by Senator Kilgarin as Chair. (See pages 549 through 552 of the Legislative Journal).

Mr. President, Senator Fowler moves that LB 758 be placed on General File notwithstanding the actions of the Appropriations Committee.

February 16, 1982

LB 230, 629, 666, 783, 788,
LB 305, 812, 813, 814, 858,
LB 862, 888, 919

SPEAKER MARVEL: The motion is the adoption of the Beutler amendment. All those in favor of adopting the amendment vote aye, opposed vote no. Have you all voted? One more time, have you all voted? Senator Beutler.

SENATOR BEUTLER: How many are excused, Mr. Speaker?

SPEAKER MARVEL: One excused. Record the vote.

CLERK: 19 ayes, 24 nays, Mr. President, on adoption of Senator Beutler's amendment.

SPEAKER MARVEL: Motion lost. The motion now is the advancement of the bill. Machine vote has been requested. All those in favor of advancement of the bill vote aye, opposed vote no. Have you all voted. Senator Beutler. Record the vote.

CLERK: 14 ayes, 29 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The bill failed to advance. Senator Rumery has two constituents in I assume the North balcony, Corinne Jochum and Richard Lange. Would you please stand so we may recognize you? The Clerk has some items to read in.

CLERK: Mr. President, a series of items. First of all, a notice from the Speaker regarding the moving of LB 230 from Passed Over to General File.

The committee on Miscellaneous Subjects whose Chairman is Senator Hefner reports LB 629 advanced to General File; 888 advanced to General File with committee amendments, both signed by Senator Hefner.

Your committee on Banking whose Chairman is Senator DeCamp reports LB 666 advanced to General File with committee amendments attached. Signed by Senator DeCamp.

Your committee on Judiciary whose Chairman is Senator Nichol reports LB 783 advanced to General File; 814 General File; 919 General File; 788 indefinitely postponed; 812 indefinitely postpone; 858 indefinitely postponed; and 862 indefinitely postponed; all signed by Senator Nichol.

Your committee on Banking whose Chairman is Senator DeCamp reports LB 813 advanced to General File with amendments.

I have notice of hearings from Appropriations, Mr. President.

February 18, 1982

LB 230, 575, 622,
743, 930

Your Committee on Appropriations gives notice of hearing in Room 1003 for the week of March 1. Priority bill designation from the Speaker and Senator Howard Peterson.

Your Committee on Public Works reports LB 575 indefinitely postponed. That is signed by Senator Kremer.

Your Committee on Revenue whose Chairman is Senator Carsten reports LB 743 advanced to General File; 622 indefinitely postponed; 930 indefinitely postponed. All signed by Senator Carsten.

Mr. President, Senator Sieck would like to add his name as co-introducer to LB 230.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: That is all that I have, Mr. President.

SPEAKER MARVEL: Senator Goodrich, would you like to adjourn us until 8:30 a.m. tomorrow?

SENATOR GOODRICH: Mr. President and members of the body, I move to adjourn until 8:30 a.m. tomorrow morning.

SPEAKER MARVEL: Okay, you have heard the motion. Before we take the voice vote, you are encouraged to stick around for a program. It starts about 11:30. And Senator Goodrich's motion is to adjourn until Friday, February 19th, 1982 at 8:30 a.m. All those in favor of that motion say aye. Opposed no. The motion is carried. We are adjourned.

Edited by:


Mary A. Turner

February 23, 1982

LB 230

CLERK: Mr. President, LB 230 offered by Senators Fowler and Sieck. (Title read.) The bill was read on January 16 of last year. It was referred to Public Works Committee for public hearing. The bill was advanced to General File. Mr. President, there are committee amendments pending by the Public Works Committee.

SPEAKER MARVEL: Senator Kremer. Senator Kremer, do you want to present the committee amendments?

SENATOR KREMER: Mr. Chairman, members, I am quoting the statement that I put in your book, committee amendments to LB 230, and they are as follows. The committee amendments strike the requirements for items that are commonly subject to labor railroad negotiations and insert a requirement for radio contact between the so-called cabooses and the engines. That is all. Other things that were in there were agreed upon to be stricken by the people that supported the bill and, therefore, we offered them as committee amendments. I move the committee amendments be adopted.

SPEAKER MARVEL: Senator Fowler, do you wish to talk to the committee amendments?

SENATOR FOWLER: Mr. President, I am having handed out a copy of the bill with the amendments written in so you can see what they do. I think the Public Works Committee did do a good job of tightening the bill up and getting down to the heart of the matter so I certainly support the committee amendments.

SPEAKER MARVEL: Senator Cope, do you wish to discuss the committee amendments? Senator Kremer, do you wish to close?

SENATOR KREMER: No closing. I move the committee amendments be adopted.

SPEAKER MARVEL: The motion is the adoption of the committee amendments as explained by Senator Kremer. All those in favor vote aye, opposed vote no. Have you all voted?

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of the committee amendments.

SPEAKER MARVEL: The committee amendments are adopted. Senator Fowler, do you wish to explain your bill now?

