CLERK: Mr. President, new bills. (Read titles for the first time to LBs 241-266. See pages 112-18 of the Legislative Journal.)

Mr. President, in addition to those items, the Rules Committee would like to announce that Senator Carson Rogers has been selected as Vice-Chair of the committee.

Mr. President, Revenue Committee will be or are...is conducting a meeting underneath the south balcony.

Mr. President, the Judiciary Committee will conduct an Executive Session upon recess on the south side of the Chamber; Judiciary upon recess. And Transportation will meet in the lounge upon recess...or, Senator...I'm sorry, Senator Lamb, do you want that this afternoon, Senator? I'm sorry, Transportation upon adjournment this afternoon in the Senators' Lounge; Transportation this afternoon.

Mr. President, Government Committee has selected Senator Bernard-Stevens as Vice-Chair.

Mr. President, Senator Conway would like to add his name to LB 140 as co-introducer; Senator Beck to LB 102 and to LB 141; Senators Smith and Hartnett to LB 58; Senator Hartnett to LB 98; Senator Rod Johnson to LB 84.

Mr. President, the last note is a Reference Committee meeting at two-thirty this afternoon in Room 2102; Reference Committee at two-thirty in Room 2102. That's all that I have.

PRESIDENT: Senator Emil Beyer, for what purpose do you rise?

SENATOR BEYER: Mr. Speaker, a point of personal privilege. I hope that the senators have noticed that we have a familiar face back in the Legislature and that's our Page Supervisor, Kitty Kearns. We're glad to have her back and we've missed her and we wish her good health from now on. (Applause.)

PRESIDENT: Thank you. Ladies and gentlemen, would you please listen as your Speaker speaks.

SPEAKER BARRETT: Thank you, Mr. President, and members, just a reminder to committee chairs, committee clerks, if you plan to have a hearing next week, I believe the first day would be the

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: (Microphone not activated) ...to a new week in this the life of the First Session of the Ninety-first Legislature. Our Chaplain this morning for the opening prayer, Pastor Jerry Carr of First Four-Square Church here in Lincoln. Pastor Carr, please.

PASTOR CARR: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you, Pastor Carr. We hope you can come back again. Roll call.

CLERK: Quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

SPEAKER BARRETT: Messages, announcements, reports?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 587 and recommend that same be placed on Select File; LB 379, LB 46, LB 388 and LB 145, LB 237, LB 418, LB 506, LB 449, LB 449A and LB 54, all placed on Select File, some of which have E & R amendments attached. (See pages 1059-66 of the Legislative Journal.)

Mr. President, Business and Labor Committee reports LB 630 to General File; LB 315 to General File with amendments; LB 288, indefinitely postponed; LB 316, indefinitely postponed, LB 411, indefinitely postponed, and LB 652, indefinitely postponed, those signed by Senator Coordsen as Chair of the Business and Labor Committee. (See pages 1067-69 of the Legislative Journal.)

Mr. President, a series of priority bill designations. Senator Withem, as Chair of Education, has selected LB 259 and LB 651. Mr. President, Senator Nelson has selected LB 447; Senator Langford, LB 211; Senator Coordsen, LB 182; Senator McFarland, LB 437; Senator Byars, LB 809; Senator Withem, LB 247; and Senator Crosby selected LB 356, Mr. President.

I have an Attorney General's Opinion addressed to Senator Hefner

PRESIDENT NICHOL PRESIDING

PRESIDENT: ...Legislative Chamber. We have with us today, as our chaplain of the day, Reverend Gordon Patterson of the Calvery United Methodist Church in Lincoln. Would you please stand for the invocation.

REVEREND PATTERSON: (Prayer offered.)

PRESIDENT: Thank you, Reverend Patterson. We appreciate your message this morning. Please come back and visit us again. Roll call, please.

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

PRESIDENT: Thank you. Do we have any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Very good. Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Education, whose Chair is Senator Withem, reports LB 107 to General File; LB 486, General File; LB 487, General File; LB 488, General File; LB 741, General File; LB 259, General File with amendments; LB 575, General File with amendments; LB 174, indefinitely postponed; LB 192, indefinitely postponed; LB 274, indefinitely postponed; LB 370, indefinitely postponed; and LB 738, indefinitely postponed. All of those signed by Senator Withem as Chair. (See pages 1111-16 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Lamb regarding LB 281. That's all that I have, Mr. President. (See pages 1116-19 of the Legislative Journal.)

PRESIDENT: Thank you. We'll move on to the legislative resolutions, LR 27, by Senator Warner.

CLERK: Mr. President, LR 27 was originally introduced by Senators Warner, Scofield and Hartnett. It asks the Legislature to strongly support the removal of Federal Transportation Trust Funds from the federal budget and urges the Nebraska congressional delegation to work towards such removal. The

the advancement of LB 812? Seeing none, those in favor of that motion please vote aye, opposed nay. Have you all voted? Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 812.

SPEAKER BARRETT: LB 812 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, for the record, Senator Withem has amendments to LB 259 to be printed; Senator Lamb amendments to LB 695; Senator Peterson to LB 569. And, Mr. President, I have a rules report offered by the Rules Committee, signed by Senator Lynch as Chair. That's all that I have, Mr. President. (See pages 1556-61 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. I'd like to take this opportunity to announce that we will move over LB 247 at this point, and also 588, I believe. Senator Chambers, are you within listening distance? I don't believe Senator Chambers is here, his office doesn't answer, and I did have a discussion with him recently about perhaps moving over this one for a day or so. If there is no objection, I'd like to address LB 710 at this point. Mr. Clerk.

CLERK: Mr. President, LB 710 was introduced by Senators Scofield, Lamb and Dierks. (Read.) The bill was introduced on January 19 of this year, referred to the Natural Resources Committee for public hearing. The bill was advanced to General File. Senator, would you like to offer your amendment now, or would you defer until you open on the bill?

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Why don't I...I think if I can offer the amendment, I'll open at the same time, Mr. Clerk.

CLERK: Mr. President, Senator Scofield would move to amend her bill. (Scofield amendment appears on pages 1561-62 of the Legislative Journal.)

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. Speaker and members. LB 710

SENATOR CHAMBERS: I don't mind.

PRESIDENT: Thank you for being so cooperative. We'll take it up after lunch. Mr. Speaker.

SPEAKER BARRETT: Mr. President, I move that we recess until one-thirty.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. We are recessed until one-thirty. Senator Chambers, we'll take yours up...Senator Chambers, we'll take yours up right after...at one-thirty. Okay.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Members of the Legislature who are hiding out in their offices, appreciate it if you would come to the sanctuary so we can start the service. We already have three members here but we need a few more.

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

PRESIDENT: Senator Chambers will be here in a moment, and then we can begin on the...Mr. Clerk, do you want to read in new bills while we are waiting, please?

CLERK: Mr. President, yes, I do. Thank you, new bills. (Read for the first time by title: LB 969-996. See pages 150-57 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed, Senator Hefner to LR 231, Senator Wesely to LB 720A, LB 678A, Senator Withem to LB 259, LB 259A, and Senator Weihing to LB 505.

Mr. President, I will announce now that there will be a Reference Committee meeting at three o'clock in Room 2101, Reference Committee at three o'clock, 2102. That is all that I have, Mr. President.

PRESIDENT: Ladies and gentlemen, as you will recall, we are on

PRESIDENT NICHOL PRESIDING:

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning chaplain of the day, Pastor Robert Kunz of the First Christian Church in Lincoln, Nebraska. Would you please rise for the invocation.

PASTOR KUNZ: (Prayer offered.)

PRESIDENT: Thank you, Pastor Kunz, we appreciate your being here this morning. Come back and see us again some time. Roll call, please.

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

PRESIDENT: Thank you. Do you have any messages, reports or announcements?

CLERK: Mr. President, I have no messages, reports or announcements this morning.

PRESIDENT: Do you have any bills to introduce?

CLERK: Mr. President, two new bills. (Read LB 1049 and LB 1050 by title for the first time. See page 222 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: We'll move onto General File then, LB 720. Since we moved 720 and 720A yesterday, we'll move on to LB 259.

CLERK: Mr. President, 259 was a bill introduced by Senator Withem. (Read title.) The bill was introduced on January 9 of last year, Mr. President. At that time it was referred to the Education Committee. The bill was reported to General File. I do have committee amendments pending by the Education Committee.

PRESIDENT: Senator Withem, please. Did you wish to talk about the bill, or about the amendments first?

SENATOR WITHEM: I have ten minutes to introduce it. I think I can get through an explanation of the bill and also into the committee amendments.

PRESIDENT: Okay.

SENATOR WITHEM: LB 259 deals what has historically been the most contemptuous issue in the Nebraska Legislature, at least since I've been here. And my understanding of the history of it is it goes back considerably, that is the question dealing with school district reorganization. The existence of different levels of classes of school districts in our state, the Class I districts that offer only elementary education, the Class VI's that offer only high school education and the various categories of school districts offering kindergarten through twelfth grade education. A little bit of the chronology of the issue, most of you recall, I think, that the Nebraska Legislature, in 1985, I believe it was, passed LB 662. This was a bill would have mandated school district reorganization, would have forced Class I districts to lose their independent identity and merge with existing Class II or Class III school districts. This bill was passed by the Nebraska Legislature. It was significantly amended to include an increase in a sales tax. The bill was brought before the Nebraska voters, via petition, and was repealed. The message from the voters was not a particularly clear message, because the bill itself was garbled considerably with the fact that there was the tax measure included within it. We, as the Legislature, came back then, in the 1987 session, with a number of other solutions to the school district reorganization question. Among these was reintroducing of 662, the bill that Senator Lynch brought to us, that was a...would have required one county, one school district; a bill of mine, LB 444, that would have provided a change in the local reorganization process. LB 444, in the 1987 session, found its way through the pack, was sitting on Final Reading and was frankly ready to be passed. Our vote count showed that we had anywhere from oh 27 to perhaps 32 votes in support of that bill. Governor Orr, at that time, invited me into her office and said, isn't there something different we can do with this school district reorganization question? Her concern was that it was very divisive and was causing the state a great deal of friction, and isn't this something where we can get people with different viewpoints to come together and talk about their problems and reach some sort of solution. I attempted to do that. I put a bracket on LB 444, asked that it be held on Final Reading, and we pulled together a group of people who became known as the Ad Hoc School Committee, people from all different facets of the school reorganization question. We had farm groups, we had education groups, we had groups representing rural schools, urban schools, large schools, ESU's, teachers, administrators, and we worked through the summer of...and fall

and winter of 1987, seeking a middle ground solution. We came up with a report. We had that report introduced in bill form in LB 940. The hearing of 940, in the 1988 session, we had a broad-based group of people supporting the idea of a middle ground approach to school district reorganization. At the edges, at the extremes we had those individuals who believed that the only thing we could do would be to force involuntary, mandated reorganization that opposed 940. We had people on the other end of the spectrum who felt that the only thing that we could do was to leave the Class I's alone, send them a letter of apology for bothering them all these years, and keep the status quo as it is and actually was. Consequently, when we passed 940, we brought about a number of amendments to it that made it so it was not the final solution. But when we, as a Legislature, in 1988, did pass LB 940, we were very explicit on what we expected. We said that the Class I's and the Class II's and the Class III's had to get together at the county level and formulate new school district reorganization plans, the county committee had to do that, and they had until this last January to complete those studies. We said that the Department of Education had to come up with new standards for accreditation which would allow the smaller schools to meet accreditation if they genuinely were quality schools. And we did a number of other things in 940. The most significant thing we did in 940 was as a Legislature, and those of you who were here remember, it was a very emotional day, when we finally amended 940 on Select File and put it in the shape that we wanted for final passage. We repealed nonresident tuition formula, affective July 1, 1991. We, as a Legislature, this was the first of two things that we did in the area of education policy where we, as a Legislature, took a canon and put it to our heads and said, we are going to seek a final solution to this problem. We passed 940, the ad hoc committee was then reformulated, met again for another year and, frankly, that was not a successful process. The process of the ad hoc committee at that time really broke down, because, frankly, we had too many extremists on both positions on that committee--those who thought the only good Class I is a dead Class I, and those who felt that you can't do anything to change the existing structure. I introduced LB 259, last year in its green copy form, merely as an attempt to continue the discussion process and to force people to the table. Prior to the introduction of the bill in committee I did inform everybody on the ad hoc committee, and did send a letter out to everybody that had an interest in this issue, that at the committee hearing I was going to be proposing a new set of

committee amendments which were, frankly, going to be my last major attempt at seeking some sort of compromise on the reorganization issue. The problems that remain, as far as school district reorganization, if you look at the Class I situation you will see that there is a tremendous tax equity problem; that the lowest tax levies in the state, to support education, continue to be in Class I's. We still have concerns about quality education in Class I's, because Class I's continue to not be accredited, by and large. A large number of them are becoming accredited and are proving that they do have the educational experience to warrant their continued existence. We have efficiency concerns. On the other hand, we still have the concerns of a large number of people in our state who would very much like to preserve that system of education. They genuinely feel that keeping a Class I school open, where they get individualized attention, lower pupil-teacher ratios, and a system of education where it is across-the-board and not segregated into specific subject matter areas, is by far the best method of educating kids, and they want to preserve that. What you have with LB 259 and the committee amendments to 259 is a system that will do that. It will deal with the tax equity issue, deal with the quality education issue, and will preserve the local control issue. Very quickly, because I'm running out of time, I wanted to go through that background with you, but I'm running out of time. Let me follow the time table here on LB 259, the one-sheet handout that you have, to explain to you what the committee amendments will do. And I turned my light on so I can give more explanation of the committee amendments when it comes my turn again. What we've done with the committee amendments is we've basically dropped things down into three different phases. Phase one is basically just a continuation of the status quo, and we're almost out of phase one. Phase two and phase two...by 1991...

PRESIDENT: One minute.

SENATOR WITHEM: ...all Class I school districts will have to affiliate their property with an existing II or III school district. They will basically do this affiliation through the same procedures that are currently in statutes, and they will pay a levy to the high...support the high school district. It's very much modeled after our current nonresident tuition formula. In phase three, 1994 and thereafter, we adopt what we call a tax equity approach where everybody in an affiliated group will pay the same tax rate to support K through 12 education. It's

explained in the committee amendments and I'll answer any procedures as to how that's done. Finally, point D, I think, is the key in this particular point here that there is a statement in the committee amendments that if this is accomplished and Class I's affiliate themselves with existing K through 12 districts and pay the same tax rate and become accredited under the new more liberal accreditation rule...procedures that have come out of the State Department of Education, that we as a Legislature declare we are done in terms of school district reorganization. We will not be promoting any additional mandated involuntary school reorganization.

PRESIDENT: Time.

SENATOR WITHEM: I think what you have here is a compromise approach that will get this divisive issue of school district reorganization behind us, and I would urge you to support the committee amendments to the bill.

PRESIDENT: Mr. Clerk, I understand that we have an amendment to the committee amendments.

CLERK: Mr. President, I do. The first amendment to the committee amendments I have is by Senator Withem. Senator, these are the amendments that you had filed with me last year, AM1251. We printed them at that time.

SENATOR WITHEM: This is...Larry tells me, reminds me this is a very technical amendment. The way the committee amendments were initially written they would have had the Class I's pick up the entire cost of some of this education and that was not the intent that we were trying to bring about. This is a technical amendment to put the committee amendment back in the form in which it was originally intended.

PRESIDENT: Thank you. Senator Lamb, did you wish to speak about the amendment to the committee amendment? Senator Withem has just been speaking about it. Okay. Senator Nelson, did you wish to speak about the amendment to the amendment?

SENATOR NELSON: I will give my time to Senator Withem, if he wants to further explain...

PRESIDENT: He's through on the amendment to the committee amendment.

SENATOR NELSON: All right, no, thank you.

PRESIDENT: All right. Did you want to close on your amendment to the committee amendment, Senator Withem?

SENATOR WITHEM: This was a drafting error, basically, that came out of the...when the committee amendments were drafted. And it was something we caught last session and would like to see to it that it's corrected.

PRESIDENT: Okay, thank you. The question is the adoption of the Withem amendment to the committee amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Withem's amendment to the committee amendments.

PRESIDENT: It is adopted. Do we have any other amendments to the committee amendment?

CLERK: Mr. President, Senator Lamb would move to amend the committee amendments. (Lamb amendment appears on pages 222-23 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Lamb, please.

