

February 28, 1990 LB 42, 315, 348, 446, 542, 662, 663A
791, 792, 863, 896A, 922, 1004, 1004A
1199
LR 262

driver, if that's who was involved, would no longer be able to drive the truck as well. If it were a secretary or somebody in that capacity, the duties of that job would not be carried out as well. So all my words will do is focus on what the words "affect the employment relationship" will mean. So if you have any questions, I am prepared to answer them.

SPEAKER BARRETT: Thank you. An amendment...or motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator McFarland would move to recess until 1:30 p.m.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Have you matters for the record, Mr. Clerk?

CLERK: If I may, Mr. President. Your Committee on Enrollment and Review reports LB 42, LB 663A, LB 863, LB 896A, LB 922, LB 1004, LB 1004A, LB 1199, as correctly engrossed. Those are signed by Senator Lindsay. (See pages 1045-46 of the Legislative Journal.)

Mr. President, I have a corrected committee statement with respect to LB 446 offered by Senator Chizek as Chair of the committee. (See page 1045 of the Legislative Journal.)

Urban Affairs reports LB 791 and LB 792 as indefinitely postponed.

Mr. President, amendments to be printed; Senator Langford and Wesely to LB 348, Senator Labedz to LB 662, Senator Lindsay to LB 542. (See pages 1046-47 of the Legislative Journal.)

And a new resolution, Mr. President, LR 262, offered by Senators Lamb, Scofield, Dierks and Peterson. (Read brief description of LR 262. See pages 1047-50 of the Legislative Journal.) That resolution will be laid over, Mr. President. That's all that I have.

SPEAKER BARRETT: Thank you. You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. The ayes have it. Motion carried. We are recessed. (Gavel.)

RECESS

March 6, 1990

LB 1238
LR 262, 266

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber and to the 40th day in this 60 working day session of the second session of the 91st Legislature. Our opening prayer this morning by Harland Johnson. Harland.

HARLAND JOHNSON: (Prayer offered.)

SPEAKER BARRETT: Thank you very much, Harland. Roll call.

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any announcements, messages or reports?

CLERK: Mr. President, I have a new resolution, LR 266 offered by the Appropriations Committee. (Read brief explanation. See page 1170 of the Legislative Journal.) That will be laid over, Mr. President.

Senator Dierks has amendments to LB 1238 to be printed. (See pages 1171-72 of the Legislative Journal.)

And, Mr. President, I have a report from the Department of Labor. And that is all that I have this morning.

SPEAKER BARRETT: Thank you, sir. Moving to item five on today's agenda, legislative resolutions, beginning with LR 262. Mr. Clerk.

CLERK: Mr. President, 262 was a resolution introduced by Senators Lamb, Scofield, Dierks and Peterson. It asks the Legislature to urge the Chicago-Northwestern Railroad to reinstate the level of service previously enjoyed by business on the Nebraska line and to maintain such level of service while negotiating in good faith for the sale of a viable rail service having access to traffic and markets beyond Chadron and Norfolk including the bentonite traffic and that the Legislature request the Interstate Commerce Commission to use its offices to insure the rail service over the Nebraska line be reinstated at a level of service previously enjoyed by businesses on the Nebraska

line.

SPEAKER BARRETT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President and members, and that word is bentonite, that the Clerk stumbled over.

CLERK: Thank you, Senator.

SENATOR LAMB: And that is a sort of a clay. It is a clay that you put in the bottom of your stock tank so the water doesn't leak out. It's impervious, pretty much impervious to water and it's a product that is mined up in Wyoming close to the South Dakota border and it's a product that is shipped east formerly on the Chicago-Northwestern line. This resolution comes about because of our problems up in the northern part of the state in regard to the Chicago-Northwestern which travels across that whole northern area. It covers my district as well as Senator Scofield's, Senator Dierks' and into Senator Peterson's district. Now, what's the problem? What's the problem? We realize that railroads as companies have problems like every other company and as we have as individuals. But in my opinion we have a specific problem with the Chicago-Northwestern up there which is a little bit different. Now they originally had two lines, one over in South Dakota and then this one in Nebraska. A few years ago, and this is my interpretation of the scenario, they wanted to abandon the one in South Dakota and they wanted to show cause to the Interstate Commerce Commission that as to their reason for abandoning it and that was because they didn't have enough traffic and it wasn't making any money, so what did they do? They transferred the traffic from that South Dakota line down to our Nebraska line which was great for us, we liked it. It is bentonite and wood chips are the main products that provide a lot of traffic. Of course, when we get down into Nebraska we also pick up a lot of grain that goes east and originally there was a lot of grain that came from the South Dakota, Winter, South Dakota, area and other areas going east. However, they had two railroad lines. They wanted to abandon that one in South Dakota so they transferred the freight over to the Nebraska line, thus making a case to abandon the South Dakota line, which they did, and they sold it to a group of investors, by the way, the chairman of which is a former Chicago-Northwestern employee. They also carried back \$3 million of the sale of that line to this group of investors headed by a former employee and so that's a viable line up there