SENATOR FOWLER: Mr. President, I am sure this is one of those bills that has been so heavily lobbied on that

there is probably not a need for a lot of additional explanation. I think both sides probably have sat down and gone over the details of the bill but essentially as amended by the Public Works Committee what we are looking at is a safety proposal for the State of Nebraska with regards to operation of railroads. And I think Senator Slick as cosponsor wants to talk about some of those safety aspects. But essentially the bill would require that one of the crew members, in all probability the train conductor, be in the caboose when the train is moving between stations. This will permit that person to observe long trains from the caboose, ensure safe movement should the train have a reverse movement, inspect the train for mechanical defects, any sort of loose loading or vehicles that run into the side of trains, and these incidents do occur daily somewhere in the State of Nebraska. Now you consider some of the materials that trains are now being asked to carry, toxic materials, explosive materials, radioactive materials, you can see that there needs to be all sorts of precautions with regards to the operation of our railroads. The bill as amended also indicates that the caboose should be equipped with an operable short-wave radio with the same frequency as the lead engine so that there can be communication back and forth. The amendment from the Public Works Committee is very essential I think to making this amendment operate. Also that the train contain a fire extinguisher and a first aid kit. Now again the bill as amended is simply safety in the State of Nebraska, something that I think that with the operation of trains as long as they are, given the number of dangerous crossings situations that exist in the State of Nebraska, something that I think we should adopt as public policy.

SPEAKER MARVEL: The Chair recognizes Senator Clark.

CLERK: Mr. President, Senator Clark would move to indefinitely postpone LB 230.

SENATOR CLARK: Mr. President and members of the body, I have got a letter here. It says, "We are writing to urge your opposition to Senator Fowler's 230 dealing with the railroad cabooses. On the surface the bill appears to be only a concern of the railroads and railroad unions when in reality it is an attempt of the unions to inject state government into private collective bargaining between railroads and the unions. If LB 230 were passed, it would encourage similar government intervention into matters concerning private negotiations between business and their employees." Every communication I have had is against it. Now what you are doing here in this particular bill is injecting state government into collective bargaining. I

have absolutely complete respect for collective bargaining. I do not want to get in the middle of that. Now you talk about the radios, the union already filed, three weeks after our hearing they filed for a hearing on radios. Can you imagine that? I also passed out on your desk a collective bargaining agreement between the unions and the railroads. It has already been filed and that was filed on the 29th of June. Certainly we do not want to get involved in collective bargaining. There is cabooses on all trains now. There will be. There is no intention of taking cabooses off. There is two types of cabooses, those local cabooses and those that are on the normal trains. They have to be there. The safety is there. Everything is in there now on collective bargaining and anything that isn't there they can go to the collective bargaining table for now. I would certainly urge you to kill this particular bill. It has no reason to be in the Legislature at all. I will save the rest of it for closing. Thank you.

SPEAKER MARVEL: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, I am sure that you all know what sandbagging is and I am sure you know what being led down the primrose path is, and with this bill you are being cabooseed. Now the other two we understand and know what they are but I have never been cabooseed before and I don't think I want to be cabooseed this time. So I am going to oppose LB 230 and I would like to call to the attention of this body that what happened when they put diesels on the railroad. After they put diesels on the railroad for many, many years we still had to have firemen. Well there was no coal to shovel and there was no coal and there was no fire but we still had to have firemen. This raises the cost of anything you transport by train. Now you look on the market and they will quote to you that wheat or corn is worth \$2.80 a bushel. Now that is not true because I have to pay 50¢ a bushel on my wheat or corn to get it transported so if it is \$2.80 they say corn or wheat is worth, I am only getting \$2.30 because I have to pay that 50¢. Now if we go doing things like this, being cabooseed and cabooseed good, the price of my cost to get my grain to market is going to go up. The price of your automobiles are going to go up. They are transported on the trains. And I can see no need for this bill because cabooses aren't going to be taken off. They say they are going to take them off. They can do like they did and say they are going to have a strike. That is what the railroad did a little while ago here. It said that the Union Pacific Railroad will meet with the United Transportation Union on April 8th on a dispute that raised the

threat of a strike. So if they go to take cabooses off, all the people have to do in the union is say, okay, we are going to strike you. Well, now the railroads aren't going to take the cabooses off and have a strike because that costs them too much money. So I am going to ask you to remember that we had firemen for a long, long time on the diesels. Finally we got rid of them, and what they are trying to do here is just put it in concrete that regardless of how transportation mechanisms, communications, how anything ever changes that we are going to be caboosed and have cabooses. So I would ask that you support the kill motion on 230 and not get caboosed. Thank you very much.

SPEAKER MARVEL: Okay, the Chair recognizes Senator Sieck and then Senator Cope.

SENATOR SIECK: Mr. President, members of the body, I was going to talk for the bill and now I am going to talk against the kill motion. I do feel that this is a good bill. Senator Haberman said that we didn't need this bill. There would be cabooses. All this bill is doing is ensuring that there will be a caboose, and that they will not take it away, and it is a safety factor, a definite safety factor. I handed out some literature here this morning that showed a train-truck accident and it came close to home to me that that caboose was necessary. This truck hit the train six cars below the caboose. How is the trainmaster to know that a truck hit the train? The caboose could radio to the trainmaster that there was an accident and could notify authorities so that the proper authorities would be at the scene of the accident. To me that is very important and we do not want to do anything to belittle this factor. This individual was saved but as you notice the accident you wonder how he was saved...but it is because people were there to help him. So I can see a real need for that caboose. There is no doubt in my mind that those things are necessary. We talk about a fireman when the diesel came into operation. Now I don't think this compares with that at all but if that is what the trainmasters are after or the railroads is to eliminate the cabooses as they did the firemen, then it is for certain that we need this bill so that we are assured that we do not eliminate the caboose. So I am going to vote against the kill motion, definitely vote against it. Thank you.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, I support the kill motion. I didn't speak on the amendments. I wanted to see whether they were accepted. On the committee amendments,