SENATOR LAMB: Thank you, Mr. President, members. Senator Withem has run through the history of this problem and has described what has...most of what has happened in the past. It's been a long, complicated road. Now this affiliation procedure is one that I suggested years ago, it's been modified, changed. But basically what it says is that instead of nonresident tuition we put that land for high school purposes in the Class I on the tax roll. We have heard, we have heard that nonresident tuition is bad. There has always been a problem with nonresident tuition. So what we said was, okay, we're willing to change that, we're willing to pay the full share, we're willing to have a common levy for high school purposes. And that's the affiliation concept that was promoted and I thought agreed on. And that's what is in the original 259. But then I have to object seriously to the committee amendment which has also a common levy for the grade school. This is a new wrinkle, this is a new wrinkle. It's just in the committee amendment, not in the original bill. See the original bill I

was supportive of and am supportive of because it provides for affiliation on the high school level, they pay their fair share, but it leaves the grade school clearly separate, clearly independent and does not affect that at all. Now that was the original compromise, that's what I promoted. Senator Landis, others will remember that he was somewhat...you know, first Senator Landis then me, he was somewhat complimentary about my attitude toward that, and I remember that. But now we have the committee amendment which says, no, that's not good enough. We're not only going to have affiliation in the high school, but we are going to have what is very close to mandatory consolidation because we are going to have a common levy for the grade school with the Class I and the K-12, which is going to affiliate here. We're going to say, we're going to put all that money, whatever levy is required, for the whole affiliation group, however many schools have decided to affiliate here together for high school purposes. We'll also have to affiliate for grade school purposes a common levy so that some people will be subsidizing other people for their school. It's something I cannot accept. My amendment takes that part out of the committee amendment, takes the grade school common levy out. It leaves all the other things in there, where the Class III or II does not lose money under this affiliation concept for high school purposes. It does not lose money, in fact it's very generous. It gives the high school more than they would get if that Class I property was placed on the tax role with the same levy that the K-12 would charge for high school purposes, it's more than that, it's similar to what we have now for nonresident tuition, which is more generous than it ever has been. And that's what I'm saying, I am willing to go with affiliation, have always been willing to go with affiliation for the high school part of it, but I want to keep those grade schools separate, have their own levy, do their own thing with their own money. And I also think that this may have constitutional problems, because you're taxing one school district and then the money all goes into a pot and you fund all the school districts. To me, as a nonlawyer, I can't see how that can hold up. But you know lawyers do funny things and courts do funny things. So I'm not an expert on that. But to me it does not make good economic sense, it does not make sense in this total realm of what we're trying to do is to come to a reasonable solution here. So I ask that my amendment to the committee amendment be adopted and pass the bill.

PRESIDENT: Thank you. Senator Withem did you wish to speak on

Senator Lamb's amendment?

SENATOR WITHEM: Yes, I would. I very strenuously object to the Lamb amendment to the point where I do not...to the point where I think that this amendment would take the heart out of what, at the committee hearing last year, was a concept that had widespread agreement. I'm not going to say, and if I've led any people to believe that this committee amendment has 100 percent, unanimous support, I misled people. I have not done so purposely, and I think I've been fairly clear in indicating that there are still some people on the fringes who object to...not in the Legislature on the fringes, but outside of the Legislature on the fringes who do object to this particular approach of the tax equity committee amendment. But this is really the heart of those folks that have been telling you that they support 259 in its current form, this is what they're talking about. If this amendment goes on, the battle will be waged quite royally and the support that is there for a resolution to the issue, quite frankly, will be gone. If you want to resolve the issue amicably, I would suggest not supporting this particular amendment. If you want to see the fight on mandatory school district reorganization reopened, then you may want to support the Lamb amendment. I would point out a number of things, particularly Senator Lamb talked about an original compromise. I'd like to point out, I guess, to the body that what is in LB 259, as it was introduced in the green copy, very similar to what I introduced in 940 a couple of years ago. I was supportive of that idea at the time. I would have liked to have seen 940 pass in its original form. Had it passed in its original form we wouldn't be here today. But the NSIA, the Nebraska School Improvement Association stood on the sidelines and would not accept 940 at that time. At the same time the Class II's and III's, who were out there, who saw that they were going to lose dollars under that bill, would not accept it. We couldn't get the votes to get it out of Education Committee because of the opposition at the end. The heart of the compromise, as I see it, is the fact that in 1994 we're going to move to a situation where there will be no tax advantage for continuing Class I schools. For years we have had people come in front of the Education Committee and say, why are you always picking on us Class I's, we can't help it if we live in a situation where the taxes are different. We're willing to pay the same taxes as people in the adjoining districts, just let us keep our schools open. That's what this bill does, it lets them keep their schools open. I genuinely want to do that,

I genuinely want to see those individuals in our state that like the Class I system of education, for educational reasons and want to maintain that be able to do that. I've taken a great deal of flack in the last couple of years from my traditional friends on this issue, School Board Associations, the administrators, the NSEA. What am I doing selling out to those Class I's, we ought to get rid of them. And I stood up and I said, no, I don't want to do that. But I do want to see a tax equity sort of situation. I want to see this issue behind us. If you vote for the Lamb amendment, you're putting the bill in the shape that it will not resolve the issue, it will merely open it up again. And I'd urge you very strongly not to support the Lamb amendment.

PRESIDENT: Thank you. Senator Haberman, please. Senator Haberman, Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, over the weekend and last night I have visited with approximately seven people connected with Class I schools in my district. They are, as I am, confused over the issue. They are angry over the issue, and they are saying, what about all of these changes? We don't know anything about these changes. And to us it's merely a reorganization issue, that's what's going to happen. So I tried to explain to them we haven't discussed the bill, we haven't had an explanation of the amendments on the floor. So I was here this morning and heard Senator Lamb, and I listened to Senator Withem. And Senator Withem in part of his talk, and I've heard this for the last year or two, tax equity, everybody should pay their fair share of taxes. Well that issue, to me, is separate from the issue of quality education because you hear the quality education mentioned with tax equity. What they are trying to tell me, I guess, is that without everybody having tax equity, paying their fair share, you cannot have quality education. Well that is wrong. Money does not necessarily mean that you're getting a quality education, it's what the students are being taught, how they're being taught and what they're learning is the education. Now, Senator Lamb made the remark, and I believe Senator Lamb because I have never been down here in eleven years where Senator Lamb hasn't spoken the truth. He said the rules of the game have been changed. Senator Lamb says I do not like the way the rules of the game have been changed. Well, quite frankly folks, I don't like that the rules of the game have been changed and I'm going to support Senator Lamb's amendment. Now if we can't go ahead and try this affiliation or

this new program or this new project in just the high schools and see how it works, and then come back and possibly change it to the grade schools, then something is wrong. You have to learn how to crawl before you learn to walk, so let's take it a step at a time. Let's see if it works, let's see how the finances work out, see how the citizens accept it. Now it's not us, it's not our Class I schools, it's not our high schools, it belongs to the people in those school districts. But we're standing here and saying, we know what is best for you, we know what is best, and we're going to mandate to you this is the way it's going to be done. Well, if you want to do that, that's fine, but let's don't be in such a big hurry to do it. Let's don't change the game plan all of a sudden. So I'm going to say let's slow down a little bit. As I understand it Senator Lamb's amendment merely takes the grade schools out of the issue, leaves the high school in the issue, and I will support that amendment, and I would ask you to do the same thing. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Lamb, please, followed by Senator Withem, Senator Schmit and Senator Coordsen. Senator Lamb, please.

SENATOR LAMB: Well, you know I find this very difficult to explain. And in talking with some of my seatmates around here I just thought I would try to further clarify what we're talking about, if I could, and probably, maybe be a bit repetitious, if you'll excuse me for that. To repeat what I have said before, I have long been supportive of the, and Senator Haberman covered it quite well, the affiliation concept for these Class I's who send their children to a K-12 for high school. We have always had the problem of what should the rate of nonresident tuition be. As Senator Withem mentioned, we did away with nonresident tuition in the near future, hoping that something can be worked out with 259. LB 259 was before us last year, did not advance because there was a lot of opposition from the...primarily from the K-12 schools who wanted to go the whole way. And so now we do have the committee amendment which goes the whole way which says you affiliate not only for a high school, but you also affiliate for a grade school, which means you pay a common levy. It's just as if all....It's somewhat similar to all the schools, for instance, in Douglas County paying the same levy with the choice bill, those students would be able to move back and forth to some degree. But the bottom line is that all of those schools in that area would be paying a common levy. Now I know

Senator Lynch does not object to that. He thinks that should happen. How far we go in that direction I think is problematical. You know the ultimate has been achieved in Hawaii, where there is one school district in the whole state, one school district. I don't think we're ready for that. I think we need this local body to set the levy for their school, have that individual local control there which is going to be eroded when you're going to set a common levy, then you're going to have to decide how much money, what the budget is going to be for each of these individual schools for grade school purposes. That's going to be difficult. How are you going to decide? Who's going to decide? Well, it's set up in the bill, but nevertheless, somebody is going to have to decide what the budget, a reasonable budget is for each of these schools that are affiliated together, because they're all going to be paying a common levy, so they're going to naturally say, oh, we need everything under the sun, since it isn't going to cost us very much more because every other school district that is affiliated together is going to help us pay for it. So you're eroding the local control. In my opinion it is not a workable situation. Now, some people may say, well, nonresident tuition is going to go away, and so we'll be faced with a crisis. Now, under the present statute that is correct, it is supposed to disappear in '94, I believe. But...

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR LAMB: ...it doesn't have to disappear. In fact Senator Dierks and I have a bill, this year, which would reinstate it, if you want that, if you want that. I don't want that. I would rather have the 259 with the high school affiliation concept and the grade school left separately so that we can go forward. Now I appreciate the statement in the committee amendment which says after this is done we are not going to work on reorganization again. Well you know and I know that one Legislature does not bind another Legislature, that's a good statement of intent, and I appreciate Senator Withem putting that in there. However, in the final analysis it won't...it does not necessarily stand up...

SPEAKER BARRETT: Time.

SENATOR LAMB: ...because you and I know that any of us can

introduce a bill which will change that.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Withem, followed by Senators Schmit and Coordsen.

SENATOR WITHEM: Mr. Speaker, members of the body, I guess I turned my light on because I felt it obligatory, if Senator Lamb is going to speak a couple of times I should, too. But I really don't have a lot new to add to the discussion, and neither did Senator Lamb. I think it's kind of interesting that the issues were...the arguments that we've heard are pretty similar to those that we've had over the years, let's not go too fast, let's maintain local control. I genuinely believe that with the committee amendments as we have them here today we can get beyond this issue. I also know for a fact, I know for a fact that, if this amendment is adopted, you folks are going to be back in the midst of the same type of ongoing controversy on school reorganization that you've had over the years that we've all gotten very weary of but it's a problem that is out there that we know we need to confront. I don't think there is a legislator who I have not spoken to privately that does not say, yeah, we need to grapple with this reorganization issue. It's one that's been hanging over our head too long, that we know that a state like Nebraska, with 900 plus school districts, with the types of tax levy variance that we have in this state, the system just doesn't make sense. You talk privately to business people, you talk privately to citizens, you talk privately to a lot of Class I residents, they know that the issue need to be dealed (sic) with. And I think the committee amendments will do that. The only other comment I want to comment on is Senator Haberman's reference to people out there don't know what is going on, that the game plan has changed, all of those kind of things. Just to repeat to the body I know it won't make any difference to Senator Haberman, my saying this, but it might to some of you who were listening to him, there's absolutely no reason for them not knowing what is going on. These amendments were presented at the committee hearing on 259, they were mailed out prior to the committee hearing. The committee members were told that we were going to be dealing with new issues. All of the interest groups in this area were told we were going to be dealing with these. Nothing has changed in these amendments since the committee hearing, and they should know what is going on. I know they don't all of the time, it's difficult to follow legislative procedure. That's no criticism of anybody. But this is not something new that I'm springing on people brand new

today, they've been out there, the committee amendments have been out there since before the public hearing. So, with that, I'd urge you once again to defeat the amendment.

SPEAKER BARRETT: Thank you. Senator Schmit. Senator Schmit, further discussion. Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. I rise to support Senator Lamb's amendment. And I was interested in Senator Withem's comments, and maybe I shouldn't say anything because what I might say would be repetitious of what someone else on the floor of the body has said, and therefore possibly not of interest to anyone. But since 940 was passed we have done a number of things in the area of schools that have, if not complicated, at least clouded the issue a little bit with a relationship as what we do relates to 259. We have seen fit to enact the choice bill, which may well have a bearing on school structure in Nebraska. We will, I rather suspect, spend quite a lot of time during this session of the Legislature finding a way to more equitably finance K-12 education in the State of Nebraska which ultimately could have an affect upon the face or the number of districts in Nebraska. It's been held on the floor of the Legislature many times that the number of districts in the state are somehow a detriment to the quality of education. And, yet, by any measurable standard, I think this week in the paper Nebraska was fourth in the nation in the percentage of people in school that graduate from high school. Somehow a factor of the quality of our education system might...which may well result from the individualized instruction in the K-6, K-8 side for many of the youngsters that we have in our system. It's been said that we will put reorganization behind us with 259. Certainly with phase three, if it's read in plain language, would do that because it would be in effect, and I would stand for correction on this. But essentially a reorganization program, as the mechanics of every day life, would work out. It simply would cause people not to operate an elementary only school as part of an affiliation system. It wouldn't work either by the quality of education, nor the means of support. So, from that perspective I would encourage careful consideration to Senator Lamb's amendment, considering with 259 the choice bill, its impact, the quality that we have in Nebraska in our educational system, which is a tribute, I think, to everyone that is involved, and also the changes that we may quite likely make this session in refinancing of education to bring the burden, or to spread the

burden more equitably between all of the people in Nebraska, irregardless of where they might happen to live. Thank you.

SPEAKER BARRETT: Thank you. Senator Haberman. Senator Lynch on deck.

SENATOR HABERMAN: Well, Mr. President, members of the body, the point I was going to make, and I just went back to visit with Senator Withem about it, is that, Senator Withem, I will be more than pleased to have the folks who are calling me from my district in the Class I schools and let you visit with them. Now when they call into my office, if they put on the call sheet "return the call", I return the call, which I did Sunday, which I did last night, and I visited with these folks. So if you would like to, Senator Withem, I would like to ask you to...if these people call you to take the time to listen to them and listen to their concerns. Now quite possibly, Senator Withem, they have not received the information as these folks live in Arthur, Nebraska, they live in Brule, Nebraska, they live in Big Springs, Nebraska. And out in our district, Senator Withem, we don't have weekly newspapers so that they can follow this issue. I mean we do not have daily newspapers, we have weekly newspapers. Now in the weekly newspapers, Senator Withem, they don't print this information, and these folks all get the weekly, the local weekly paper. They don't print this type of information. Now these folks work from seven to six, or eight to five, or whatever. Their evenings are busy as ours. Their weekends they are working, so how are they to get all of this information that you say they should have and they should know about? And then you're probably going to say, well, I should provide it to them, that's my job. Well, I quite frankly tell them, Senator Withem, that Senator Lamb is the expert in Class I's, he studies it, he knows about it. And there are other issues that I am more informed on than this issue, until it comes to the legislative floor and we debate it. Now I brought back to you the January 4th Journal of 1990, and you have some amendments in that January 4th Journal. Today is January 9th. How are those folks going to know what those amendments are that are in the January 4th Journal? How are they going to know this? Where they going to get a dissertation of what they mean? Now I understand that the January 4th Journal amendments don't amount to anything. But I'm trying to make my point, Senator Withem, it's awful easy for someone to stand on this floor and say they should have known, and I say, how do they know? Well, we had public hearings. These folks

don't and can't take the time off their job to go to a public hearing.

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: Now I mentioned to them I understand that you have a lobbyist retained to present your side. And they said, yes, that they understand that also. Well, quite possibly the lobbyist is not giving them the information. So I'm going to say again, Senator Withem and members of this body, let's go with the high school plan, let's try it, let's see what happens. Then, if that works, then let's go with the grade school plan. I support Senator Lamb's amendment. Thank you.

SPEAKER BARRETT: The member from the 13th District, Senator Lynch.

SENATOR LYNCH: Mr. President, members, could I ask Senator Lamb a question?

SPEAKER BARRETT: Senator Lamb, would you respond to a question, please.

SENATOR LAMB: Yes.

SENATOR LYNCH: Sorry to interrupt your phone call.

SENATOR LAMB: No.

SENATOR LYNCH: Just so I understand how it works, and I turned around and said to Senator Smith that, you know, her area would be directly or indirectly involved with the question. But, for example, so I can understand how this works, since I'm from a district where we pay a common levy and we support both the grade school and the high school, and I assume that some day what we'd like to work towards, Lord willing, that would not mean we'd close schools by the way. But, for example, in your proposal, Senator Lamb, take the first of the 800 and some school districts that we have, Adams County 29; it has a levy to support its grade school of 10 cents a hundred, that's because that district has about 25.5 million dollars worth of value, for ten students they're about 2,500,000 per student. Then they pay a levy of about 50 cents, I understand, for free high school or tuition to send their kids to the Hastings High School. Now how would this work? I'm assuming it would mean that the Hastings

High School District would have to develop what it costs to run their high school system only, and then that cost would be added to the 10 cents this district pays now to support their high school system. Right now they pay about 60 cents in total for both high school and grade school responsibilities. You have any idea, since you argue that your amendment would, in fact, allow that 10 cents to continue to exist, in the case of Adams County 29, what the difference would be in that district, I know that you're passing on a whole bunch of district numbers here, what the total tax would be for people in Adams County 29, or maybe Senator Smith can tell me, based on your amendment. That would help some of us to understand what you're trying to accomplish and the difference.