now with some government help, both from South Dakota and from the federal government to upgrade the line. So now there is a viable line called the DM & E that goes across South Dakota. So now the Chicago-Northwestern wants to abandon the line in Nebraska and I have a letter from an official here which confirms that and so what are they doing? Now they are transferring the freight. Instead of sending it over the Nebraska line, suddenly it's more efficient to send it over the South Dakota line, and so now they've transferred that freight over to the South Dakota line which means that there is no traffic across Nebraska that originates up there in Wyoming and in South Dakota and so, certainly, it's going to be a losing proposition, no doubt about it. Manipulated, of course, by the Chicago-Northwestern but that's the way it happened. So this...we have met with a lot of shippers who are adversely impacted by this turn of events across the northern edge of Nebraska. This resolution sets out the problems. The line is going to be for sale. One of the other problems is how much of that line is going to be for sale? Well, we're going to start just east of Chadron and we're going to end up just west of Norfolk. That's the part that is going to be for sale. Now that's the line that goes from nowhere to nowhere, of course, when you don't have the facilities in Chadron on one end and you don't have facilities in Norfolk on the other end to make it a viable line so you've got something there that is for sale, but really it's a nothing for sale because you don't have guaranteed access to either end, and so, of course, the bids that have come in for that segment of railroad have not been overwhelmingly large because of that problem and so this is pointing out some of the problems. It's a fairly lengthy resolution and it's on page 1047 of the Journal and I would suggest that you may want to pursue that because it pretty well outlines the problem and, frankly, vents our frustration about the whole turn of events.

SPEAKER BARRETT: Thank you. Senator Scofield, please, followed by Senator Peterson.

SENATOR SCOFIELD: Thank you, Mr. President and members, Senator Lamb has developed for you this scenario that confronts us with the potential abandonment of the Chicago-Northwestern line and I rise to urge your support for this resolution. The communities that are represented along this line have already seen a considerable loss in terms of employment and quality of service along with the deliberate diversion of that bentonite traffic which is so important to make that line viable. This has been

an extremely painful experience already for people that I represent in Chadron where employment numbers are all but eliminated at this point in terms of railroad jobs. I believe there are only three left on a line that used to employ perhaps as many as over 100 people. That alone is devastating enough in terms of losses in this state, but perhaps even more serious at this point is the potential loss of service particularly to grain shippers. Senator Lamb mentioned that the wood chips that come out of South Dakota and the bentonite are a primary piece of the commodities necessary to make this a profitable line, but if you'll consider for a moment what the long-term implications of the loss of this line are to the State of Nebraska should this line ultimately be abandoned, there goes one more shipping option for grain producers, people that own those elevators up there, and the losses will virtually total in the millions in terms of them no longer having the rail service as a way to transport grain across the state. Now the other thing that makes this line unique is that most of the rail lines in the past that have been abandoned in Nebraska have been in fairly close proximity to either other rail lines or interstate highway systems. This line is different. It runs across the entire northern tier of the state, in fact, there are even people that have contacted me from across the South Dakota line that are dependent upon this line as a way to transport their grain, so this, in fact, is not a short line at all. It is a main line and to lose this line would be a loss of major railroad service in the state. A representative of C & NW has acknowledged that they are diverting the clay or bentonite traffic that has been previously shipped from communities in...it originates in Colony, Wyoming, and then comes down to Hermosa which is just south of Rapid City, goes on to Chadron, Nebraska, then goes on down through Senator Lamb's district and into Norfolk. It's not very difficult when you look at maps to look at the distances involved here and determine there isn't, in my opinion anyway, that you can say that somehow that is a shorter route to divert this traffic across the DM & E, and I do have copies of that map for you if you're interested in taking a look at it. And so we all need to be concerned about this very real threat to rail transportation in the State of Nebraska and I think we need to move aggressively as a Legislature not only to save this line, but continue the work that has begun to explore what's the future of rail transportation in general in this state? I know some of you have already lost rail transportation in your districts and you know the devastation that occurs to your local economy and to the employment when such things happen. So I