specifically Section 4, most of this section was eliminated. What was left was only electric lighting that is proper, electric lighting of desks, toilet facilities and some items such like as that plus fire extinguishers. Now there is a long list that was eliminated by the amendment. I understand that the Missouri Pacific and Union Transportation Union through collective, and I repeat, collective bargaining now provide the items in the original bill and that is the ones that were amended out and quite a few in addition. I think that is good proof that we don't need legislation. I will tell you what I think it is. I don't think the unions care a hoot about the language in the section, in this particular section. I think the only thing the unions are interested in is found in Section 3, the last sentence, and quote, "Wherever a railroad operates a freight train in this state, the rear car of the freight train shall be an occupied", I repeat, "an occupied caboose". Now that is what the union wants in the statute I think and not a lot of these little miscellaneous items that is sort of a smoke screen. I think we have enough to do in this Legislature without assisting the railroads and the unions to legislate proper lighting and toilets and desks and fire extinguishers, drinking fountains and a variety of other things, and the fact that occupied cabooses must be at the end of each train. That is a job to be done in collective bargaining by management and labor. Let's do our job as lawmakers and let management and labor run the railroad. Join me in voting to kill this bill.

SPEAKER MARVEL: Before we proceed, it is my privilege to introduce under the South balcony guests of Senator Haberman, Lisa Keep, Ogallala, Kerri Bareut and Neal Graham, Valentine. Visiting the Legislature are eight members of the China Breeding and Investigation and Trade Group from Peking, China, here at the invitation of Governor Thone. Will you please rise so we may say "Good Morning" to you. Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I agree completely with what Senator Clark says and what Senator Cope says about the Legislature not getting involved in collective bargaining. That should be between the labor unions and it should be between their business employers. However, is this truly a collective bargaining issue, and if you conclude it is, I can see voting against the bill and voting for the kill. I, however, happen to believe after doing some observations the last six, eight months in this particular matter that the last thing it is is a collective bargaining issue. What it is is a Nebraska people issue and a protection issue, very clearly and simply. We have more trains going through Nebraska than ever before. Now we are the corridor for train traffic,

hauling of coal, so on. Fires are being started. People are running into trains, and if you conclude that the safety of Nebraskans is involved, then I think you have an obligation to do a safety measure here the same as you would put crossarms to protect crosswalks, the same as you would put stop signs at various places on highways. I think maybe the big error of both the labor unions and the railroads is to try to characterize something that affects all Nebraskans, our safety, our farms, our ranches, our lives as something they can sit and play around with negotiations and collective bargaining. They have got no business bargaining away the safety of Nebraskans. They have got no business saying we don't need overpasses because they are expensive. They have got no business saying we don't need crossarms here because it will raise the price of hauling something and therefore not be enough money for the unions or not be enough money for the railroads to make a profit. Very simply it is a safety issue in my humble opinion, and for that reason, and for that reason only because it is a Nebraska people issue, not a labor union or a railroad issue, I am voting to advance the bill at this time assuming it is not killed. I would suggest that you check with your people and find out, are they concerned about multitudes of trains going through with only somebody up front and nothing in the rear to check on all the various things that can happen. I know this, just driving, for example as a lot of people in this room have done, just driving a motor home, just driving a motor home down the road, I have noticed it is a lot safer to have somebody riding in the back of that motor home to give you information on what may or may not be happening to the side and to the back and so on and so forth. Well, with something a thousand times as long as a motor home, it seems to make a little sense to have some other safety measure back there than just an engineer up front. And the argument that there are cabooses already there, then what is the problem with ensuring it in law from a safety standpoint? If they are already there, then certainly there should be no objection from a safety standpoint of ensuring that it remains there. So I would urge against the kill motion, and I repeat one final time, I am a bit angered at either the labor unions or the railroads sitting there talking as if this is their issue to negotiate and trade away the safety of Nebraskans. I think they are out of line and I think this is a matter for Nebraskans and not labor unions or railroads to trade away one way or the other.