SENATOR LAMB: Well, Senator Lynch, I understand what you're doing, and I recognize that's the way to go about it. You pick...

SENATOR LYNCH: No, no, just answer my question. Do you know how much it would cost? Don't, don't,...you've taken two or three times now to moralize your point.

SENATOR LAMB: No, I don't know, and I can't be expected to know off hand what it's going to cost a certain district.

SENATOR LYNCH: Okay, good, sir. Does anybody know? Does anybody know here? That's what I'm curious about, you see. The possibility exists that maybe they would only have to pay 40 cents because of that extraordinary value they have to support the school system. So these people would be paying a consolidated tax of less than the 60, I don't know. But I think that's the kind of thing we ought to know, if we're going to seriously consider Senator Lamb's amendment. See, if we don't know that, I guess we can, in our own minds eye, think that if people don't want to support a consolidated levy to support a high school system and keep their grade school open, no problem with that, no reason why they couldn't do that, why are we arguing on this particular point of view in particular with this amendment, except that we'll be able to continue a practice unfortunately we've had in this state where under the banner of the flag and a few other things we say we have the right to educate our kids the way we want to, as long as it saves us money, as long as it saves us money, and as long as it costs our neighbor more money. You see that's where I have terrible problems trying to moralize, in fact, and justify why we want to

consider an amendment that would continue the terrible inequity that we've all been concerned about for years. In the Omaha area we pay on an average of about $1.80 a hundred to support our grade school and high school system, which are affiliated, I guess, because they're in the same system.

SPEAKER BARRETT: One minute.

SENATOR LYNCH: I think we have to know the difference before we seriously consider this amendment, and would suggest that those numbers be put together. I would like to suggest we allow the amendment or the bill, as suggested by Senator Withem, to pursue, or the amendment, or whatever we're talking about, and that those people who are concerned with Senator Lamb's amendment, put some numbers together so we honestly know what we're talking about, the difference between rip-off and the difference between honest integrity as it applies to equal and fair support for both the grade school and the high school system.

SPEAKER BARRETT: Thank you. Senator Elmer, followed by Senators Hefner and Beck.

SENATOR ELMER: Thank you, Mr. Speaker. I honestly don't know how I'm going to vote on this amendment yet. Last year I introduced LB 370 which would have, within a county, have everyone within the county paying a single high school levy, no matter how many high schools there were. And each district within the county then paying their own elementary tax, thinking that that might be fair, that they had control of each within their own jurisdictions. In 1994, if I have phase three properly in my mind, Senator Withem, before you get clear away, if I have LB 295 in proper perspective the phase three in 1994, five years hence, would include at that time a general elementary through twelve levy on the entire affiliated district. If this is to be done, what benefits would then the affiliated Class I's receive from the K-12 district they're affiliated with?

SENATOR WITHEM: Thank you very much for the question, Senator Elmer, because it's a key point of the committee amendments I forgot to mention during my initial introduction. When we took this....If you don't mind, can I go into a little bit of detail here?

SENATOR ELMER: I want a little time left when you get done.

SENATOR WITHEM: Okay, I'll be very quickly then. Some people with Class I's who didn't particularly like...kind of liked the idea, didn't like it, said, we're going to pay that common levy, we want to have access, we want to have access if there's a music program in the city school district we want to have that music program. If there's an athletic program, we want to have that. So the committee amendments call for a sharing of the facilities. If they pay a levy to support some nicer program in one of the other Class I's or in the city district, then they get to utilize that particular district. Thank you for letting me make that point.

SENATOR ELMER: So, for example, if one Class I school board would decide well I'm going to offer this nice art program, then the other Class I over here is going to offer a nice music program, they could then share.

SENATOR WITHEM: Yes, yes.

SENATOR ELMER: Or the same thing conversely. If this is the kind of thing we're trying to do, you know Senator Lynch makes a real good point. I understand our esteemed senator from Scottsbluff, Terry Carpenter, did suggest that we have one school district in the entire state and that we could achieve tax equity in that way. But we all realize that the bureaucracies involved in that would make it very difficult to make it work equitably for everyone. This is a step toward that solution. I still don't know which way I'm going to go on the Lamb amendment. But thanks for answering those questions.

SPEAKER BARRETT: Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I've had some calls on LB 259, and I know it's a little bit different now than the way it was introduced the first time, but I guess some of the Class I districts still have a lot of questions, and I certainly do, too. I don't know what I'm going to do on Senator Lamb's amendment. I think I'll probably support it, because it sounds reasonable to me. But I would like to ask Senator Withem a question. Senator Withem, do you have any printouts, district-by-district, on...say that we adopt...well, we have adopted the committee amendment. Do you have any printouts as the committee amendments now stand?

SENATOR WITHEM: Printouts on what, Senator Hefner? I don't know what the printout would deal with.

SENATOR HEFNER: Well, so we can see what each Class I district...how they fare, and other districts that are affiliated with....

SENATOR WITHEM: Senator Hefner, you have, a), this is 1994 when it will take place, we have no idea what the tax situation will be like in the state. We don't know where they're going to affiliate. And if we'd create a master plan where we assumed where they'd affiliate, your phone would ring off the hook that we are trying to force them into particular affiliation patterns. I mean it's something that we cannot do a printout for, I'm sorry.

SENATOR HEFNER: So, in other words, for a particular Class I district we will not know where they stand. Is that right?

SENATOR WITHEM: And we can't, if we're going to allow them to make the decisions, we can't. I mean you've always argued in favor of letting them make their decisions. So we can't predict where they're going to make their decisions.

SENATOR HEFNER: Well, Senator Withem, if a Class I district is only six miles away from a K-12 district, well we would hopefully...hope to believe that they would affiliate with that instead of going 20 or 30 miles to another district, wouldn't we?

SENATOR WITHEM: We, many of us would hope that, but the people that are ringing your phone off the hook will object strenuously to anything that does not give them the right to choose which district they affiliate with. And across the state there's a patchwork of districts that go past not only their neighboring district, but two or three other districts to affiliate with another one. That's one of the key things that your Class I friends said they wanted left in this bill, and it's in there to let them make that decision.

SENATOR HEFNER: Okay, thank you, Senator Withem. Here's another problem that I have, the budgets are set for K-12 districts, budgets are set for a Class I district. Okay, when the K-12 set their budgets, say at 10 million dollars, they

reduce the amount that they need to raise from property taxes from other sources. And there's a list of those, like public power district sales tax, fines and license fees, nonresident high school tuition, other tuition receipts, transportation receipts, and I could go on and on, whereas the Class I districts will be taxed on the basis of the 10 million, while the K-12 will be taxed on the basis of 6 million. I just...I think that this bill needs a lot of work on it yet. But getting back to Senator Lamb's amendment, I think that Senator Lamb's amendment is a reasonable approach to this and I believe that I will support it at this time.

SPEAKER BARRETT: Senator Beck, please.

SENATOR BECK: Mr. President and members of the body, as a member of a district that is in north central Omaha and totally affiliated, I have some real questions about this. And I think that Senator Withem will be back in a minute and I can ask those. And I guess I could direct it to anybody as far as that goes. I'm honestly trying to figure this out. And I've heard this tax equity over and over again, and that's the point that I would like to focus on, because I honestly want to understand what's happening here. I think probably one claim to fame that I have to mention to the body, whether they listen or not, is that I graduated from the first consolidated high school in the State of Nebraska. And I'm going to enter this into the record, that was Bratton-Union Rural Consolidated High School, District 9C, Humboldt. So I've been involved in some understanding of consolidation, and it has since been reconsolidated into another district. Senator Withem is back now, and so I'd like to ask him a question, if he wouldn't mind, because I'm really trying to figure this out.

SENATOR WITHEM: Be happy to.

SPEAKER BARRETT: Senator Withem.

SENATOR BECK: I think sometimes when we ask one another of our colleagues a question it may be taken as a hostile question, and this is not. I really need to understand what's happening here. I have one question, and it's probably very similar to...maybe it's similar to what Senator Hefner asked. Can we get some kind of fiscal statement as to where these districts are now, so that we could see what would happen to them later. In a sense you answered Senator Hefner no, but could you fill me in on that.

SENATOR WITHEM: Yes, again, Senator Beck, it would be extremely difficult without making the types of assumptions that I don't think we should be making, because we really don't know where these districts are going to affiliate. I suppose you could. We could do...we could take Brown County as an example, because Brown County is one that has a number of Class I's around the City of Ainsworth that has...they really don't have any place else to go. When they affiliate they will affiliate. And we could probably look and see what happened based on previous history. But to get a printout that Senator Hefner was asking for, that shows the fiscal impact of this on every school district in the state, is impossible. It would be like asking for a school district if we'd mandate that asbestos be taken care of, let's get a printout on how that will affect tax levies. Well, we don't know how it's going to affect individual districts. If you want to just see a microcosm, a case study on what would tend to happen in a given county, we could do that for you. But we cannot, it's impossible to do a printout and predict what the state will look like, because we don't know.

SENATOR BECK: I see, I see. I have just one other question then that came to my mind as we were talking about this. Maybe it's too early to ask it now, I don't know. But is it possible for the K-12 to reject the Class I's proposal anyway?

SENATOR WITHEM: Okay, thank you. Another point that needs to be clarified, that's criticism coming in that Class III's will totally reject them and then could reject them and reject them again, the only thing they could do then was merge.

SPEAKER BARRETT: One minute.

SENATOR WITHEM: That is not the intent of the bill. The bill...the intent of the bill is a Class I will have a absolute right for affiliation. They have to go through a process of approval and discussion with the Class II's and the III's. But when the whole thing shakes out, they will, in fact, have an absolute right for affiliation. They cannot be rejected into a merger situation. I suggested to some people to bring some language forward to further clarify that, if they want to, and I'd be happy to accept that kind of language. Thank you.

SENATOR BECK: Okay, thank you, Senator Withem. That's all the questions I have at the moment. Thank you.

SPEAKER BARRETT: Thank you. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, Senator Lynch, would you respond to a question, please.

SPEAKER BARRETT: Senator Lynch.

SENATOR HABERMAN: Senator Lynch, you made quite a dissertation about the financing and the finances and the money and the taxes and the mill levy around Hastings, Nebraska, which is Adams County. May I ask you why you're so interested as to the financing and the issues and the tax and the mill levy in Adams County when you live in Douglas County?

SENATOR LYNCH: Very easily. As long as the inequity exists in the state that does in education, as long as, based on the Syracuse Study we're wasting about 100 million dollars in this state on education that we don't need to waste, we're never going to have a meaningful state aid to education program. And as long as we don't have a meaningful state aid to education program, the people that live in my area and in most areas, and probably 80 percent of the areas of this state will never have a meaningful state aid to education program.

SENATOR HABERMAN: Senator Lynch, I have another question. You say equity in education...

SENATOR LYNCH: Well, supporting education.

SENATOR HABERMAN: Equity in education or equity in dollars, which is it?

SENATOR LYNCH: Dollars (interrupted)...

SENATOR HABERMAN: Dollars. Now you're saying that we have to have equity in dollars, everybody should pay the same, is that what you're saying?

SENATOR LYNCH: Oh, no, I never did suggest a single state board of education.

SENATOR HABERMAN: But whether you're in a Class I school, or a Class VI school, or K-12 school, or everybody in the school district should pay the same amount, is that what you're saying?

SENATOR LYNCH: I think anybody that's in any kind of a system that has a high school district should support that high school district whether you live in the country or the city.

SENATOR HABERMAN: That's fine, but this goes further than the high school district, that's what we're arguing about. This goes to the grade school also. It does, Senator Lynch. I'll agree with you on the high school district 100 percent, but this goes down into the grade school. Now also, Senator Lynch, it kind of befuddles me a little bit as why some people can say and some people believe that the almighty dollar, the almighty dollar will see to it that every student has equal education. Now I haven't received my list yet, Senator Lynch, but I'm getting a list of all of the courses that are taught in District 66, Ralston, Papillion, Lincoln East, I'm getting a list of all those courses. And I know without seeing the list those students are offered courses that are not available to students in my district, they're not available, we can't get them, we don't have the teachers, we don't have the space. Lincoln East has a great big swimming pool in their high school, it's a beautiful swimming pool, we don't have one, there isn't any in my district. They have a weight room that's carpeted and all of the beautiful weight machines you ever saw, it's bigger than one of our gymnasiums. We don't have that. So how can you say that every student in the State of Nebraska is going to have equal education if we make them all pay equal taxes? It isn't going to happen. It isn't going to happen. So I say be careful what you're doing. When somebody says quality education, that's in the eyes of the beholder. In the eyes of these people in the Class I's they are giving their students quality education...

SPEAKER BARRETT: One minute.

SENATOR HABERMAN: ...to their children. And who is the government to stand up here and say, we know what is best for your children, we know what is best, so you shall do this, this and this. I still support the Lamb amendment. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Coordsen, followed by Senators Nelson and Lynch.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. Again, I rise with some concerns over phase three. I

have no problem with, of course, the affiliation for high school purposes and that part of 259. We have in Nebraska several problems in education, not all of which are concerned with Class I schools only. The depopulation of outstate Nebraska is having an affect upon many of our Class II, K-12 systems and some of the smaller Class III's to the extent that I know there are conversations between districts as to ways that they might consolidate their effort in one unit and provide hopefully a greater variety, if not a higher quality of education, to the high school students within that district. Normally within that particular conversation there is a great deal of concern, and mostly I think it relates to the space, the area, the distance between towns as you move west in the state, and an interest in maintaining an elementary school in a town where there is currently today a high school, and some assurance of the ability to maintain that school. It would appear that as phase three moves in, if we adopt the committee amendments as presented, that it...since in many cases the cost per pupil is a function of the number of students within an educational system as well as the programs that are provided by that system, that there will be quite serious restrictions on small schools in that. If their cost per pupil is greater than that of the total affiliated district, then they will have to pay an additional levy to pay that particular cost of services. There has been some comment about the larger districts that have a number of "satellite schools" within that, elementary and certainly school systems that have a number of high school buildings within that. Is the level of educational achievement and opportunity always equal between each of those? From what you read in the paper, probably not. And in closing I would like to ask for clarification because I may not be understanding phase three right. A question of Senator Withem, if he would. Senator Withem, after 1994, if an affiliated district would contain two schools, and if the elementary per pupil cost of the district is, to choose a figure, $3,000, and the cost of education of the students in the smaller school...

SPEAKER BARRETT: One minute.

SENATOR COORDSEN: ...was $4,000, would the smaller school, the affiliated school have an additional levy to make up that difference?

SENATOR WITHEM: Yes,...

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes, I don't...no, no, they would not. What I think you may be reading in there is the provision that talks about the stopgap we put in to keep one district from padding its budget to the extent of the other. It just deals with increases. If one increases its per pupil by 10 percent, and the other one by only 3 percent, the one that goes up 10 percent will have to bear their own cost for the additional increase.

SPEAKER BARRETT: Senator Nelson, please.

SENATOR NELSON: Mr. Speaker, members of the body, I do appreciate Senator Lynch's words, nothing is going to work in the long run unless it's fair and fair to all of us. However, I might be able to help out Senator Beck a little bit to understand. I think Senator Lynch, I have to agree with Senator Haberman, has picked one very, very rare district in Adams County which happens to have a lot of quite expensive homes in a concentrated area, and apparently the people in that district maybe are over and above the age where they have children in school, so that's one of the very, very, very rare instances that we can pick. But, Senator Beck, simply because of the fact of maybe a little mill levy in a particular Class I district, or a particular district, be it Class II or whatever, does not mean that that particular resident and family may be paying a considerably higher amount to educate their child. What I'm talking about is in the agricultural community in order to make any kind of a viable living or so on that resident in an agricultural community could hold maybe, and it could be highly mortgaged, property three times the value of an urban resident with probably one-fourth the amount of income from that property. So we cannot necessarily point our fingers at one mill levy and say that it happens. The only thing I see, which may help you out, is we do have Class I's that some very, very good quality of education, but they are still retained, so to speak, only two or three students in the district, and that's not doing the students any good, nor is it doing education any good in the long-run. I see no problem of the districts that affiliate with a high school to try to have so to speak a common school and a common quality of education. Senator Haberman is entirely right, the subjects offered, the facilities, transportation, many, many things enter into the cost of schools. So you can't just point your finger at one particular area and say that this does apply. Senator Beck, also there is

available to you the mill levy for all Class I schools, Class II's, all schools in the State of Nebraska. And if you really wanted to have your staff check that out then you could probably see the difference in the cost per student. So, with that, I think from what I see I still support Senator Withem and the fact that we will never have true equity in education. And our students that are in some of these districts that some of the residents want to keep strictly because it's a little bit cheaper, is not fair to our students. And all students deserve the best education possible within the facilities and the means to provide that.