simply rise to urge you to go on record with the rest of us to encourage the Interstate Commerce Commission to examine this issue, to encourage the Chicago-Northwestern to bargain in good faith with interested buyers. I have a group of railroaders out in Chadron that organized called Western Horizons who have some interest in purchasing this line. We have been contacted by other private buyers from around the country that may be interested in buying the line that tell us that it could be a viable line, but in order for it to be a profit making line, it first has to have a meaningful offering as Senator Lamb indicated. If the only thing that is offered is that segment from east of Chadron to west of Norfolk...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...there really isn't an opportunity there to, in my opinion, make that a profitable line and at a minimum that has to connect up with the Burlington Northern line through Crawford, Nebraska. Ideally, we would be able to acquire the piece of line clear up to Colony, Wyoming. Interestingly enough, in the midst of what we thought were negotiations going on, my folks out in Chadron learned about in November that there had already been an option given to the DM & E on that piece of the line from Hermosa, South Dakota, to Colony which is a critical piece in terms of maintaining the bentonite. So I would urge you to go on record with us today, encourage our congressional delegation to continue their good work on this, encouraging the Chicago-Northwestern to negotiate in good faith in those groups that are, in fact, legitimately interested buyers and that could possibly make this a meaningful line but we simply cannot accept either the option of abandonment or the loss of service until some other arrangement has been made, so I ask your support for the resolution. Thank you.

SPEAKER BARRETT: Senator Peterson, further discussion on the resolution, followed by Senator Dierks.

SENATOR PETERSON: Mr. Speaker and members, I, too, rise and ask for your support in this resolution. I think it is one of the more important resolutions that we've had for some time in regards to hopefully saving this line some way or another. I do know, and I don't know what more can be said than what Senator Lamb and Senator Scofield have said, but there is an interest by different groups in wanting to purchase this line and I think Chicago-Northwestern at this point is being a little negative in

its regard because they are, like been said, selling between east of Chadron and west of Norfolk, Nebraska, which makes it practically useless, but hopefully that they will reconsider these...their options. You know, just talking about bentonite and some of those people that are interested is definitely going to upgrade the line and for bentonite and grain, but there is also one aspect that I don't think has been said, that maybe go after some of the coal that is being mined in Wyoming and making it less stressful on Burlington line going down and coming through, connecting at Norfolk and going down UP. There is also the interests of a group that making this a tourist...upgrading it and handle the grain and that and also run a tourist trade. There is all kinds of ideas out there floating around, so I think one thing, Chicago-Northwestern is fearful right now possibly is with their moving in South Dakota, that they would lose some business and I think that's one of the things that is probably staring them in the face because the people that will buy it will definitely be go-getters, from several that I've talked to, and will make it liable and that has not happened with Chicago-Northwestern right now. So I urge you to pass this resolution and ask the Nebraska delegation in Washington to do more work and hopefully with their expertise can get some kind of agreement on the Chicago-Northwestern and keep it viable until the time comes that they do sell it and hopefully just don't close it down and tear up the tracks, so I ask for your support in this resolution. Thank you.

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Thank you, Mr. Speaker and members of the body, of course, my name is on this resolution too and I am extremely interested in the whole process here. Part of what was originally known as the Short line from Sioux City to O'Neill goes through my district and also through Senator Hefner's district and it's now known as the Burlington line and when it was constructed it was known as the Short line and the Short line probably is responsible for my even being here because my great-grandfather came here to build the grade for that line between Sioux City and O'Neill, so...and his name was John Henry, by the way, and so I think that maybe I have a little closeness to this whole situation, but he got to O'Neill and thought that he liked it pretty well and he homesteaded out there. So at any rate the Short line was in danger of being closed several years ago and through the efforts of a number of grain producers out there, the Meurets at Brunswick and the

Scoular Grain Company over near Brunswick, they began to put forth an effort to make these unit trains, fill them with grain and haul them to Sioux City. They've done a tremendous job upgrading that track now and the old Short line, now known as the Burlington Northern, is a very viable track. The Chicago-Northwestern can do the same thing. The ability is there. The grain is there. Scoular has...I think Scoular has one, a grain elevator out by Bassett. There are several facilities available in O'Neill for grain loading. They haven't pursued that business. I think if we looked to the future and we can see that the potential is there for a tremendous amount of business if they will pursue it. Also I think when our country, I don't like to say reaches the rest of the world, but some day we're going to find that these diesel fuel prices are going to catch up with us. In Europe diesel fuel is approximating \$4.00 a gallon now. I don't think it is too far behind here. When that happens it looks to me like this will be one of the most reasonable means of transportation that we have. I think we really should be looking toward the future with this railroad. So, I, too, would urge that you support this resolution and give us some impetus when we contact the congressional delegation in Washington asking for their help. Thank you. Oh, say, I'd like to give the rest of my time to Senator Morrissey, please.