SPEAKER MARVEL: Before we proceed, it is my privilege to introduce former Mayor Al Veys and Mrs. Veys and I think you are underneath the balcony, right over there. Will you stand so we may recognize you. Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to oppose the kill motion, even though I understand the concerns voiced by Senator Clark and Senator Cope and Senator Haberman and others that we don't interject ourselves in the collective bargaining process. But I thoroughly agree with Senator DeCamp that this is not necessarily an issue of us interjecting ourselves in that collective bargaining process. It seems to me that we need to also recognize our responsibility to make sure that certain safety factors take place for the citizens of this state. Senator Cope mentioned that he thought the real purpose of the bill was the line that indicates that there is going to be an occupied caboose. Now if I would happen to smack into the side of a freight train going down that highway a short distance from our place, I would hope there would be somebody back there in the backend of that caboose so they would know that I had hit them, not that it would help me probably a whole lot if I hit the train but possibly there might be somebody survive. It seems to me also that I would rather somebody would be back there when you consider those trains are going through an awful lot of the rangelands of this state, I want to make certain there is somebody back there recognizing that if they are going along scattering fire for a good many miles, and I am sure people will say, well, that is something that the railroads are going to be concerned about anyway but I suggest to you that we, the legislative body of this state, should also be concerned and be responsible to make certain that certain things happen. Senator Haberman indicated that if they decided to do away with the cabooses that probably the employees would strike and that would solve their problem, the railroads then wouldn't do away with cabooses. I suggest to you that probably the railroad unions might make threats to strike but I am not certain that they would get a lot of support to strike over that one issue. But if that was the way that we think results should be achieved, it seems to me that there would be a detrimental impact to a lot more than just the railroads if strikes were the method used to achieve certain results. There is grain farmers out there with grain to be transported perhaps during harvesttime, with a strike in progress by various unions against the railroad, I would suggest that it wouldn't be the railroads suffering as much as it would be the farmers of this state. So I think that would be a very poor method to use to address a situation that we should have the integrity to recognize our responsibility and address it. I will admit that there were some things in the original bill, as Senator Cope pointed out that shouldn't have been there perhaps but how many of us have drafted bills and drafted them broader than we expected

to get simply for trading stock to get rid of part of it. I would suggest further that there are still a couple of things in the bill that I have some problems with and I have got a couple of amendments up there. So if you choose to not kill this bill and let it move across, let us get on with the process. I think the amendments that I am going to offer will bring it down and narrow it down even further to a safety issue as opposed to those issues brought up by Senator Clark and others of the collective bargaining nature. So I would certainly oppose Senator Clark's kill motion and urge the body to deal with this issue with responsibility as it relates to safety in this state. Thank you, Mr. President.

SPEAKER MARVEL: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. We are still on the kill motion?

SPEAKER MARVEL: Yes.

SENATOR LABEDZ: Of course I do not support the kill motion. I think LB 230 should be considered as an insurance policy for the citizens in Nebraska, and the way I understand it, we only have four men now working on a train carrying two hundred cars or pulling two hundred cars and I can't see where adding or keeping one man in the caboose is going to be a financial burden to the railroads and I think that this bill will just ensure that the public and that the railroads cannot indiscriminately run main line trains and branch line trains with more than twenty rail cars without an occupied caboose. And Senator Clark says that we should not legislate things that can be taken care of through negotiations but I have seen many a time where we have introduced and passed bills for the safety of the people of Nebraska and this I consider is a safety measure and, therefore, we do have the right and should introduce legislation that will require any business to keep or come in with safety measures for the people in Nebraska. Therefore, I do oppose the kill motion and urge the members of this body to advance LB 230 from General File. Thank you.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Echo the sentiments of Senator Labedz and Vickers and DeCamp and that we are talking about safety. In a variety of commercial transportation, there are, whether you are talking about air or freight, there are safety requirements that are set up and there are things that I think are for the protection of the public and this is what we are

talking about here. Nebraska's communities grew up around the railroads. Most communities have railroads going right through them. The length of trains these days and, again, the materials that they are carrying dictate that for the protection of our communities that there be certain minimum safety standards and I think Senator DeCamp is right in saying that that is not something that should be haggled over at the bargaining table behind closed doors of labor and management. That is something that is a public issue. It is a concern to all of us and it is a concern to our communities. For that reason I oppose the kill motion.

SPEAKER MARVEL: Senator Higgins, and then after that I am going to recognize Senator Fowler to close. Senator Higgins. Go ahead, Senator Higgins.

SENATOR HIGGINS: Mr. President, I don't think we Senators are any different from the voters. We have short memories. I just want to revive your memory a little bit. When the railroads first started to build across our prairies they took a lot of farmland. And now you have all seen in the past few years that those trains that were originally built for the good of the people in order to transport you from the little towns into the big cities like Chicago and Los Angeles and everything, how many trains stop in your little towns today? And what year was it, Senators, especially you rural Senators, what was the year when your grain rotted in the bins because the railroads said they didn't have enough trains to haul your grain to market for you? What have the railroads really done for you? They have deserted a lot of their tracks but they are not giving up their mineral and oil rights, are they? They are just leaving you with those tracks to go over every day. This Senator has a reputation in Omaha of never, ever having been supported as a Democratic County Chairman or when I ran for Legislature by any union ever. So I am not up here fighting for the unions. I am just up here to remind you what the trains have done to you, and if you want to do something for them, this is the time to show them how much you appreciate your empty depots and maybe next year they will leave your grain rotting in the bins and tell you they don't have enough trains to haul it like they did a number of years ago. That is all I want to do is just revive your memories a bit. Thank you, Senators.

SPEAKER MARVEL: Senator Clark.

SENATOR CLARK: Mr. President, members...

SPEAKER MARVEL: Excuse me...Senator Clark is closing.