SPEAKER BARRETT: Senator Lynch, please.

SENATOR LYNCH: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Lamb, would you care to close.

SENATOR LAMB: Members, I think this has been well developed, well debated, and we're about ready to vote. As I see it the issue is very clear, and it....I would like to start out by saying this does not affect me, personally. I'm not part of a Class I. I live in a Class III. We have a good Class III and it does not affect me. In fact, I'll probably benefit from the committee amendment because some of these Class I's would probably join our Class III and kick in a lot more money. I don't know, won't be fair to them, but they could do it. And it would probably financially be beneficial to me. So it's not a personal thing with me. But it is...it does affect a lot of people who need to be represented on the floor of this Legislature. I think there is a bit of a lesson to be learned here. And even at my advanced age I'm still learning some lessons, and one is be very careful when you start to compromise, you know, be very careful when you start to compromise. I voted for LB 940, I voted for 940. I voted for affiliation concepts for high school because we said, hey, here's a compromise that meets most of the objections of those people who had a problem with nonresident tuition. This does

it, this does it, this puts them on a tax role, puts them on the tax role. So I said, yeah, let's go. We'll do that, we'll compromise and do that. But now, no, that's not sufficient. We have to go way beyond, way beyond what I'm willing to do as a compromise. It's no longer a compromise, it's capitulation. That's really what it is, that's really what it is. I'm not willing to do that. You'll do exactly what you see fit, what you think should be done. I respect your decision. But I can tell you right now it's not fair and equitable. I ask you to adopt my amendment.

SPEAKER BARRETT: Thank you. You've heard the closing offered by Senator Lamb. And the question before the body is the adoption of the Lamb amendment to the committee amendments to LB 259. Those in favor please vote aye, opposed nay. Voting on the amendment to the amendment. Have you all voted? Have you all voted? The Chair recognizes Senator Lamb.

SENATOR LAMB: Well, Mr. President, I would call for a call of the house and I think I'll still go ahead with it because, if I don't do it, Senator Withem is going to do it. So we might as well get to it, have a call of the house and a roll call vote.

SPEAKER BARRETT: The question is, shall the house go under call? All in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Legislative Chamber, please return. Senators Landis, Lynch, McFarland, Moore. Senator Labedz, the house is under call. Senator Landis, please check in. Senator McFarland and Senator Wesely, the house is under call. A request for a roll call vote. Members, please return to your seats. The question is the adoption of the Lamb amendment. Mr. Clerk, proceed with the roll call.

CLERK: (Roll call vote taken as found on page 223 of the Legislative Journal.) 22 ayes, 23 nays, Mr. President.

SPEAKER BARRETT: Motion failed. The call is raised.

CLERK: Mr. President, Senator Schmit would move to amend the committee amendments. (Schmit amendment appears on page 224 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Schmit.

CLERK: Senator, I have AM2091, Bill Drafter version in front of me.

SENATOR SCHMIT: AM2091, right?

CLERK: Yes, sir.

SENATOR SCHMIT: Yes. Mr. President and members, I offer the amendment, 2091. And I want to call your attention to the fact that the first amendment I handed out contained an error, and Senator Withem pointed it out to me, and it referred to the busing provisions of this amendment. And we made that correction in this amendment, and therefore, at this time, I would ask you to refer to AM2091, which is on your desk and which I have made a note on the top of it. This amendment, ladies and gentlemen, I want to say at the outset that I very rarely enter into these education bills. Most of you, all of you perhaps are more knowledgeable about them than I am, and I usually just go along. I do have an interest in Class I's. I have a great many Class I's in my area, and I have a number of Class VI's that are in the purple area of my legislative district. The Class VI school systems, of course, as you know each contain one or more Class I districts. And the Class VI school districts and each member Class I have their own, separate tax levies. Under the committee amendment a Class VI can voluntarily or involuntarily have an affiliating Class I district added to the Class VI. And under the committee amendment, if a Class I affiliates with a Class VI, the taxing autonomy of the individual member of the Class I's and the Class VI would be destroyed. There would be, as you know, a single tax levy to support all Class I and Class VI educational activity, applied across the entire affiliated members of the Class I's. The Class VI's want to be able to retain the tax autonomy of the Class I's that are part of the Class VI district. Amendments one and two and the first half of amendment three, I want to call your attention to it because it is a new amendment, would exempt the Class VI's and the member Class I's from the uniform tax levy provisions of the committee amendments. It would retain the committee goal of requiring all of the real estate to support K-12 education, and at the same time it would retain the taxing autonomy of the Class I's that are a member of the Class VI. I know that Senator Withem has

worked a long time on this and he will no doubt comment on it. It was my understanding that Senator Withem would not disagree, that the committee did not intend to end the taxing autonomy of the Class I's which are a part of a Class VI district. In the second half of the amendment 3 in the committee bill, the affiliated districts are subject to the uniform affiliated tax levy. Each student from each school in the affiliated system would be able to use any of the facilities that are a part of the entire program because they are paying to support the entire program. Under this portion of the amendment, the second half of amendment 3, it states that those students who are not paying for some of the facilities would not be able to use them, so that would end that ability for them to use each others facilities because, in effect, the Class I's are not perhaps using or paying for the support of some of those other facilities or on a neighboring Class I facility. Amendment 4 and 5 would make the provision of transportation discretionary and that is the point that Senator Withem caught. The original amendment which we had drawn would have prohibited the system from providing for bus service in the Class VI's and the Class I districts. This allows them to decide whether or not they want to provide busing service and if so, they can do so. It's a discretionary part of the bill relative to busing. As you know, the nature of the Class I's and the Class IV's make it sometimes difficult to provide busing services in an efficient manner and so as a result this would leave that decision up to the schools themselves. Each could do as they so chose. I would prefer that you would not ask me any questions about this, but of course if you insist, I can't duck it and if I can answer them or not, but I am sure that Senator Withem and others who have discussed the bill can answer the technical questions you might have and I would make whatever attempt I can make to answer other questions that pertain to the amendment. If there are any questions, I would be glad to try to answer them. If not, I would move for the acceptance of the amendment.

SPEAKER BARRETT: Thank you. Discussion on the Schmit amendment, Senator Withem, Senator Moore on deck.

SENATOR WITHEM: Yes, Mr. President, I have 15 highly technical questions I'd like to ask Senator Schmit about this if I...(laughter) I would simply like to comment standing, there are two sections of the committee amendment. Part of, I think, the Legislature's commitment on this reorganization issue since it passed LB 662, even in 662 was a definition that a Class VI

school district exist as a separate district and we should not pass any statutes to change them, the rationale being Class VI's were formed as an attempt to meet the cry to create K-12 unified districts, they are, and any changes we make that affect the free-standing Class I's should not impact on the Class VI's. I think...frankly I think the bill in its current form provides for that. If it makes it clearer for the purposes of the Class VI's that read it to adopt the portion of the Schmit amendment dealing with the affiliated levies and the mixed levies and the shared facilities and all of that do not apply to the Class VI's, you know, I have no problem supporting the Schmit amendment to clarify what I think is already the existing intent of the bill. The other provision dealing with transportation has frankly been a troubling issue and it is one that, again, frankly makes a lot more difference to a lot of people out there in the state than it does to me. Original version of the bill said they shall not provide transportation to affiliated districts. It was then changed in the committee amendments to say they shall provide transportation and the Schmit amendment now makes it say they may provide transportation which is probably the best thing to do with transportation anyway, so I plan on voting in favor of the Schmit amendment.

SPEAKER BARRETT: Thank you. Senator Moore, followed by Senator Lamb.

SENATOR MOORE: Yes, Mr. Speaker and members, I, too, rise to support Senator Schmit's amendment. Obviously, I've been one of the people who believes in the Class VI concept to dealing with the whole school consolidation issue. I think, as Senator Withem just mentioned, it was the committee's intent not to disturb this present system which has provided a working alternative for some years now. I also share Senator Withem's concern about the fact that the transportation issue in the fourth part of the amendment is something I'm not sure what I'm comfortable with, but may I guess is as good a middle ground as any. I just simply urge the body to adopt Senator Schmit's amendment.

SPEAKER BARRETT: Thank you. Senator Lamb, further discussion.

SENATOR LAMB: Yes, Mr. President, just to...I stand here to support Senator Schmit's amendment because we do have a...what I consider a successful system out there of Class VI's, Class I's.

You know, it has worked well for a long time and in most cases those people, those Class VI's and Class I's that are affiliated currently with Class VI's are not messed with. In other words, people say you've got a system, let's let it stand. Now with this, unless we adopt Senator Schmit's amendment, if some other Class I would decide to affiliate on the basis of this new bill on 259 with that Class VI, then that throws them all into this new turmoil that we're talking about which is the common levy, distribution of the money among school districts for budgets, a whole host of complications that I don't think we need. You know, I certainly would support Senator Schmit's amendment.

SPEAKER BARRETT: Thank you. The member from Hastings, Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. I didn't speak on the Lamb amendment, although I was tempted to a couple times to put my light on, then took it back off again, and then when I decided I was going to speak it was too late, but I could have given you a definition. When we talk here about equity in education, and I'm glad that Senator Haberman was able to bring out the fact that in many cases for a lot of people it comes down to the dollar sign when we talk about equity rather than quality of education. I think that I could have as an old school teacher, and I literally mean that in many ways, but I was a teacher of many years ago and for a number of years, and I can tell you that there is a heck of a lot of difference between the physical plant that your Class I kids basically enjoy versus someone, for instance, who is an elementary student in the City of Hastings since we're talking about Hastings in Adams County this morning. And yet those kids came out of those Class I schools with an education that was at least equal to and in my cases superior to many of their counterparts in the city system in Hastings because I can tell you and I am very proud of the fact that many of my kids were valedictorians of their classes when they went on to other schools. So there is something else we have to take into consideration when we're talking about equity here and that is the reason I voted the way I did on that issue that Lamb brought to us because I can see and I understand totally that when you have a high school student who is going into another system, which is all they can do when all we have left for Class I schools with the K-6 or 8 or whatever it happens to be depending upon the district that they're in, they only have one option and that is to go on and affiliate with someone who has a K-12 or as a Class VI school is, 7-12

education. But they don't have things available to them that some of the kids in the communities have and so you have to take those things into consideration. You don't just look at the valuation of the land around them, you look at some of the physical things that those kids have and there is a discrepancy there if you want to talk about equity. So that is the reason I supported Lamb's amendment. Now, I have a question on this issue and, Senator Schmit, I don't...oh, there you...will you come back, please? I'd like to ask you a question and if you can't answer it, I would like to ask Senator Withem.

SPEAKER BARRETT: Senator Schmit, would you respond.

SENATOR SCHMIT: Yes, Mr. President, I'll try.

SENATOR SMITH: I guess I want to make it very clear that I'm trying to be really fair in this issue, and by the way, I did used to reside in that district that Senator Lynch referred to, for many, many years through no fault of my own. That was in my days of being ignorant about taxes and things like that, I just paid them as I was told to, but I now live in the city school district in Hastings, so there is nothing of benefit for me on any of this either. But the question that I have, Senator Schmit, we do have a Class VI district which my children all went to, and so I want to make sure that we're being really fair here and I understand what you're saying, we need to separate because there is only those grades, what, 7-12 in a Class VI, and so that is a different classification in the K-12 system that we're talking about. And so you are wanting to separate them from the amendment that, as proposed by the committee, but what would happen...I lost my place...

SENATOR SCHMIT: I forgot the question.

SENATOR SMITH: I forgot my question. (laughter) Oh, great, I'll probably need to put my light back on, but I had a question about the difference that that may create and another problem that might surface. I can't even remember it right now. I'll put my light back on and come back again.

SPEAKER BARRETT: There were no other lights on. Senator Smith, would you care to continue? Senator Smith, you are recognized.

SENATOR SMITH: ...light the only one on? I haven't had time to think.

SPEAKER BARRETT: Your light was the only light.

SENATOR SMITH: I put it back on so I could think.

SPEAKER BARRETT: You have five minutes in which to think.

SENATOR SMITH: Okay, thank you. Senator Withem, does this bring to mind anything that will create a problem...(interruption)

SENATOR WITHEM: In other words, do I know what question you want to ask me? No, I don't, Senator Smith, I'm sorry.

SENATOR SMITH: Well, I was thinking...there was something in my mind when I was reading through this about what would happen if you are separating a Class VI school district...

SPEAKER BARRETT: Senator Smith, excuse me, would you please direct your comments into the microphone?

SENATOR SMITH: Okay.

SPEAKER BARRETT: It's a little difficult for us to hear.

SENATOR SMITH: All right, I'm sorry. When I was reading through this something came to my mind about a problem that could be created where you separate a Class VI from the other classes, like...I know what it was now. Now, I remember. Okay. Class II and III schools, I'm thinking, for instance, my little...my small communities like Kenesaw High School, for instance. They...wouldn't you...could you create with this kind of an amendment a feud between your schools in trying to get those students from the Class VI, you know, versus, I mean a pulling apart of the school districts in that way?

SENATOR WITHEM: The answer is, there will be that feud there whenever you go into this reorganization and they have to choose where they are going to go. I think if your question is, will there be a likelihood that those people were more likely to choose going into a Class VI than a II or a III...

SENATOR SMITH: Yeah.

SENATOR WITHEM: I think that is one of the down sides of the

Schmit amendment. I am supporting the Schmit amendment because of all of its benefits, but I think you've correctly identified one of the down sides to it.

SENATOR SMITH: So in other words, what we have to do is decide in our own minds if we have a Class VI in our district and we have some small community schools like a Kenesaw or we had the Silver Lake district which has been formed now which we're a part of partially there, have to weigh the benefits versus what may result as far as the antagonism and the feuding that may result in those community schools.

SENATOR WITHEM: Right. Was that a question?

SENATOR SMITH: Is that what you are saying to me, that that's...

SENATOR WITHEM: Yeah, there is one other thing I'd like to point out to you regarding this affiliation process that they have to choose a district that they have had some previous relationship sending students to in the past, so they are not going to be able to just arbitrarily...If they have sent their kids to Kenesaw for generations and generations, they can't just for taxation purposes choose the Class VI. That should mitigate some of the...against some of the down side.

SENATOR SMITH: Okay, thank you. That helps me a little bit. I'm glad I finally remembered, Senator Barrett.

SPEAKER BARRETT: Thank you, so am I. There are no other lights. Senator Schmit, would you like to close?

SENATOR SCHMIT: Well, I want to thank...yes, I would. I want to thank Senator Smith because when Senator Withem got up and said he had 15 technical questions, he gave me a three aspirin headache and so Senator Smith kind of relieved that a little bit, and I do appreciate the support for the amendment. And, again, I want to say this, that I appreciate the work the committee has done. I think they have worked long and hard on this. I understand Senator Lamb's concern. I think that one of the positive aspects of what we are doing here with this bill is that calling attention to the overreliance of education on property as a basis for support and so to the extent that we can discuss it and debate it a little bit and bring that out, perhaps we will help find some kind of solution. And I know

that Senator Withem and Scotty Moore and others have been working long and hard on that. I'm a little apprehensive in some way, but nonetheless, I know they are working at it and that is good. So without any further comments, I would ask you to support the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to the committee amendments. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Schmit's amendment to the committee amendments.

SPEAKER BARRETT: The amendment to the amendment is adopted For the record, Mr. Clerk, new bills.

CLERK: Mr. President, a few things, yes, sir, thank you. New bills: (Read LBs 1051-1056 by title for the first time. See pages 224-26 of the Legislative Journal.)

Mr. President, finally, I have a hearing notice from the Judiciary Committee for Wednesday, January 17. That is signed by Senator Chizek. (Re: LB 880 and LB 942.)

And the last item, Mr. President, lobby report for November 18 through January 8, 1990. Mr. President, at this time I have nothing further pending to the Education Committee amendments.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Withem, would you care to discuss the committee amendments, please?

SENATOR WITHEM: Is this to open the discussion to debate or to close? Are there other lights on?

SPEAKER BARRETT: This is a discussion on the committee amendments. Would you care to...(interruption)

SENATOR WITHEM: I believe I was introduced earlier for my ten minutes to discuss them, so I will just wait and see if other people wish to discuss them and then...

SPEAKER BARRETT: There are no other lights on at the present time. If you'd like to refresh our memories with your earlier discussion, perhaps this will generate some debate.

SENATOR WITHEM: In other words, I have to stand here and talk about them whether I want to or not, that's fine.

SPEAKER BARRETT: The option is yours.