SPEAKER BARRETT: Thank you. Senator Morrissey, approximately two and a half minutes.

SENATOR MORRISSEY: Thank you, Senator Dierks, Mr. Speaker and members, welcome to the wonderful world of short-lining. I just urge you to take note of this lesson that we're being given today. Short-lining can be good. Short-lining can be bad. It can be manipulative as Senator Lamb has described. It's been going on across the country and it's just been basically getting a rubber stamp from the ICC. And Senator Lamb has included a copy of this resolution to the ICC who needs to be more aware of how the effects of short-lining, when they are bad, can affect the towns along these lines, especially in the instance of the CNW line up there where there is no interstate and it is a very viable means of transportation. We must also consider the economics and the benefits that are spread across the entire state. The more traffic that moves on the rail is a less amount that moves on the highways, and that is a very important aspect. I've had a highway between Tecumseh and Auburn last summer literally destroyed by truck traffic rerouted from Highway 2

down through Tecumseh towards Auburn. It is now a hazardous highway to drive on when one year ago it was a very safe highway to drive on, so these are...

SPEAKER BARRETT: One minute.

SENATOR MORRISSEY: ...many things we have to keep in mind and I'd especially approve of the part where Senator Lamb has directed a portion of this to the ICC because the ICC does not necessarily always understand how abandonment or short line spin-offs of these railroads do affect those of us in the Midwest. I'd urge support for the resolution. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion on the adoption of the resolution? Seeing none, Senator Lamb, would you like to close?

SENATOR LAMB: Mr. President and members, I think this issue has been pretty well discussed, but in case that somebody says, well, they really haven't filed for abandonment yet, so all this is premature, I would like to read part of a letter that is dated December 22 in 1989 addressed to Mike Goings, who is the rail planning supervisor down in the Department of Roads, and this is signed by Michael Payette (phonetic) who is their legislative representative for the Chicago-Northwestern, and in part he says, our goal is to sell this line. After the first of the year we will ask those who received our data book to give us a firm proposal. We intend to work with anyone who gives us a reasonable proposal to reach a mutually beneficial agreement. If we do not receive any reasonable proposals, we will at that time show the line in category one and publish the map. Now that is legalese for saying we're going to abandon the line. So this is the letter that we have from the Chicago-Northwestern that really indicates that they are going to abandon it and so I'll just ask that the resolution be adopted.

SPEAKER BARRETT: Thank you. You've heard the closing and the question is the adoption of LR 262. Those in favor of that motion please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of LR 262.

SPEAKER BARRETT: LR 262 is adopted. Moving to LR 263, Mr. Clerk.

March 6, 1990

LB 1059
LR 262-265

repeated occasions, have been found wanting by federal courts that say children have become prejudiced by the checkerboard financing effect in various states, Texas being among them, Tennessee being another. That in fact promises like that are not empty words, but are binding on Legislatures, and to the extent that Legislatures turn a deaf ear to the needs of students and to allow the variations of wealth to produce inferior educations for children, those Legislatures are not performing their constitutional obligations.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: We owe kids in this state a good public education, no matter where they come from, no matter how wealthy their parents are, no matter how wealthy their district is, that's our constitutional obligation. And 1059 seeks to replace a system which falls short, in my estimation, of that constitutional obligation. It says, first, that we should expand our notions of what wealth is, beyond just property and you and I know how skewed that system is. It says we add to that analysis local income, and we ask for the contributions of those whose wealth is in the form of income rather than property, and that's just. Beyond that point, 1059 says, listen, if you look at both property and income and your district is not well enough off, you're going to turn our backs on the old system of foundation aid that had no relationship to need, and we're going to take the state's portion of money and use it to equalize between the wealthy districts and the poor districts...

SPEAKER BARRETT: Time.

SENATOR LANDIS: ...to meet that constitutional obligation. And that is my rationale to explain to unhappy and I'm sure dissatisfied constituents who will not be pleased to know that their total tax burden will go up probably beyond the measure of their property tax relief under this measure. But, for me, that's a sufficient justification, and I intend to vote for this bill.

SPEAKER BARRETT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 265, LR 264, LR 263, and LR 262. Senator Schmit, would you care to discuss the advancement of the bill, followed by Senators McFarland, Elmer, Nelson and Hartnett.