SENATOR CLARK: I think the conversation is very interesting. Senator Sieck says cabooses are necessary. I couldn't agree more. I think they are, as evidenced by the fact they are there. They are not about to take them off. The railroads testified there is no intention of taking them off. They testified before our committee as such. As far as safety is concerned, collective bargaining has nothing to do with the safety on it at all. The railroad, the Federal Railroad Administration administers safety which is much stricter than anything you could do. You are going to have to have lights back there. You are going to have to have a man back there. You talk about fires being started, you talk about people hitting the train, there is already a computer in the engine that if anything hits the train it is already automatically computed right there. If they are dragging anything, it is there. If there is any fire started which is usually by the fellow throwing out a fusee from the back of the train, which happened over in Roca, and there the fusee will burn for ten minutes after it was thrown out. Of course they started a fire but the people in the caboose would like to blame that on the railroad. I am not a big railroad fan. I just do not think that we have the intelligence on railroad collective bargaining in this body. You don't know a darn thing about it, and if you do, you are a lot smarter than I am because I don't know anything about it and I have been around a long time with cabooses and everything else out there. I don't know anything about what they should have in cabooses. The process has already started in collective bargaining. Everything that is in this bill is in that collective bargaining agreement now that is in process. We do not need it in legislation. I certainly would ask you to kill this bill. Thank you.

SPEAKER MARVEL: The motion is the indefinite postponement of LB 230. Those in favor of the indefinite postponement vote aye, opposed vote no. Have you all voted? Have you all voted? Senator Clark.

SENATOR CLARK: I would like a Call of the House and a roll call vote. Let's get everyone and find out who the labor people are.

SPEAKER MARVEL: Shall the House go under Call? The next issue is, shall the House go under Call. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Okay, record.

CLERK: 27 ayes, 3 nays to go under Call, Mr. President.

SPEAKER MARVEL: All legislators shall be in their seats,

record your presence. Unauthorized personnel please leave the floor. Senator Schmit, will you please record your presence. Senator Wiitala, will you please record your presence. Senator Pirsch, Senator Nichol, Senator Chambers. Senator Chambers, Senator Nichol, Senator Pirsch. We are still short Senator Chambers and Senator Pirsch. Okay, call the roll.

CLERK: (Roll call vote taken. See page 818, Legislative Journal.) 21 ayes, 23 nays, Mr. President.

SPEAKER MARVEL: Motion fails.

CLERK: Mr. President, the next amendment I have to the bill is from Senator Vickers. Senator Vickers amendment is found on page 546 of the Legislative Journal.

SPEAKER MARVEL: Excuse me, Senator Vickers.

SENATOR VICKERS: Yes, Mr. President and members, the amendment that I am offering to LB 230, as I indicated to you earlier, in my opinion narrows it down to even more of a safety issue than the bill at the present time is. The amendment would strike Section 2 in the present bill. The Section 2 simply indicates that this act shall apply to all cabooses except those used in terminal service or operating within a two-mile limit of a terminal. The amendment that I am suggesting would read that this act applies to all cabooses on trains again except those used in terminal service, those operating in the two-mile limit of the terminal, or those trains operating with less than twenty rail cars on a branch line. Now I happen to live on a branch line railroad and I see a lot of those trains going by at various times of the year when there is an engine, maybe one boxcar, one hopper car and a caboose. Now if it is simply a matter of safety when it is a very short train of that nature, obviously the engineer can still see the end of the train. It is more or less like driving a semi, if you will, down the highway, and again, it is a branch line. There is not a chance of another train coming along from behind. They don't really necessarily need the red light on the back. So in order to narrow it down to more of a specifically safety issue as far as the fires are concerned, as far as somebody hitting the side of the train, I would suggest that we eliminate the requirement for twenty cars or less on a branch line so that if the railroad chooses to they could not have a caboose on such small, short trains as that. That is the amendment. It is very simple and I would urge the body's adoption of it.

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SENATOR NICHOL PRESIDING

SENATOR NICHOL: The question is shall the Vickers amendment be adopted? All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Have you all voted? Record, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the Vickers amendment.

SENATOR NICHOL: The Vickers amendment is adopted.

CLERK: Mr. President, Senator Beutler would now move to amend the bill. (Read Beutler amendment as found on page 818, Legislative Journal.)

SENATOR NICHOL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, as you are aware, the bill requires that the rear car of the freight train shall be an occupied caboose. That is the general rule of the bill. And then it also provides for exemptions. It says that the Commission, and in this case we are talking about the Public Service Commission, can grant exemptions from the requirements for certain railroad freight train operations upon the application by the railroad and upon a finding that the operations proposed for an exemption would not adversely affect the safety of the public or the employees of the railroad. So you have the basic rule that you have to have occupied cabooses, and then you give the commission the power to exempt operations if they would not adversely affect the public or employee safety. Okay, I want to change the standard. The standard is if it would adversely affect public safety. Well, I think anytime you eliminate a caboose you can probably argue that there is some kind of adverse effect and, therefore, the exemption provision would not allow for the exemption of very many operations in my opinion. But I think the bill would be much more palatable to everyone if we would expand the standard for granting exemptions and to that end I have changed the language of that exemption provision to read as follows: They can be exempted from having a caboose if the exemption would not have a substantial adverse effect on the safety of the public or the employees. That is we are changing from just an adverse effect to a substantial adverse effect. All of the arguments about the caboose bill come down to the public safety and employee safety aspects and, quite frankly, reflecting to you the testimony before the Public Works Committee, it was difficult to

ascertain how much safety was involved and it seemed to depend to a certain extent on the type of operation involved and on the type of train involved and on a number of factors, so many factors in effect that it seemed inappropriate or impossible to make some kind of general statutory rule on the question. For that reason I think it makes sense to give the Public Service Commission some power to let them look at the exemptions on a case by case basis and to let them make a determination as to whether a caboose is necessary to protect employee or public safety. But the standard they are given I am telling you is too strict. It is almost bound to have some kind of even, if not a substantial, at least a minute adverse effect on safety but I think the question really is, does it have a substantial adverse effect and I would ask you then to amend the bill to adopt the substantial adverse effect standard. Thank you.