SENATOR WITHEM: Okay, no, thank you. Thank you, Senator Barrett, maybe I should remind people the situation that we are currently in. The committee amendments have been changed only slightly by the Schmit amendment. They still, my previous recollection of what they are involved with are here in the list that Larry Scherer provided for you to follow the committee amendments. The committee amendments really do need to be adopted. There may be a temptation by people to vote no on the committee amendments now, thinking that this will stymie the process. The process is still one where this Legislature does, in fact, need to act on the issue this session because we do have an expiration of nonresident tuition facing us next year. We do need to pass legislation. The green copy of LB 259 is obsolete and if...frankly, it is not a bill that I would feel comfortable in continuing to carry if the committee amendments are not adopted, so procedurally I think we really do need to adopt the committee amendments, consider some other amendments to the bill that at this point are fairly technical and then advance the bill on to the next stage of consideration and we can revisit some of these issues before you. So it is my advice to you at this point to vote yes on the committee amendments.

SPEAKER BARRETT: Senator Lamb, would you care to offer comments on the committee amendments.

SENATOR LAMB: Mr. President and members, I stand to oppose the committee amendments and you've heard my arguments, and so let me offer you this scenario. You oppose the committee amendments, if you vote down the committee amendments, then they will come back. They will come back with the other amendments which are more reasonable. That is what will happen. That was a very close vote, lost it by about one or two. Several people not on the floor of the Legislature today that would, I think, voted to support my amendment. Had my amendment gone, I would vote for the committee amendments, the bill, just as I voted for 940 for which, by the way, I got a lot of dissatisfied people in my area. But nevertheless, vote against the committee amendments and I'm sure we will come back with a proposal that is much more workable and much more fair than the one proposed under the committee amendments.

SPEAKER BARRETT: Senator Lynch. I'm sorry, there are another one or two lights. I won't recognize it at this time, but thank you. A couple of lights just went off. Senator Lynch, we are to the point where we're ready to close. Senator Withem.

SENATOR WITHEM: Thank you, Mr. Speaker, members of the body, you know Senator Lamb just indicated what would happen if you voted down the committee amendments. I don't know who...frankly, Senator Lamb, I don't know who will be coming back with what you described as fairer amendments. I have spent considerable hours, as you know and as you have, working on this issue in the last three years. I have been to all parts of the state. I visited with everybody and anybody I could about the issue. I have listened to input. I have proposed things and been called names for proposing things. I have in good faith attempted to compromise and I have had people on both sides of the issue chastising me across the state. Frankly, Senator Lamb, if this amendment, committee amendment is not adopted, I do not know where the other fairer amendments will be coming from. That is not necessarily a threat, I don't mean to be threatening you or members of the body, but I think we do need to clarify that if there are people in the Legislature that think that there is...that this is kind of an opening bid in an auction and we reject this one that there are several other proposals yet to come. There really aren't. That we as a Legislature have discussed, debated, argued, fought over the question of school reorganization, what you have before you is a bill that will accomplish what Class I residents have told us year in and year out they want. They want to keep their schools open. We have the power of a Legislature to do what every other legislature in the nation has done, practically speaking, and that is for school district reorganization. We could just as easily be here on the floor today talking about mandatory school district reorganization and my guess is the votes wouldn't have been that much different on the Lamb amendment, on that proposal, than they would have been on the Lamb amendment, but it is my preference not to do that. I have changed over the last three years to the point where there are those very sincere individuals in this state who do want to keep their schools open for education purposes. Look around you. You don't see those folks here today. You don't see those folks here opposed to this bill. There were times, if this were mandatory school district reorganization, you'd probably have these balconies full of people. They are not here. The people that you are

talking to out in the Rotunda, by and large I think, and I stand to be corrected on this, by and large, these aren't the parents of the children that are telling you that they want to keep their schools open for educational purposes. I think this is a fair proposal and it is my effort to bring back to you what this Legislature told me two years ago you wanted. You wanted something that would resolve the school district issue in such a fashion that would deal with the legitimate concerns of the pro-reorganization people but would allow those schools to remain open. This, frankly, is the best that I can do and I would appreciate your support for it.

SPEAKER BARRETT: Thank you. You've heard the closing. The question is the adoption of the committee amendments to LB 259. Those in favor please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 26 ayes, 6 nays, Mr. President, on adoption of committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. Senator Withem, I believe we are to the bill with the possible exception of one or two of your amendments, so what are your wishes? Do you wish to go to the amendment?

SENATOR WITHEM: Let's do that, let's go to the amendments.

SPEAKER BARRETT: Thank you. Mr. Clerk.

CLERK: Mr. President, Senator Withem would move to amend. Senator, I have AM2060 which is on page 159 of the Legislative Journal.

SENATOR WITHEM: AM2060 is described in this handout that we have available to you in lay terms here. Basically, this is a compilation of some technical amendments, some things we noticed in the drafting of the bill that weren't quite accurate and also some items that were brought to our attention. I guess the most significant one is county superintendents. A delegation of county superintendents came by the other day and they said, one of the things you may not have considered is the fact that in July '91 nonresident tuition goes away. What do we do with that money that is in the nonresident tuition fund? And naively, I guess we just assumed that that money would somehow magically transfer over to continue to support education. We need some

specific language in there directing exactly how that would take place. Another minor little technical amendment, it deletes $38 million appropriation from the bill that originally when the bill was introduced we were going to tie it together with a school funding measure. The school funding measure is standing on its own elsewhere. You can write back to your constituents and tell them you voted for an amendment today that saved $38 million of taxpayers' money and you're being a fiscal conservative. And the rest of it is basically updating language, that type of information, again, another clarification that just doesn't apply to Class VI's. It clarifies incorrect dates in the bill. I would urge you to support this amendment to put the bill into better shape.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Thank you. Senator Landis, please. The question is the adoption of the Withem amendment to the Withem amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

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

PRESIDENT: The first Withem amendment is adopted. Senator Withem, do you have another one.

CLERK: Yes, sir, on page 162, AM2058.

SENATOR WITHEM: Mr. President, members, AM2058 is a date change. I just want to talk about this separately a little bit. Number one, because as I mentioned, that there have been lots of charges about what my intent is in dealing with this. One of the latest charges about what type of skullduggery I was proposing to force Class I's out of existence was that we were going to pass 259 and then it would go into effect in July of this year and everything would have to be completed by next February, and if the Class II's and III's would just simply drag their feet, they would be forced into mandatory merger. That is not my intent. They do point out a good point, that the bill was drafted last year for passage last year. It didn't pass last year so we need to update the date somewhat. It indicates that the current copy of the bill indicates that the petitions have to be completed, the affiliation process has to be completed by February 1 of 1991, a year from now. What we are

saying with this is that they have to be filed by a year from now. The process has to be begun, formally begun with a petition by a year from now, does not have to be completed by a year from now which I think is a workable amendment. It also, to accomplish this because in essence there will be another...those that wish to drag it out will have another year for operation, we do have to move the expiration of nonresident tuition from 1991 to 1992, so that is what this amendment does.

PRESIDENT: Senator Landis, did you wish to speak? Okay. The question is the adoption of the second Withem amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Withem's amendment.

PRESIDENT: The second Withem amendment is adopted. Do you have anything further on the bill?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: We're back to the bill itself. Senator Withem, did you wish to talk about the bill, the advancement of the bill?

SENATOR WITHEM: I'll wait until my closing.

PRESIDENT: Okay. Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, when you take a look at 259 and you look at the areas of agreement and you look at the areas of disagreement I think it gets some good guidance as to how to respond to the bill because there is a good thumb of areas of principled agreement in the bill. First, it acknowledges and supports a basic argument by the Class I proponents on this floor over time, and that is we want to control and operate our schools. We want to choose our teachers, we want to control our curriculum. We don't want to have massive transportation difficulties in moving young children great lengths. We want to have proximate school attendance centers, and this bill supports that concept. That is a fundamental area of agreement. Secondly, there is an argument by proponents of larger districts that it is necessary to get a contribution from Class I schools for the continued maintenance of the high schools that they send their kids to,

above and beyond the troubled mechanism of high school free tuition, that we need an allegiance between these elementary kids and their parents and the taxpayers that support their school district to the high school that they will eventually utilize to complete their education. This bill contains that concept. It says there will be a relationship of affiliation between the Class I and the high school that the kids will eventually go to. The third area of agreement in this bill is it brings to an end the nonresident tuition problems which have plagued this state for years. We have been up and down the judicial ladder time and time again with different formulas that have been attacked on all sides. This is a major area of accomplishment of the bill. There remains an area of disagreement. How do you treat the levying of tax obligations by the Class I school for elementary costs when the district with whom they are affiliated have different costs than the Class I? Frankly, the Class I people say, listen, if we run a cheaper school, we should get the benefit of that. We should have lower taxes that are commensurate with what we're spending rather than getting locked into having higher taxes to support perhaps the broader programming choices of a larger district. Don't tie our fates to theirs. The flip side of that argument is, listen, this whole fight, we were told, was about control, not about taxes. We have been hearing day in and day out from Class I supporters that their chief argument was in favor of self-determination of program, teacher, transportation, maintenance, school buildings, the control of the program and that is assured. If that is assured, shouldn't everyone support education at relatively the same levels? And those two perspectives on this last issue remain open issues. We certainly heard them debated this morning. I would suggest to you this, that the bill in its current shape has much more positive in it than negative. Secondly, that there are negative things in this bill with respect to the Class I opponents to the formulation of the bill as it is, this bill has a period of time of implementation anytime during which it can be subsequently attacked in a collateral piece of legislation by the opponents of this particular single result of the bill. There is more in this bill that is good than that which remains at issue. I submit to you that we need to pass this bill on and we need to make this positive statement today in this session to pass this bill.

PRESIDENT: One minute.

SENATOR LANDIS: I would not close the argument, that is to say I don't think this is the final word, but we must take this gain now it seems to me. This area of principled agreement minimizing the area of disagreement, recognizing that the smaller questions continue to remain open, both this session on Select File and in subsequent years by amendment. But it would be a massive mistake to stay where we are frozen, unable to make any progress when there is a series of principles here which represent progress, because we do not have total harmonious agreement on each and every specific. Sometimes you have to gain that which you can, leave open the issues that are left and continue to fight on those. I would recommend to the body that you do that now. There are several principles on the table which should be exonerated. Those are generally agreed to principles. There are areas of disagreement but those can continue to remain open without sacrificing the valuable principled compromise that is at the heart of this bill. I urge you to support it and advance it.

PRESIDENT: Thank you. Senator Withem, would you like to close on the advancement of the bill?

SENATOR WITHEM: Yes, I would, Mr. President. Thank you, Senator Landis. I'm going to take one minor exception with just one point that you made as you laid out the distinction between the arguments on the tax equity issue, and we're at a case where Class I's have lower cost programs and, therefore, pay lower taxes I'd be less concerned about the equity issue. But in many, many cases, I think probably in a majority of the cases you'll see per pupil expenditures in the Class I's much higher than they are in the town district, yet the taxes are lower and that's more a function of the valuation behind each student than it is their relative cost. But other than that, it was an excellent laying out of the bill and the agreements and the disagreements and you brought another point to mind that has been discussed down in my office with both the proponents and the opponents. It hasn't been debated or discussed here on the floor, but I pointed out to the members of the body that currently when you look at the tax equity situation, and I know Senator Beck and Senator Hefner wanted printouts that we really can't provide, but you will see in a Brown County and in a...oh, Kearney situation and in any number of other places in the state currently why disparity in tax rates between the Class I's and the Class II's and III's. The tax equity portion of this bill attacks that problem. We have another thing out there that is

attacking that problem and it's the school finance review plan which will move a long way toward a tax equity sort of situation when and if it passes. When we get the two bills together, merged together, and I've told both the proponents of the tax equity portion and the opponents of it, we're going to need to take a look and see exactly how the tax equity portion of the school finance review plan impacts upon the overall tax equity here. And you may find, those of you who represent Class I's, you may find that it is not such an onerous thing at that time once you see how the school finance review plan works to equalize property tax rates. It may not be nearly as bad a situation then as it may look to you now at this point, so, Senator Landis, thank you for pointing out the fact that we do have time to review this and this does appear to be the major point of contention that remains. The point remains that this is an issue that this Legislature has spent far, far too much time on, I believe. It's an important issue that needs to be addressed, but we've locked ourselves into positions, pro-mandatory reorganization, anti-reorganization and have been unable to communicate with one another. LB 940, as we passed it several years ago and now this bill, I think, bring that issue to a head to the point where we are going to have maintenance of local control, maintenance of Class I schools for those people that genuinely want to maintain them, but an end to the unfair sort of situation that really doesn't give them an opportunity to make the decision as to whether they are keeping their schools open for education purposes or tax purposes. I'd urge you very strongly to advance LB 259 on to its next stage of consideration. It's a bill we really do have to deal with this session. It is my judgment that we are not going to go backward and reinstitute the nonresident tuition and reinstate the status quo as it has existed in the...prior to this time. I don't think we have the stomach to do that. I certainly will do all I can to keep that from happening. The other option is we have to take some affirmative action. This is the bill that is before us and I'd urge you to advance it.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay. A record vote has been requested. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 230-31 of the Legislative Journal.) 28 ayes, 9 nays, Mr. President, on the advancement of LB 259.

PRESIDENT: LB 259 is advanced. We'll move on to the A bill, Mr. Clerk.

CLERK: Mr. President, LB 259A was a bill that was introduced by Senator Withem. (Read title.) It was introduced on April 3 of last year. Mr. President, I have amendments pending from Senator Withem to the bill. The amendments are on page 164 of the Journal.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: The amendment, I believe, just very simply removes the $38 million that we removed from the bill previously, so you can now say you've saved $76 million, I guess, if you vote for this twice. The amendment is to take that state aid appropriation out of the bill.

PRESIDENT: Were you finished, Senator Withem?

SENATOR WITHEM: Yes.

PRESIDENT: Okay. The question is the advancement of the bill...of the Withem amendment, excuse me. There being no further discussion, the question is the adoption of the Withem amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Withem's amendment.

PRESIDENT: The Withem amendment is adopted.

CLERK: Nothing further, Mr. President.

PRESIDENT: Now on the advancement of the bill, Senator Withem.

SENATOR WITHEM: I would suggest the A bill be advanced. It looks at this point like it will be, after that last amendment, approximately $100,000 for technical support to local school districts that will be making decisions as to where to affiliate their property and the other types of processes that will go on. We'll have the fiscal office take a look at the amendment, committee amendment, as it was adopted to see how it will change the impact and probably be back on Select File with some

Haberman.

SENATOR HABERMAN: Mr. President, I move to recess until 1:30 p.m.

SPEAKER BARRETT: Mr. Clerk, would you care to read anything in before we vote on the motion to recess.

CLERK: Mr. President, new bills. (Read LB 1057-1059 by title for the first time as found on pages 232-33 of the Legislative Journal.)

A series of requests to add names, Senator Beck to LB 1026, Senator Kristensen to LB 1035, Senator Conway to LB 993, Senator Wehrbein to LB 973, Senator Wehrbein to LB 972, Senator Weihing to LB 845.

(Reference Committee Report referring LBs 1014-1048 and LR 236 appears on pages 233-34 of the Legislative Journal.)

Mr. President, explanation of vote offered by Senator Kristensen. (Re: LB 259.) That's all that I have.

SPEAKER BARRETT: Thank you, Mr. Clerk. A reminder especially to committee chairs. Committee chairmen, please take note. If you are planning hearings, public hearings next Tuesday, notices of that fact should be filed with the Clerk today. File the notice of public hearing today if you are planning to begin hearings next Tuesday. Those in favor of the Haberman motion to recess until one thirty say aye. Opposed no. Carried. We are recessed.

RECESS

SPEAKER BARRETT PRESIDING

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

SPEAKER BARRETT: Thank you. Any messages, reports, anything for the record, Mr. Clerk.

CLERK: One item, Mr. President, I have a hearing notice from the Banking Committee for hearings scheduled on Tuesday,

guess it is the third Beck amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 12 ayes, 14 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The third Beck amendment fails. Mr. Clerk, do you have anything for the record?

CLERK: I do, Mr. President. Mr. President, reminder, Reference Committee will meet in Room 2102 upon adjournment; Reference Committee, Room 2102.

Mr. President, new bills. (Read for the first time by title: LB 1148-1157.) Mr. President, a new A bill, LB 240A by Senator Hall. (Read for the first time by title. See pages 340-43 of the Legislative Journal.)

Retirement Systems Committee, whose Chair is Senator Haberman, reports LB 834 to General File. Appropriations Committee offers notice of hearing, as does Urban Affairs, (Re: LB 853, LB 1043, LB 1044, LB 1057, LB 1076, LB 1098) signed by Senators Warner and Hartnett as Chairs, respectively. (See pages 343-44 of the Legislative Journal.)

