

March 7, 1980

LB 855

interested party. So what we have done, the one big change here really is to eliminate the appeal to the Commissioner of Education and the appeal now is directly to the District Court. So that, in short, is the bill and the committee amendments. Thank you.

SPEAKER MARVEL: First of all we adopt the committee amendments to 855. All those in favor of that motion vote aye, opposed no. Record.

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

SPEAKER MARVEL: The committee amendments are adopted. Now the motion is to advance the bill as amended. Senator Kahle.

SENATOR KAHLE: Mr. Speaker, I would like to ask Senator Beutler, I believe he said it bypasses the Secretary of Education and then goes directly to the court. Is this correct?

SENATOR BEUTLER: That is right.

SENATOR KAHLE: Why are we doing this?

SENATOR BEUTLER: We are doing this because under the federal guidelines it is now the Department of Education's belief that the Commissioner of Education would be determined to be an interested party and there cannot be an appeal to an interested party under the federal guidelines. So we are skipping the interested party, the Commissioner of Education, and instead allowing them to appeal directly to the District Court.

SENATOR KAHLE: What do I read then in Section 2 where it says, "Upon receipt of the petition the State Department of Education shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing." So it is not really a court, is it?

SENATOR BEUTLER: Oh, no, I'm sorry. I have confused you. The hearing in the first instance is before a hearing officer and that hearing officer cannot be an employee of any state agency.

SENATOR KAHLE: Okay.

SENATOR BEUTLER: It is an independent hearing officer although they are paid by the Department of Education and then the