SENATOR NICHOL: The question is shall the Beutler amendment be adopted. All those in favor vote aye, opposed nay. Have you all voted? We are voting on the Beutler amendment.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays on adoption of Senator Beutler's amendment, Mr. President.

SENATOR NICHOL: The Beutler amendment is adopted. Mr. Clerk, do you have anything else?

CLERK: Mr. President, Senator Vickers would now move to amend the bill. (Read Vickers amendment as found on page 819, Legislative Journal.)

SENATOR NICHOL: Senator Vickers, may I interrupt you just before you begin so that I can introduce a few guests who will probably be leaving. We have 54 eighth grade students from Beveridge Junior High School in Omaha, Instructor, Janic Greenberg, and they are visitors of Senator Stoney and they are in the North balcony. Would you please welcome them. Senators Nichol, Clark, Cullan and several others have some visitors from Chadron State College under the North balcony and under the South balcony. They have been visiting us yesterday and today and would you welcome them please. And I am supposed to advise you that Sally Olson, a Page, is twenty years old today. Sally, are you here? Will you stand up. Congratulations, Sally. Thank you, Senator Vickers.

SENATOR VICKERS: Mr. President, members, the amendment that I am offering now narrows it down even more I believe as far as the objections raised earlier by those that said this Legislature shouldn't be involved in those issues that should be handled through the labor-management negotiation. The language that I am striking with my amendment on page 4, line 25, and I will just read the language, it says, "Conductors will not be censured or disciplined for refusing to depart a terminal with a caboose that does not meet the specifications described in this act. Conductors and brakemen shall not be required to service or supply cabooses." I suggest to you that those instances dealing in that area are part of the negotiation process and that we probably should not be involved with that legislatively so I would urge the body's adoption to strike those two sentences narrowing this down even more to a simple safety issue, in my opinion. Thank you, Mr. President.

SENATOR NICHOL: The question is, shall the second Vickers amendment be adopted? All those in favor vote aye, opposed nay.

ASSISTANT CLERK: Senator Nichol voting aye.

SENATOR NICHOL: Have you all voted? Record, Mr Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays on the Vickers amendment.

SENATOR NICHOL: The second Vickers amendment is adopted.

ASSISTANT CLERK: Mr. President, the next amendment is offered by Senator Goodrich. (Read Goodrich amendment as found on page 819, Legislative Journal.)

SENATOR NICHOL: Senator Goodrich.

SENATOR GOODRICH: Mr. President, members of the body, I submit for your consideration an amendment to this bill that does this. It says on line 2, excuse me, page 2, line 20, it says, "...the freight train shall be an occupied caboose". Where else are they going to ride, the crew going to ride, except in a caboose?, but if it is not a labor negotiation type of contract or forcing this point into the contract, then they don't really need to say "occupied caboose". All they would have to say is that it shall be, the last car on the train shall be a caboose. Now, for example, if you have got a one man in that caboose, for example, and he has to go somewhere else on the train, you don't have an occupied caboose. If, however, the intention is to force people onto the crew, then you have to have an

occupied caboose so you would have to have two men so that one of them could occupy the caboose while the rest of them does the work of the train. And I suggest, for example, that all we have to do is say "a caboose" and when the crew member, for example, does not have to stay in the caboose all the time, he can do his work, the rest of the work on the train that he is supposed to do. I would ask the adoption of the amendment.

SENATOR NICHOL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I would oppose the Goodrich amendment. It seems to me that is the guts of the issue if we are talking about safety. If we are going to have a caboose back there and not have anybody in it perhaps, then who is going to tell whether it's got a lot of sparks along the right of way as they go, who is going to tell if somebody smacks into the side of a mile long train. It seems to me that is the entire issue that we are talking about if we are talking about safety. Simply having, whether it is a caboose or boxcar back in the back end is not going to make a whole lot of difference. If there is a way to make sure that there is somebody going to be riding in the back of a boxcar, why then we can have a boxcar back there as far as I am concerned. The issue to me is very clear. The issue is that there is a person in the front end of a train and a person on the back end of a train to look out for people that might have hit the train or the train might have hit or to look out for various other things such as scattering of sparks that might cause fires. So I certainly would oppose the Goodrich amendment.

SENATOR NICHOL: Senator Fowler.

SENATOR FOWLER: Mr. President, I accepted many of the other amendments but I could not really accept this one. It makes no sense to require that there shall be a caboose, that there shall be a fire extinguisher, that there shall be a two-way radio, that there shall be a first aid kit, and yet indicate that there be no one in there, no one to use the radio, no one to use the fire extinguisher, no one to use the first aid kit. Obviously for the safety provisions to work, there has to be an individual involved, someone for visual sighting, someone to use the material, someone to use the radio to call up front, and so I would certainly oppose this amendment. It really destroys the intent of the bill and Senator Goodrich I think tried to kill the bill once, and I don't think doing it through amendment should succeed either so I would certainly oppose this.