Mr. President, Committee on Enrollment and Review reports LB 259 to Select File with E & R amendments, LB 259A Select File with E & R, LB 534 Select File with E & R, LB 601 Select File with E & R, LB 730 Select File with E & R, LB 818 Select File, LB 819 Select File, LB 820 Select File. (See pages 345-46 of the Legislative Journal.)

And, finally, Mr. President, I have amendments to be printed by Senator Hefner to LB 163. (See pages 346-47 of the Legislative Journal.) And, Mr. President, a request from Senator Weihing to add his name to LB 397; and Senator Schimek to LB 163. That is all that I have, Mr. President.

PRESIDENT: Senator Wehrbein, would you like to say something this morning about adjourning until nine o'clock tomorrow. Wait a minute, we will turn you on. Now.

SENATOR WEHRBEIN: Yes, Mr. Speaker, I would do that. I move we adjourn until nine o'clock tomorrow morning, January 17.

CLERK: (Read roll call vote. See page 365 of the Legislative Journal.) 27 ayes, 13 nays, Mr. President, on the motion to suspend the rules.

PRESIDENT: The motion fails. The call is raised. Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. Yes, I do, Mr. President. Mr. President, a notice of hearing from the Natural Resources Committee, signed by Senator Schmit as Chair. (Re: LB 969, LB 987, LB 1041. See page 365 of the Legislative Journal.)

I have amendments to be printed by Senator Haberman to LB 259. (See page 366 of the Legislative Journal.)

I have a motion from Senator Lamb regarding LB 1114. That will be laid over. (See page 366 of the Legislative Journal.)

Mr. President, new constitutional amendment, LR 241CA offered by Senator Hall. (Read brief description. See pages 366-67 of the Legislative Journal.)

Mr. President, new bills. (Read LBs 1170-1180 by title for the first time. See pages 367-70 of the Legislative Journal.) That is all that I have, Mr. President. Yes, sir. Mr. President, I guess a reminder, excuse me, Reference Committee at three-thirty. Reference Committee at three-thirty in Room 2102. That is all that I have, Mr. President.

PRESIDENT: Thank you. Senator Jacky Smith, would you like to adjourn us until nine o'clock tomorrow morning, please?

SENATOR SMITH: Mr. Speaker, I...I don't know what to say. Vote to stay here? I would like to ask that the body be adjourned until nine o'clock tomorrow morning.

PRESIDENT: Thank you. You've heard the motion. All in favor say aye. Opposed nay. We are adjourned until nine o'clock tomorrow. Thank you.

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Arleen McCrory

CLERK: Mr. President, I do, thank you. (Read LBs 1195-1219 by title for the first time. See pages 378-83 of the Legislative Journal.)

Mr. President, two new constitutional amendments. (Read LRs 242-243 by title for the first time. See pages 383-88 of the Legislative Journal.)

Mr. President, Government Committee gives notice of hearing for January 25, signed by Senator Baack. Banking Committee, whose Chair is Senator Landis reports LB 983 to General File, LB 984 to General File, LB 981 General File with amendments, LB 982 General File with amendments. (See pages 388-90 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk, proceeding to Select File, LB 259.

CLERK: Mr. President, the first order of business on 259 are Enrollment and Review amendments.

SPEAKER BARRETT: E & R amendments. Senator Withem, would you handle the E & R amendments on 259.

SENATOR WITHEM: Yes, beings our E & R Chairman is too busy at the moment, I'll be happy to move that the E & R amendments to 259 be approved.

SPEAKER BARRETT: Thank you, sir. Any objection? Any conversation? Seeing none, those in favor of the adoption of the E & R amendments to 259 please say aye. Opposed no. Ayes have it, carried, they are adopted.

CLERK: Mr. President, the first amendment I have to the bill is by Senator Haberman. (Haberman amendment appears on page 365 of the Legislative Journal.)

SPEAKER BARRETT: Senator Haberman. The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, my amendment addresses the dates that are on page 3. It says that the act would commence February 1, 1991, pertaining to the filing of a petition. The bill will possibly go into effect in July and that would be about six months to give people an

opportunity to put into the millstream the mechanics on this petition issue, so my amendment merely changes the date from 1991 to 1992. It does not address any other part of the bill. I have talked to Senator Withem and he indicated to me that he really had no problem with this, so with those remarks, Mr. President, I would ask for the adoption of my amendment.

SPEAKER BARRETT: Thank you. Discussion, Senator Withem.

SENATOR WITHEM: Yes, Mr. President, Senator Haberman is correct. He and I visited about this and I really have no problems with it. I'm probably going to support it. I will support it, no probably about it. On General File we made...there are two operative dates here that we're talking about, about this affiliation process. There is a date by which the freestanding Class I files an application by which that it will need to be where it wants to affiliate. Then there is another date by which the whole process needs to be completed. I had an amendment on General File that moved the completion date up from January 1, '92, I believe, to July 1, '92, or something in that order so that there would be ample time to dispose of these but we kept the time when the initial application needs to be filed as it was originally in the bill, January 1, 1991. Originally I thought that and I guess part of me still thinks that there is still plenty of time to file the initial application between now and January 1, '91. They were supposed to be working in that area of getting their affiliation plans together since 940 passed. If there is a feeling that the...getting the initial application process together is going to take a little longer and that the Class I's would like to have a little more time to bring it about, I have no problem doing this. You need to realize though that as you buy time on the front end, getting the applications together, and if you don't get your application in until January 1 of '92 as this amendment would do, then there is a shorter time period for the county committees and the Class III boards and all of those to act upon these. You're buying time on the front end at the expense of the amount of time in the middle, but I have no problem with doing that. I think it's probably acceptable. I would hope most people would not wait until this very deadline if they have a complicated process, but I think it's fine. I am going to support Senator Haberman's amendment.

SPEAKER BARRETT: Thank you. Further discussion on the amendment offered by Senator Haberman? Senator Haberman, do you

waive closing?

SENATOR HABERMAN: Yes, I do.

SPEAKER BARRETT: Thank you. Excuse me, Senator Landis, you...

SENATOR LANDIS: Not on the Haberman amendment.

SPEAKER BARRETT: Thank you. The question before the house then is the adoption of the Haberman amendment to 259. All in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Haberman's amendment.

SPEAKER BARRETT: The amendment is adopted. Next order.

CLERK: Mr. President, the next amendment I have is by Senator Dierks. Senator, I have your AM2157 in front of me.

SPEAKER BARRETT: Senator "Cap" Dierks, please.

SENATOR DIERKS: Mr. Speaker, members of the body, this amendment is one that would require that the school district to which an affiliate, a prospective affiliate would apply would have to answer that application within 60 days of the day of the receipt of the petition. I think we require that of the petitioner and I think we should require that also of the school that is being petitioned. I think that it's only fair that we have these time constraints in there for them. That is as simple as it is. I have nothing else to say about it except I think that this is a fair way to go about the business. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the Dierks amendment, Senator Landis. Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, would Senator Dierks respond to a question, please?

SPEAKER BARRETT: Senator Dierks, would you please respond?

SENATOR DIERKS: Surely.

SENATOR WITHEM: Yes, I just want to inquire to make sure I

understand what the intent is of this. I was busy filing another amendment and didn't hear your complete explanation, but this is the amendment that is designed basically to make sure that the Class III districts and the county reorganization committees don't stall the process out through July 1 of 1992 and then force the Class I's into a mandatory sort of merger. Is that what the intent of this is?

SENATOR DIERKS: Roughly, that's about right.

SENATOR WITHEM: Okay. Okay, thank you, Senator Dierks. If that is the intent of this as I read it also, again, I have no problem with that. It puts in language that strengthens the original intent. The original intent of affiliation is to say that a Class I school district wishing to remain open shall have a right to affiliate. Now there are some processes of petitioning this, of processing this petition to deal with levy shopping and some of those other things that Senator Smith was asking me about when we discussed this bill on General File. It is important that those processes be there, but they should not be the county reorg. committees or the Class IIs or IIIs should not have the rights to just drag their feet until the process is all completed and then say, well, you did not complete your affiliation by July 1 of '92 so we're going to...now the only choice is to force merge. What this does is puts a 60-day time limit in there so that they have to take some sort of action and I think...would hesitate to say what Senator Dierks, strengthen this bill, because he knows he wouldn't want me to say that this strengthens the bill, but I think it probably deals with a deficiency in the original drafting of the bill and I support it.

SPEAKER BARRETT: Thank you. Any other discussion on the Dierks' amendment? Seeing none, Senator Dierks, to close.

SENATOR DIERKS: Well, very briefly, I don't object at all to being accused of helping to strengthen the bill because I think that whatever we do here should be strengthened whenever it's done, so I'd just urge the adoption of the amendment.

SPEAKER BARRETT: Thank you. Those in favor of the adoption of the amendment please vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Dierks' amendment.

SPEAKER BARRETT: The amendment is adopted. Next item.

CLERK: Mr. President, Senator Coordsen would move to amend the bill. (Coordsen amendment appears on page 391 of the Legislative Journal.)

SPEAKER BARRETT: Senator George Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. Speaker and members of the body, this amendment again is while it is fairly lengthy, is relatively simple. I didn't distribute a copy of it. The bill drafters had told me that when they looked at it I had far too much verbiage in the bill, so I will read the effective language of the amendment. And on page 38 following line 24 I would insert a new section. It would be section 3. "The Attorney General shall, not later than 10 days after the effective date of this act, file an action in the Nebraska Supreme Court, seeking a declaratory judgment on the constitutionality of this act and the various parts hereof. The Nebraska Supreme Court shall advance said action on its docket ahead of other pending litigation to the extent necessary to enable the court to render its judgment on this action not later than December 31, 1990." Reason for asking that this amendment be adopted, from time to time through the history of the Legislature we adopt measures that we think are constitutional, that we think we know what is contained in the bill, we think we know how it would work out when it is put into practice. Given the time lines, and I realize that we did extend that just a little bit, this amendment would remove from some group of citizens a question as to the constitutionality of this should they want to challenge and put the onus on the State of Nebraska to before the implementing date, have a ruling on the constitutionality of the various sections. So I would move the adoption of this amendment.

SPEAKER BARRETT: Thank you. Senator Withem, would you care to discuss the Coordsen amendment to the bill?

SENATOR WITHEM: Yes, I would, Mr. Speaker. I'd like to, first of all, ask Senator Coordsen a question or two if I could about the intent of the amendment.

SPEAKER BARRETT: Senator Coordsen.

SENATOR WITHEM: When you originally talked about the length of the amendment and then you read the additional language, does that mean that you're not offering this original portion here of where you're striking "ands" and putting in "ors" and all of that?

SENATOR COORDSEN: Thank you. My...this...the first portion, all of the striking and whatever, my understanding from the bill drafters' office was not necessary. We have not received back an amended version of the bill, so I would say in answer to your question, basically, yes.

SENATOR WITHEM: Basically...what was my question, maybe that...

SENATOR COORDSEN: Your question was whether I was striking the first parts?

SENATOR WITHEM: Oh, okay. I might ask the Clerk then if that is what is before us? We've had...what I have is a copy of an amendment here by Senator Coordsen, but has two pages on it and he said basically what he is doing is striking the first page of that, but I don't know technically what is before us at this point then in that case. I heard...I have one amendment in my hand and I have another, heard another one explained.

SPEAKER BARRETT: Mr. Clerk, could you respond to the question. Senator Withem, would you please repeat the question.

SENATOR WITHEM: My question is, what is before us? Because Senator Coordsen indicated that he has a written amendment here that has two pages on it with...adding some new language at the very end and the rest of it striking a number of "ands" and inserting some "ors". He indicated all that wasn't necessary so all he was offering was the second part and I don't know which part to address myself to. Technically, what is before us?

ASSISTANT CLERK: Senator, the amendment we have right now is a two-page amendment that is offered by Senator Coordsen.

SENATOR WITHEM: Okay. I will address then the two-page amendment indicating what I see as the intent of it and if Senator Coordsen wants to offer a different amendment that does something different, that would be fine if he were to offer that. The first part of it, the way I read it, the striking a number of "ands" and inserting "ors" would take a portion of the

bill that is designed to give some protection to those affected people, indicating that if the bill is declared...if certain sections of this bill are declared unconstitutional, then the old language that used to be, that's currently in the statutes, currently operative, will come back into place. If the bill is declared unconstitutional, then we come back to what is existing language and that's very important language because nonresident tuition will, in fact, have been repealed by the time that this gets through a court system. That is important language, but what Senator Coordsen is doing is he is adding...he is making this so that if any single portion of the bill becomes declared unconstitutional for whatever reason, then the entire act basically is unconstitutional and we go back to our current nonresident tuition formula. And in essence, we leapfrog backwards two years to what existed, to what existed before we passed LB 940. So I'd object to that. The second thing I'd object to, I just think it's a poor precedent for us to pass laws and then indicate to the Attorney General is directed to file suit immediately on their constitutionality. We could start doing that on any bill that we don't particularly like, move immediately into getting something into the court on a Attorney General...get the Attorney General into court, and I don't even know what side the Attorney General...

SPEAKER BARRETT: One minute.

SENATOR WITHEM: ...would be on. The Attorney General has issued an opinion that basically the draft of LB 259 that we're now working with, with the E & R amendments is, in fact, constitutional in his opinion. Just doesn't seem to me to be good policy to be directing the Attorney General to go into court to argue the constitutionality of bills that the Legislature passes and yet I'm not sure if he is defending it or if he is attacking it, who it is that is on the other side that is going to be making the argument that it is unconstitutional, if he is arguing that it is or who defends that it is constitutional, if he is arguing that it is unconstitutional. I just...frankly doesn't make a lot of sense to me. I'm not going to support this amendment.

SPEAKER BARRETT: Thank you. Any other discussion on the amendment? Senator Lynch, please.

SENATOR LYNCH: May I ask a question of Senator Withem?

SPEAKER BARRETT: Senator Withem, would you respond?

SENATOR WITHEM: Yes.

SENATOR LYNCH: Senator Withem, in its present form, how long has 259 been with us?

SENATOR WITHEM: In its present form?

SENATOR LYNCH: Yeah.

SENATOR WITHEM: Technically speaking, it's been with us about five minutes since we adopted the E & R amendments. The concepts that are here in LB 259 were presented at the committee hearing in February, whatever the date was, first part of February last year.

SENATOR LYNCH: Would a request for an Attorney General's Opinion at any stage of this legislation dwell on any of...primarily on any of the amendments including E & R or would they primarily deal with the bill in its original form and the concepts of it?

SENATOR WITHEM: Well, I think what...as I understand Senator Coordsen's amendment, it would, after the bill passes, then we would set up a process for the court to, petition the court to immediately review it. So it would be the final form that the court would be looking at. Now the AG's Opinion that we do have that supports the constitutionality of the committee amendments to the bill, basically is applicable to the E & R amendments and the way the bill is, and I answered the question both ways because I wasn't sure which direction you were asking.

SENATOR LYNCH: Yeah, could I ask Senator Coordsen a question then, please?

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Yes, sir.

SENATOR LYNCH: Was there any thought given to questioning the legality of any of the sections of law before today, George?

SENATOR COORDSEN: No.

SENATOR LYNCH: I see. So this...

SENATOR COORDSEN: This amendment came about...

SENATOR LYNCH: No, that's all right, you answered the question. Just simply has to do then with...it's adding on a process that we probably don't deal with, with any other piece of legislation. And I can understand the concerns of Senator Coordsen and others for the bill, but if we accept amendments that provide that we do this, I guess if we start it today, anything that has any controversy attest to it, probably to be consistent as a matter of policy without a rule, we should do the same thing, so therefore, I'd respectfully suggest that this is, in fact, probably not the best procedure that we should recommend and approve in the form of amendment on this bill or any other in this session.

SPEAKER BARRETT: Thank you. Senator Smith, on the Coordsen amendment.

SENATOR SMITH: Thank you, Mr. Speaker. I'd like to ask Senator Coordsen, I'm sorry that I didn't...just in the conversation now, I went back and I asked you, but I'd like to have you clarify. What you're asking...well, I guess instead of me saying, what are you asking, or telling you what I think you're asking, would you please tell me again, very, very briefly what is you are asking in your amendments since we don't have a copy of it?

SENATOR COORDSEN: Well, basically what I'm asking in my amendment is that the Attorney General file a suit, file an action in the Nebraska Supreme Court seeking a declaratory judgment as to the constitutional of the act and the various parts thereof.

SENATOR SMITH: Not just in any one section of it, but in the entire all parts of the bill?

SENATOR COORDSEN: My understanding of the amendment that if one part was unconstitutional, then the rest of the bill would be unconstitutional.

SENATOR SMITH: I guess I can't support this amendment, Senator Coordsen. We...there are parts of this...I mean, we've been working on this bill, this piece of legislation for a lengthy

time now. I have to say that I am one of those people who have had some concerns about it, but I think that there has been some real effort to try to work this out and I'm not supportive of saying if one part of this is found not to be constitutional, we throw the whole thing out, where are we going to be then? Can you answer me that question?

SENATOR COORDSEN: We'll be where we are today.

SENATOR SMITH: Which is what? At the end of...if nothing happens with this piece of legislation, what will happen ultimately?

SENATOR COORDSEN: Ultimately, I would imagine, Senator Smith, that there will be other efforts put forth, but what is existing currently in the state would be the same as it was before 940 was enacted.

SENATOR SMITH: Thank you. Senator Withem, could I ask a question, please?

SENATOR WITHEM: You certainly may.

SENATOR SMITH: Senator Withem, can you tell me if, in fact, we end up doing this, if there were enough support for this request, the whole thing is thrown out, 259 is not with us any longer, what will happen? I thought we were under some sort of mandate basically to get something...you know, to make some changes here. What would happen? Where will we be then?

SENATOR WITHEM: Senator Coordsen...you're correct and Senator Coordsen is correct also, that currently we are under some sort of a mandate because we have repealed nonresident tuition effective in '91. But what this bill says now is if the bill is declared unconstitutional, that we don't go back to waiting for nonresident tuition to go out of existence. We go back before that to the law as it currently exists today is my understanding, the way it is being operated today. In other words, if this is unconstitutional, we go back to our current nonresident tuition formula.

SENATOR SMITH: In other words then, Senator Withem, in your opinion where will be with this whole problem that we've had in dealing with this issue? Where will they be, the Class I's be?

SENATOR WITHEM: We will be back...

SENATOR SMITH: Over time.

SENATOR WITHEM: We will be back to square one. We will be back to Class I's will continue to exist, there will be no mandate on us to resolve the issue.

SENATOR SMITH: Thank you.

SPEAKER BARRETT: Additional discussion, Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Not getting on the policy question of LB 259 as before, simply a theoretical on the amendment, I'd like to ask Senator Kristensen a couple questions if he would indulge.

SPEAKER BARRETT: Senator Kristensen.

SENATOR KRISTENSEN: Yes.

SENATOR BERNARD-STEVENS: Senator Kristensen, just in theoretical sense, we have a separation of powers on legislative, and the executive branch, judicial branch. What we're trying to do with this amendment, by mandating an Attorney General whose already given an opinion stating in his feelings it's constitutional, can the Legislature mandate to the Attorney General to force an action....I guess that whole concept, I'd like to have your viewpoints on whether or not you felt even that is constitutional in itself.

SENATOR KRISTENSEN: I want to make sure what you're asking me. Can we, as a Legislature, force the Attorney General to file suit?

SENATOR BERNARD-STEVENS: That's the first part, and the second part would be, is it possible then that the Attorney General, who technically has to defend the law, can actually, by legislative mandate now, be forced to press an action?

SENATOR KRISTENSEN: In my opinion, obviously, I haven't done a tremendous amount of legal research in that, but my initial opinion is that that is a violation of separation of powers, that we can't force the Attorney General to file a lawsuit.

He's, as I see it, the executive branch, we being the legislative branch, that would be a violation. He is totally independent, can do whatever he wants to. I suppose we could pass a resolution urging him to do that, but I'm not sure that we could bind him to do that.

SENATOR BERNARD-STEVENS: Yes, thank you, Senator Kristensen. That's the thought that I had as well that, members of the body, the intent that I think Senator Coordsen has is admirable. And it would be nice if we could have an opinion to know whether we can go one way or another. But, in essence, what we're doing is putting another legal...a legalistic battle on a bill that we don't really need to have. In essence what we're doing is quite probably a violation of separation of powers between the executive and the judicial and legislative branches. And I really don't think this is a question we need to get involved with on LB 259, whether you're pro or con to the bill. This is not....this is one of those amendments that I think is very well-intentioned but would cause more problems than it would help. Thank you, Mr. Speaker.

SPEAKER BARRETT: Thank you. Senator Withem, would you care to make another comment?

SENATOR WITHEM: Yes, just very briefly. Again, just to repeat, I know there is a lot of confusion because the amendment isn't readily available and it's not necessarily easily understood. I think I would accept Senator Coordsen's explanation that the intent is to get the Attorney General involved immediately after the passage of this, the effective date of this bill, arguing the case before the Supreme Court. It just doesn't seem to be that good a policy. I know where it came from. It was a provision in LB 662, and it was lifted right out of 662. And that, at that time, was designed to test a very specific, key portion of LB 662 about keeping the attendance centers open and if the Legislature could, in fact, mandate that or not. That was a key portion of the entire bill. This really tests the whole bill and kind of sets the court out into a fishing expedition of can you find something wrong with it, so we can go back to the old system. I just don't like the idea of us, as a Legislature, directing the Attorney General to take action and particularly direct the court, in effect direct the court to give us a judgment by a particular date. There is a lot of other things that are out there pending in the court that deserve answers as quickly as this does. We should not get into

the business of prioritizing the work of the Supreme Court I don't believe. I would urge you to vote against the amendment.

SPEAKER BARRETT: Thank you. Senator Coordsen, would you care to close on the adoption of your amendment.

SENATOR COORDSEN: Only to move the adoption of the amendment, Mr. Speaker.

SPEAKER BARRETT: Thank you. Those in favor of its adoption please vote aye, opposed nay. Have you all voted on the adoption of the amendment? Have you all voted? Record, please.

CLERK: 14 ayes, 17 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The motion fails.

CLERK: Mr. President, Senator Withem would move to amend the bill. Senator, I have your AM2140 in front of me. (Withem amendment appears on pages 391-93 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Withem.

SENATOR WITHEM: Yeah, 2140 was...this is again a complicated process, and technical amendments need to continue to be offered. There is one of them here I will point out to you, you may think is more than technical, I'll argue that it is in fact a technical change in the bill preserving the original intent of the legislation. You have an explanation on your desk, and I'm just going to read the explanation to you. This series of amendments clarifies that petitions or plans for affiliation are not subject to review and approval by the state committee for reorganization of school districts. I think it's fairly clear in the bill that we get the state out of this to streamline the process. This amendment further clarifies that...clarifies that proration of bonded indebtedness will be on the basis of projected Class I students utilization of facilities. Again, the projected Class I is the key point there. Clarifies that county reorganization committees may consider reorganization plans which include affiliation. I think the intent is pretty clear. The bill drafter said we need to spell it out. Clarify how the high school levy is computed by county officials in the high school only phase of the affiliation. Again, they said there is some clarification needed, it doesn't change the

intent. Clarifies budget terms used in computing the affiliation school system tax levy. Removes duplicative language, all of those are highly technical. Number seven, the bill as it was introduced, called for accreditation of all school districts beginning in 1993-94. Current draft of the bill uses the word "should" instead of "shall". It was always the intent of the bill that the word...that connoted an active requirement that they become accredited, that it not just be a wish sort of thing. This amendment inserts the word "shall" in the place of "should" to clarify the original intent of the bill. I would urge the adoption of the...these amendments.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Any further discussion on the Withem amendments? Did you wish to close on them, Senator Withem? Okay. The question is the adoption of the Withem amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Withem's amendment to the bill.

PRESIDENT: The Withem amendments are adopted.

CLERK: Mr. President, Senator Lamb would move to amend the bill. (Lamb amendment appears on page 393 of the Journal.)

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Mr. President, members, this is the same amendment I offered on General File, which came close to being adopted. It really gets to the heart of the matter. It really gets to the heart of the matter. We've had a number of amendments today which were probably necessary. But this is the one that, in my opinion, is crucial, and that is whether or not we're going to stick with the original intent which is affiliation for high school and let the grade school stand alone, stand alone. This removes the phase three from the bill, which was added as a result of the committee amendments as not part of the original bill. You'll see a number of people listed in the committee statement as supporting the bill, but most of those people, or a number of those people were not supportive, are not supportive of the committee amendment, the part of the committee amendment which provides a common levy for the grade school, for the grade school. This is, as I stated the other

day in my opinion, with this provision in there, a mandatory consolidation bill, in effect, in effect, because it's going to be so difficult, so cumbersome, so unfair that those Class I's are going to give up. They'll say, okay, they finally got us, they said they're not going to do it, but in effect they did it, they did it. And that's absolutely what it is. That's absolutely the way it will work. It's a common levy for grade school, which by some means is going to be all these affiliated districts are going to have a common levy, money goes into one pot and then by some sort of formula it's going to have to be redistributed to each of those affiliated districts for grade school purposes. Then if they don't agree, you know, if the local school says, well gee, we can't stand it, we're not getting our share, we don't like it, they can increase the property tax above that level to provide the budget they need. But they lose control of their budget in that Class I, they lose control. There is not a lot of difference between that and mandatory consolidation. As I stated the other day, I have been a proponent of affiliation for high school purposes because we've always heard that nonresident tuition is the bugaboo. We want to tax those districts instead of having some sort of a nebulous formula for nonresident tuition. So we said, okay, okay, let's do it, we'll compromise. But now the compromise has turned into capitulation if this bill passes, because it goes way beyond the original concept, way beyond the original agreement. It is unworkable, it is unfair, and it does not do what the promoter said does, it will just almost absolutely promote mandatory consolidation. And I'm not willing to go that far. Each of you, I know, will vote your...the way you want to do it, and that's certainly the way it will be. But I'm just telling you now that this is not the way to go, that we need this amendment to put it in a form that is fair and equitable and accomplishes the major purpose of the bill.

PRESIDENT: Thank you. Senator Withem, please, followed by Senator Wesely and Senator Moore.

SENATOR WITHEM: Yes, thank you, Mr. President, members of the body. I obviously stand in opposition to the Lamb amendment. I'd like to clarify one thing that Howard did say, and I'm sure he's not purposely misleading anyone, but he did indicate that those people who testified in support of the bill were, I think what he said was they were testifying in favor of the green copy, that they weren't necessarily supportive of the committee amendments as they came out. That is not true, actually. The

committee amendments were mailed out to everybody who had an...we thought might have an interest in testifying at the committee hearing. And we asked people, at the committee hearing, to please address themselves to the committee amendments. So a lot of those Class I folks, who are listed there on the committee statement that were there at the committee hearing, did in fact know what the committee amendments are and they did in fact indicate yes, they could live with those. Admittedly the Class I folks were not jumping up and down, turning cartwheels, saying it's the greatest idea in the world. But they did tell us at that time, on that date, that this looks like a resolution to the issue, so let's support it. Senator Lamb is right, this amendment gets to the heart of the bill. Frankly, it gets to the heart of the bill so much that I really don't know what we have left anymore without this. Basically, what we have without...with this amendment goes on, basically what we have is a bill that preserves the status quo and puts a new name on it. This is the essence of, and I don't want to use the word compromise necessarily, because this is not, this is not something that is the product of people hammering something out. He is correct in that statement. But in my mind it is the middle ground that preserves the best of both arguments. An ideal middle ground is one where the item that is most important to one side is preserved, and the item that is most important to the other side is preserved, and the two can live side by side. That is what we have with LB 259 as it currently stands. We have heard, for years and years and years, from the pro reorganization people, you've got to have reorganization because of the gross tax inequities that exist. I have not, at this time, burdened you with lots of information about the tax inequities that exist within Class I school districts. You all know what it is. If you want it refreshed, we can certainly get more of that information. Tax inequities, it's Class I's versus other forms of organization, are tremendous. And I know you can parade in a Class I here or there that has a higher tax levy than neighboring districts. But by and large they are tremendous. On other other end you've heard the Class I's say, leave us alone, we don't care about taxes, we want to keep our schools open. That is what this amendment does. What this amendment does is it sets up a taxing structure that frankly is very similar to what would be there if we had a merge situation; that everybody within an affiliated unit will pool their tax askings together and their property will be taxed to support that combined effort. But within that combined area, those Class I schools are going to maintain their

identity. They're going to hire their teachers. They're going to determine the salary of their teachers. They're going to determine what the curriculum is. They're going to set policy for their schools. And they're going to keep their schools open. And that is what we've been told by the people that come down in the buses is their ultimate objective. With this bill we do that. Without the tax equity provision of the bill all you have, Senator Lamb, all you have is preservation of the status quo, calling it something else, calling it affiliation. Frankly, you do have a little more permanence built into the system that you don't have today, that would be one advantage, but it's not an ultimate compromise. Compromise maybe is not possible on this issue. I used to think it was, maybe it's not. But I think we, as a Legislature, can forge a middle ground that maybe neither side is 100 percent comfortable with but that is workable and we can live with. Without this particular provision, this tax equity provision, frankly, I think we're left back to our two extreme positions, either merge them, or you totally leave them alone. That system has wreaked havoc, that debate has wreaked havoc in our education system, we need to get it behind us. But if this amendment goes, it's not behind us, it's right back out here on the table again. So I would urge you not to support the amendment.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Wesely.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, there is a far-fetched, but at the same time illuminating analogy to this situation, and following the seven days war in the Middle East tensions were high. President Carter wanted to bring peace to the Middle East and he asked the Israelies what it took to have peace in the Middle East, and the Israelies said, well, the Arabs have to acknowledge...the Egyptians have to acknowledge that the, I believe it was the Gaza Strip is ours. We can then talk about peace in the Middle East. We flew to Sadat, and Sadat said, and we said, what does it take for peace in the Middle East? And Sadat said, it will require that Israel return the Gaza Strip to us, then we'll talk about peace in the Middle East. We went back to Israel and we said, Sadat says they have to have the Gaza Strip before there can be peace. Israel says, you don't understand, we've been attacked, the tanks were here in this area, we have to have the Gaza Strip or there's no peace without it. We fly back to Egypt. We say, you know the Israelies said that you used the Gaza Strip to attack Egypt.

Egypt said, this has nothing to do with tanks. The flag of Egypt has flown in the Gaza Strip for 2,000 years, it is our property, it is our sovereignty, we have to have it. Until Israel gives it back there can be no peace in the Middle East. We go back to the Israelies and we say, you know the Egyptians say this is about the flag of Egypt, they say, no, it's about the tanks that rolled into our homeland and attacked us. We go back to Egypt and we say, no, this is about tanks, isn't it, and the Egyptians say, no, this isn't about tanks, this is about the flag and sovereignty of Egypt. Ultimately what happened was we constructed a plan by which there were no tanks in the Gaza Strip, there were some radar provisions made, there was an air field built to make sure that it was controllable, it was demilitarized, and the flag of Egypt flew because we separated two different interests, security on the part of the Israelies from sovereignty on the part of the Egyptians. The flag was one symbol, the tank was a completely different thing. Meaning that people can want exactly the same thing for two different reasons, and see it as exonerating two completely different interests. That, historically, is exactly what has happened in this area. In 662, when I was one of the three introducers of that measure, we heard these arguments from the Class I's, you want to take over our schools, you want to control our curriculum, you want to choose our teachers, you want to be able to close our elementary schools, we're against the bill. Proponents said, you know we do not want a system in which you get to use our high schools without adequately paying for it, you get to create tax havens at the edge of our cities and put the valuable property of the state in a vulcanized system in which you don't share fairly in the cost of education; we want tax equity. One argument was, wait a second, we don't want you to control our schools, the other argument was, we want tax equity, people should generally pay the same amounts for education. And we have a system that is constructed to allow you not to do that. Now we have that argument boiled down in this amendment again, because although it's not an agreed to compromise, the two interests, according to the rhetoric that has been used for years, have in fact been separated. Control is on one side. Control is maintained. Control is kept in Class I schools for their curriculum, for their...

PRESIDENT: One minute.

SENATOR LANDIS: ...teachers and the like. The affiliated district doesn't have the power to close a school. It doesn't

have a power to choose a teacher or determine a curriculum. On the other side of the ledger, tax equity has been brought about by saying there will be a common levy. In fact, the two interests have been completely separated, but the truth comes out, the truth comes out because the argument, in fact, may not have been that clean. In fact the argument may well have been all the time one of tax equity. Maybe the control wasn't the sum total of claim. Maybe that was not just the justification used for the Class I, because today, in fact, there is a guarantee of control. What is at risk is in fact this other interest, tax equity, and the measure seems to fail the long time proponents of Class I. Now, what do I suggest to you?

PRESIDENT: Time.

SENATOR LANDIS: I....well, all right, I'm going to have to wait for that. I'll press my button again and see if I get a chance to talk.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Moore and Senator Lamb.

SENATOR WESELY: Thank you. I'd give a couple minutes of my time to Senator Landis to finish up, and then I'll take the last couple of minutes.

PRESIDENT: Senator Landis.