SENATOR NICHOL: Senator Clark.

SENATOR CLARK: I would like to ask Senator Goodrich a question, Mr. President.

SENATOR NICHOL: Senator Goodrich, will you respond please?

SENATOR GOODRICH: Yes.

SENATOR CLARK: Are you talking about the fact that when that train is stopped and the brakeman is out doing his work then it did not have to be occupied in the caboose?

SENATOR GOODRICH: Well, if you put this bill into effect, you are saying that the caboose shall be on the train and it shall be occupied. There is no exceptions to that. You are now saying that every minute of the time that train is in operation, stopped or otherwise, there shall be somebody in the caboose. Now that is what you are saying if you adopt this bill. I am suggesting if the brakeman or somebody else has to do his work on the train, then you have to hire another person and put him in the caboose. That is the meat of the bill. They are right but that is exactly the intent of it is to force them to hire another crew member so somebody can sit and occupy the caboose.

SENATOR CLARK: At the present time the caboose is occupied while the train is moving anyway, is that not true?

SENATOR GOODRICH: Depends on what the crew (interruption).

SENATOR CLARK: By the brakeman and the conductor?

SENATOR GOODRICH: ...the other, for example, the brakeman and that sort of thing, they can go through the train and do their other chores, but if you have to have one of them sitting in the caboose doing nothing, then it seems to me like you are adding one more man to the crew.

SENATOR CLARK: That's right. Thank you very much. I really thing what he is talking about is the fact that it should be occupied when it is moving and it is occupied at the present time when it is moving. When the train is stopped, the brakeman has to get out, the conductor gets out, and of course it isn't occupied and I suppose you would have to hire someone else to sit in there and occupy the caboose for no reason at all. So I would certainly agree with the amendment.

SENATOR NICHOL: If I may interrupt for a minute, we have some

special guests here. These are under the North balcony, our Fire Marshal Wally Barnett has some guests; the State Director, Bill Weckwerth, Chief Deputy, Ted Barry, of Wyoming; and William Kegin of Kansas, and Mr. Barnett is hosting a Mid-regional Fire Marshal Conference here so would you welcome all of these gentlemen please. Welcome, especially those from Wyoming. Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I also am going to oppose this amendment and I can't see how someone could be in the train when it is moving, and it almost has to be somebody in there if you are going to have somebody occupied, and if it is stopping there really is no need and I don't see why we should put in here that the caboose should not be occupied at all times. The caboose would have to be occupied when it is moving down the track if they are going to accomplish anything, if you are going to have any safety factors at all. Now I just can't understand where he is coming from. If he wants to say that they shouldn't be occupied when they are standing still, let's say it that way, but if you are going to say that they are not occupied, that means that they could go down the track without being occupied and so I just could not support it because that would take all the safety angles clear off of the bill. So I will just not support it.

SENATOR NICHOL: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this would destroy the bill. The safety factor involved if the train stops in an emergency by having a manned caboose is the issue, and what is going to happen if another train is following a few minutes behind, the train has to make an emergency stop and you have an unmanned caboose. Is the engineer going to go back a mile and a quarter on foot to flag down the next train? I think this is a real serious situation when you have got trains following each other that you leave that caboose unmanned on trains that are over a mile long. Do we have to have some trainwrecks in this state to see that we...caused specifically by this to see that we ought to put in some protection on the safety of running one train after another down the railroad. I think we ought to look at this seriously. The intent of the language is clear. It is not the ridiculous situation. They are not going to demand that the person in that caboose can't step out when it is stopped. That is ridiculous to assume it is that way. I urge you to oppose the amendment.

SENATOR NICHOL: Senator Fowler.

SENATOR FOWLER: Mr. President, I guess I need to clarify a couple of things. Senator Clark and Goodrich I don't think have looked at all of the sections of the bill with regards to what we are talking about here. On the page that Senator Goodrich is amending, Section 2, it indicates, first of all there is a limitation as to when this phrase "occupied caboose" would apply. It says it shall apply to all cabooses except those used in terminal service, or operating within a two-mile limit of the terminal. So there is a limitation there. So we are really talking about the train as it is moving in and away from the terminal. Further the section that Senator Beutler amended dealt with exemptions that could be offered, and if there is some sort of circumstance where the train is moving and the person wishes to leave the caboose, I am not sure that is a recommended procedure, depends upon the speed of the train I suppose, but if in fact there was some condition such as that, the exemption provision certainly would be there and it allows the Public Service Commission to grant exemptions, lines 21 and 22, it just underlines Senator Goodrich's amendment. And then Senator Beutler amended that so that the waivers or exemptions would be fairly easy to get so I think that Senator Goodrich is creating situations that are already covered in the bill. There already are provision for those and basically what his amendment would do is strike the requirement when the train is moving at a high speed across the state that there be someone back in that caboose. And so I think that a certain amount of...a few misconceptions happen to be spread around and I certainly want to correct those. The bill is designed to take into account those situations in railroad operations that Senator Clark and Senator Goodrich were discussing. So there is really no need for this amendment.

SENATOR NICHOL: Senator Goodrich, did you wish to close on your amendment?

SENATOR GOODRICH: Yes. Really what it boils down to is we have got to make a decision. If you want the caboose to be mandatorially occupied or do you want the ability for the brakeman, for example, or the conductor to be able to leave the caboose and to do their regular duties. Now if you pass this bill the way it is, someone has to sit in the caboose all of the time. He can't have any other duties. So what are you doing? You are adding a man to the crew, a man to sit in the caboose and do nothing else because the brakeman has to go through the train, the conductor has to go through the train to do their other duties and it is as simple as that. You are adding a man

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to the crew so that you have to have one man occupying that caboose all the time. My amendment would say since the conductor and the brakeman are in the caboose ninety percent of the time or a large percentage at least of the time, they will satisfy that, but you don't have to add a man to the crew to occupy the caboose alone. I ask you to adopt the amendment.

SENATOR NICHOL: The question is the adoption of the Goodrich amendment. All those in favor vote aye, opposed nay.

CLERK: Senator Nichol voting yes.

SENATOR NICHOL: Senator Goodrich, do you want to do anything? Record the vote.

CLERK: 11 ayes, 17 nays, Mr. President, on adoption of the Goodrich amendment.

SENATOR NICHOL: The Goodrich amendment fails. Do you have anything else on it, Mr. Clerk?

CLERK: I have nothing further on the bill, Mr. President.

SENATOR NICHOL: Senator Fowler.

SENATOR FOWLER: Is this my closing for advancement?

SENATOR NICHOL: There is one other light on so you may speak...

SENATOR FOWLER: Why don't we let them speak and then I will close.

SENATOR NICHOL: Senator Clark. He doesn't want to speak so you are on your closing, Senator Fowler. Okay, he does want to speak.

SENATOR CLARK: Is the vote for advancement?

SENATOR NICHOL: He will, Senator Clark, I assume.

SENATOR CLARK: All right, the only thing I want to tell you is that if you vote for this bill you are taking a step backwards. The negotiations are in process at the present time. We have absolutely no reason to get in the middle of those collective bargaining and I would like to have a record vote on the advancement of the bill.

SENATOR NICHOL: Senator Goodrich.

SENATOR GOODRICH: Just one last time to remind you that what you are doing with this bill is you are forcing the railroads to hire the extra man to ride in the caboose and occupy it in other words and what else is he going to do but occupy a caboose. You talk about railroad rates. This is the way to get them.

SENATOR NICHOL: Senator Fowler, now you may close.

SENATOR FOWLER: Mr. President, I move to advance the bill and I wish to stress again to Senator Goodrich that if he would read the language in the bill it provides for exemptions with regards to this language in the railroad yards. Senator Vickers has added exemptions with regards to small trains. There is language that indicates that the Public Service Commission can provide exemptions. There are several provisions that allow exemptions so that this is not a bill to add an extra person. It is a bill, however, to require that at least a person be there when the train is moving across the State of Nebraska, when it is moving through our communities, and that along with that person be some very simple things, a first aid kit, a fire extinguisher, and a radio for communication with the front of the train. Now these again I think are not things that we should expect labor and management to negotiate over behind closed doors. These are things of public safety and public concern. The bill is designed as a safety measure and with that I would move for its advancement. Since several people have left, to simplify things I would ask for a Call of the House before we have the vote.

SENATOR NICHOL: The question is, shall the House go under Call? All those signify by voting aye, opposed no. Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to go under Call, Mr. President.

SENATOR NICHOL: The House is under Call. Will all those present please take their seat and the Sergeant at Arms please notify those that are not here to please be present. Please record your presence. Senator Wesely, do you want to punch in? Senator Schmit. We are looking for Duda and Chambers, Haberman, Dworak, Kremer, Lamb. Those that are excused are Vard Johnson, Cullan and Apking. Senator Fowler, we are absent only Senator Kremer. Shall we go ahead? And you asked for a roll call vote, did you not? Okay.

CLERK: (Roll call vote started. See page 819, Legislative

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LB 230, 365, 449, 801

Journal.) The motion is to advance the bill.

SENATOR NICHOL: That is right. We are voting on to advance the bill and we are having a roll call vote.

CLERK: (Roll call continued for vote.) 24 ayes, 21 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: The bill fails to advance.

CLERK: Mr. President, a couple of items to read in if I may. Senator Warner would like to print amendments to 449 in the Journal. (See page 820 of the Journal.)

Your Committee on Retirement Systems reports LB 365 advanced to General File with committee amendments attached. (See pages 821 and 822 of the Legislative Journal.)

New resolution, LR 229, signed by Senator Fowler and others. (Read LR 229 as found on page 822 and 823 of the Legislative Journal.) That will be laid over, Mr. President.

SENATOR NICHOL: We will move on to LB 801, Mr. Clerk.

CLERK: Mr. President, LB 801 offered by the Business and Labor Committee and signed by its members. (Read title.) The bill was read on January 13 of this year. It was referred to Business and Labor for hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Business and Labor Committee.

SENATOR NICHOL: Senator Barrett, do you want to take up the committee amendments?

SENATOR BARRETT: Yes, thank you, Mr. President and members, the committee amendment to LB 801, which is an unemployment compensation bill, is simply a technical amendment. The amendment is made necessary because of a drafting error in the bill. It was a communication problem, frankly, between myself, the staff and the Department of Labor. I take full responsibility. The amendment is necessary to the integrity of the bill, and I would, therefore, move the adoption of the committee amendment.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the adoption of the committee