SENATOR LANDIS: I was one of the three introducers of LB 662. I am a longtime proponent of mandatory redistricting to secure tax equity. Some people, every now and then, ask me what my intentions and ambitions are in politics, and I'll tell you. My ambition in politics is to stay in this body longer than Jerry Warner, okay. (Laughter.) I don't want to run for another office. I don't want to move up or down the scale of politics, I want to stay in this body a long time, if my voters will send me back here. That's what I want to do. But I thought Howard Lamb made a fair and...position. He went out on a limb last year, and I was trying to respond to that. I'm going to go out on the limb this year. I am one of the guys, the only one who stays in this body, by the way, who introduced a mandatory reorganization bill. It's my intention to be here for as long as I can. It's my intention to die with my boots on some place in that aisle. Okay. If LB 259 passes, with the committee amendments, without the Lamb amendment, separating control from

tax equity, I will promise neither to introduce nor vote for a mandatory redistricting bill for as long as I remain in this body. That's my offer to separate two issues, control from tax equity. Now, that may count, may not. But I'll tell you this, this is what the proponents of 662 asked for and the opponents denied and said that was at risk in 662. It separated those interests and I can stand by this kind of a delineation of those two issues to secure Class I rights to exist and to control their destinies, at the same time maintaining tax equity. I'll return to Senator Wesely whatever time of his remains.

PRESIDENT: You have three minutes left, Senator Wesely.

SENATOR WESELY: Thank you, Mr. President, members. I appreciated Senator Landis' story and his position. He speaks for me in many ways, however, I wouldn't go as far as he does to never agree to ever introduce anything or support anything on school consolidation. I, too, support that concept. But I also tell you this, and my promise would be this, if you pass this bill with the Lamb amendment, I'll be back next year with a school consolidation bill to try and deal with this on a mandatory basis, because it's obvious that the attempt to compromise that Senator Withem has tried to make, the attempt to try and reach a common ground isn't being successful, if we go back the way that Senator Lamb wants us to go. The very issue that Senator Landis has identified is the very issue that spurs us, in the urban areas, to be so concerned about this issue. The local control we can understand, we appreciate and we respect. But the tax haven problem that's been out there, the tax haven issue that has driven so many of us to support, in the past, legislation to consolidate schools remains, if you adopt the Lamb amendment. Take away that issue, by passing the bill as it is currently, without the Lamb amendment, take away that issue and you take away the fire in the belly of many of us that have been the leaders in trying to deal with that issue. As Senator Landis said, he's willing to go quite a long ways in dropping the issue. I don't know that I'd go that far. But I tell you this, that there are many others like us, like David and myself and others who are here and in the future will be here, who care a great deal about this issue, it won't go away, it's been there forever and will remain forever, but it will be in a suspended state, I think, without the sort of animosity if you pass the bill without the Lamb amendment. But the Lamb amendment positions us, once again, to have to deal with the tax haven issue. It's the issue that concerns us, it's the issue

that motivates us, it's the issue that will push us back into the fight that has so divided the state in the past, we don't need it, we don't want it. But if it is brought to us, I think we're ready for it once again. But I want to take time just to commend Senator Withem for the work he has done in trying to reach a compromise. I don't see him right now, but I do know he's worked long and hard and it's been frustrating to try and please all sides. From my perspective I think perhaps he gave up too much. So I can say from my perspective that is definitely seen as a compromise. Perhaps, as Senator Lamb is saying, he got too much in the bill and he wants to go back.

PRESIDENT: One minute.

SENATOR WESELY: You can see it from two different ways. I think you ought to stay right where you're at. Two sides that don't like it particularly, that don't like how far it goes one way or the other, but nevertheless compromise is exactly that. We've tried to reach a middle ground, that middle ground is reached with the bill in its current form. You go with the Lamb amendment and you open up the wars once again. Don't go with the Lamb amendment. Oppose the Lamb amendment, pass the bill in its current state.

PRESIDENT: Senator Moore, please, followed by Senator Lamb.

SENATOR MOORE: Mr. President and members, I mean I...Senator Wesely and Senator Landis and Senator Withem are very true. What you have in the committee amendments, what we'll call them, is a compromise. But the question we have to ask ourselves is, how deep do you want to drive the stake? Granted, if you don't adopt the Lamb amendment and leave the committee amendments in there, you don't drive the stake all the way through, but you drive it pretty darn deep. I guess I differ with Senator Withem, if you adopt the Lamb amendment I think 259 still accomplishes quite a bit. Senator Withem is correct. As we debated this issue over the years oftentimes it's a matter of I want to control my destiny and things like that. What Senator Withem says is, well, if it has nothing to do with taxes, then you shouldn't be opposed to the present language in the bill. On the other hand, look at the argument from the other side, for as long as we've debated this whole issue it's always been said, how come those measly, rotten little Class I's can run so cheaply? Usually the answer is that it's because they don't have to pay for a high school. And those other Class II's,

III's and obviously the IV's and the V's, they have to pay for that big, expensive high school, and those little Class I's, they get away, they get out from underneath paying that. Senator Lamb has always said that, hey, we pay nonresident tuition, we could pay for it. I don't think that's fair. I think the Supreme Court has agreed with that, that's gone. But the fact of the matter is if you do adopt the Lamb amendment you solve that argument because now the Class I's pay their fair share, as far as tax levy, for a high school. I think that's fair. Now, it's just which side of the coin you want to compromise in, how far do you want to drive the stake? I guess I think if you don't adopt the Lamb amendment you arguably drive the stake too far, and you really have a better, straightforward school consolidation bill, but you try and be nice about it. Well I think you probably shouldn't, why bother to be nice about it, why don't you do what Senator Wesely wants to do and we just close them. But Senator Withem is right, he's right because we don't...you still control your destiny, you still have your school open. I guess the fact of the matter is, in my opinion, I'm going to support Senator Lamb's amendment. I think even if you adopt the Lamb amendment you still have a giant step forward with LB 259. The body has done a good job. Senator Withem, with a lot of work, has done a good job, but he doesn't kill them. I don't want to do that, I guess. I think the Class I that manages their budget, will set their own levy for the school they operate and they will share an equal cost in the high school, in my opinion that's fair. So, for those reasons, I ask the body to support the Lamb amendment.

PRESIDENT: Thank you. Senator Lamb, please, followed by Senator Withem.

SENATOR LAMB: Well, Mr. President and members, I thought maybe I'd be closing now. But I'll just make a couple of remarks. One of them in regard to Senator Withem's statement that the people that supported the bill did realize they were also supporting the committee amendment. I just have to say that one of the persons listed on the committee statement has told me otherwise. Now you can take it from there. I...I'm not misstating the facts as I have gotten them. The other point I'd like to make is Senator Landis is here, and I'm glad to see he's still here, because as he was speaking, and you know he does that very eloquently, I thought about the...he talked about control. And so then my thoughts went what is the definition of control. And it's really in many cases is money. I think it's

kind of comparable to the University of Nebraska and the Legislature. You know under the Supreme Court ruling the regents control the university. They control the university, but in actual fact the Legislature controls the university because of the appropriations process. That's the truth. You know you can say the regents control it, it's not true, the Legislature controls the university. They do...they can shuffle the money around from here to there. But the essence of it is that the Legislature controls the university because it controls the money. Now that's exactly the same situation we're going to have in t. s affiliated district where you have the money, the money is no longer controlled by that Class I. It goes into one pot, redistributed on some basis, I don't know how exactly, based on their previous spending, that sort of thing, and the control passes away. Sure, they do have some control. They have a board. They can hire the teacher, if they have the money, that sort of thing. But control consists of more than just having a board, it also consists of money, and I'd like to make that point. One third quick point. They talk about tax havens. You know one of the reasons that some of these schools have low levies is because those parents truck those children long distances to get them to school. They don't pay them. You know, they take it out of the parents pockets, indirectly, not through a tax levy, but just by the wear and tear and gasoline that goes into the vehicle. So it's not as it seems on the surface.

PRESIDENT: Thank you. Senator Withem, please, followed by Senator Coordsen and Senator Dierks.

SENATOR WITHEM: Yes, Mr. President, just some brief remarks to add to the record. We seem to have a difference in fact that ought to be able to be resolved fairly easily, Senator Lamb. I'm getting a copy of the transcript of the hearing so you can see what was said at the hearing and what wasn't. I'm not disputing what you've heard from individuals, but my recollection is quite clear that these amendments were described to a group of people that were working on these concepts. About a week to ten days prior to the hearing they were typed up, mailed out in concept form. People were urged and they came down to testify to direct their comments to the amendments that would be supported on that given day. So they did, in fact, those individuals who were members of Class I's, listed as supportive. They didn't, again I'm not saying that they turned back flips saying that this is a wonderful idea. But they did,

they basically supported the green copy of 259, was their basic purpose for being there. But they also said, if this will resolve the issue, this will get it off the agenda, this will stop the assault, let's go ahead and do it. I guess I'd also like to re...sometimes when a bill hits the floor it's the first time people have seen it, and two sides get at loggerheads over one particular issue, you kind of wonder why don't you give in on this issue, Ron, for crying out loud, this seems to be the only thing Howard wants. I guess I'd like to refer...go back in the days when 662 just passed, and talk about some of the things that have been given up by the pro reorganization people. Keep in mind this Legislature, at one time, went on very strong record supporting mandatory reorganization, merger, no more independent Class I school boards. We came in the next session, we had, by our vote count, anywhere between...at least 27, 28 very solid votes and probably enough soft votes to do an override of the veto of the Governor on LB 444. The Governor called me into her office and she said, I don't like dealing with this issue in this confrontation, this fashion. Would you, for me, get some people together and talk about this issue and try to resolve it and put 444 on hold? I did that. We could have had 444 passed, 444, I think, and I read it in retrospect, would have resulted in a lot of mandatory reorganization. We had a bill on Final Reading, ready to pass, ready to send to the Governor and probably the votes to go over her veto to put that in effect. But we gave that up. We said, okay, we'll do it, it's more important to solve the issue. We got the people together and with the idea in my mind anyway, we're going to negotiate how Class I's will phase themselves out. Well, it was pretty apparent I was very naive in that, it was pretty apparent they weren't going to do that. Very shortly on we said, okay, our goal is not to phase you out, and get you out of existence. Our goal is to let...to find a system where you can maintain your identity. Then we got into the affiliation concept, and the pro reorganization people said, well you've got to have a Class I district affiliate itself in total with a Class II or III or it won't work. The Class I's said, that's a very important topic to us, we have to have, we have to have the ability to go in different directions. We gave in on that point. There is a whole litany of other issues I could tell you that we have given in on over the years, just here today, the time line, there is no reason to give in on the time line. We gave in on the time line. There is no particular need to support the Dierks amendment, we supported the Dierks amendment.

PRESIDENT: One minute.

SENATOR WITHEM: The pro reorganization people have moved continually, time after time after time. What we have here now is a bill that will provide the one thing that they said was important to them, the tax equity. You take the tax equity out of the bill, I disagree with you, Senator Moore, that the bill does an awful lot without the tax equity. I don't think it does anymore. Without that the bill really doesn't accomplish a whole heck of a lot. You need to keep the tax equity in the bill. I'd urge you, once again, to vote against the Lamb amendment.

PRESIDENT: Thank you. Senator Coordsen, please, followed by Senator Dierks.

SENATOR COORDSEN: Thank you, Mr. Speaker. Mr. President, members of the body, would Senator Withem yield to a question?

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Yes.

SENATOR COORDSEN: Senator Withem, after January 1, 1994, which is the section of the bill that the Lamb amendment would strike, how would the monies be divided among the district that had the high school building in and the grade schools that were affiliated? How would that be divided?

SENATOR WITHEM: Step one, the...step one, the school boards set their budgets and provided that there is not one district that is spending a considerably greater increase than the others, all of those budgetary totals would go into county treasurer's office, I assume, go to the county. The county will then divide...do their arithmetic function of dividing the combined tax askings into the combined valuation, they'll set a tax rate that will be imposed on everybody who lives within that affiliated unit. Then when it comes time for the county treasurer to disperse the monies, the county treasurer will disperse monies to the high school district for what the high school district needs, and to the Class I district for what the Class I district needs.

SENATOR COORDSEN: Okay, and then to the elementary portion of the high school district for that portion. Right?

SENATOR WITHEM: Well, it will go to the...it will go to the K-12 board who will...

SENATOR COORDSEN: (Remarks inaudible.)

SENATOR WITHEM: ...be running the whole thing.

SENATOR COORDSEN: Okay. Thank you. We're making some major changes, I think, with LB 259. And, again, of course I think it would be without saying that I do support the Lamb amendment, because I don't see the urgency at this point in time in moving into that section that was included in the bill by the committee amendments, which is a total revaluation. Now I know that there are areas out there where the tax equity would work in an opposite direction to what is described here on the floor of the body from time to time. I had a conversation with a lady that called from one of my Class I's, yesterday, and had moved into that Class I reluctantly, because she had grade school age children, from a large district. She called to say how absolutely thrilled she was with the quality of elementary education that her children were receiving in that particular district compared to the district from which they had came. That's a function certainly of the individual districts that exist and certainly would find areas where the opposite may well be true. I think Senator Landis touched upon something that is of great value in this discussion, in that it appears that the only issue that's concerned about, the only reason to reorganize is tax equity. Many ways of defining that. Certainly there are those that would define tax equity as the size of the burden when measured against the ability to pay. In many cases in outstate Nebraska while the mill levies may well be the same within a K-12 district certainly, those who are misfortunate enough to...

PRESIDENT: One minute.

SENATOR COORDSEN: ...live outside of the metropolitan area, outside of the incorporated village will be paying...or are paying today a larger portion of their income than those that might live within a municipality. So that's an issue that we really can't define very well. But I think that in Nebraska our system, as it exists, is providing a quality education when viewed from the standards that our students are judged from. I would think that, if the high school affiliation works, we will

have all sorts of time to effect a total affiliation system for the purposes of tax equity, whatever that definition might be. So I would suggest that to adopt LB 259, as it currently exists without the Lamb amendment, may well be premature as far as insuring quality of education for our children, and that a better course would be to adopt the Lamb amendment, to proceed with the bill as it exists and put in the high school affiliation, which will achieve that tax equity. And then should that work, without problems of educational equity, then at some point in time in the future to move into the total situation of total tax equity within an affiliated district. Thank you.

PRESIDENT: Thank you. Senator Dierks, please, followed by Senator Withem.

SENATOR DIERKS: Mr. President and members of the body, I've heard here today quite a little bit of discussion concerning tax equity and some concerning local control, but very little until Senator Coordsen spoke about quality of education. The Class I districts, I think, have been known for years to offer a very distinctive quality education. My experience as a school board member, in the Ewing school system, was that during the 15 years I was on that school board those students from the Class I schools were the valedictorians and salutatorians, I'm sure, 80 percent of the time. And this may not mean much to you, except if you figure that we had roughly 40 nonresident tuition students there compared to roughly 95 to 100 students in the high school. So...and maybe 130 at some time. So, really percentagewise quality of education is there in those Class I districts, there is no question about that. People are interested in those Class I districts because they know they provide quality education. I have to be concerned about this legislation because in my legislative district I have between 60 and 70 of these Class I districts that are still functioning. It's a very vital part of my constituency. I'd like to ask Senator Withem a question, if he would please respond.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Certainly.

SENATOR DIERKS: Senator Withem, when you were deliberating the different phases of LB 259 and you got to phase three, were there any alternatives for financing that you discussed or

deliberated?

SENATOR WITHEM: Other ways of accomplishing tax equity, other than what's in here?

SENATOR DIERKS: Yes.

SENATOR WITHEM: I can't recall any, no.

SENATOR DIERKS: Okay, another question. How could pending school finance commission legislation affect phase three of 259?

SENATOR WITHEM: All I can do is give you an opinion. We, frankly, tried to get some data and couldn't. I can just give you my opinion, and I think it would make it less onerous on a given Class I, because the effect of school district finance is also a tax equity concept where tax levies would be brought down more accordingly than they are today. But that is just my guess at this point. We couldn't find anything very conclusive when we tried to research that.

SENATOR DIERKS: When you got your figures to do this computation, what...I understand you were still having to deal with 1987 levies, is that right, or valuations?

SENATOR WITHEM: At what point? When we were....

SENATOR DIERKS: When you made your computations as far as the school finance review commission was concerned.

SENATOR WITHEM: Yes, I believe it was '87-88 numbers, yeah.

SENATOR DIERKS: How soon do you think the '89-90 figures will be available for us?

SENATOR WITHEM: The '89-90 figures? The '89-90 figures should be available in March, according to Larry here. Is that '89-90 or '88-89? He said it would be '89-90 in March.

SENATOR DIERKS: Thank you.

PRESIDENT: Senator Withem, please, followed by Senator Haberman and Senator Schimek.

SENATOR WITHEM: I would call the question.

PRESIDENT: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Lamb, would you like to close on your amendment?

SENATOR LAMB: Yes, Mr. President, members. You've heard it all, couple times. General File, Select File, last year, the year before, whenever it was. So you'll vote as you see fit. I don't think I have a lot to add, just reemphasize the fact that that this is a proper amendment. Senator Landis says, if this bill passes in its present form, he won't have a reorganization bill. I was interested that somebody, let's see, who was that, Senator Wesely, Senator Wesely didn't agree. You know it says in there that if this bill passes in its present form that the Legislature will consider the issue settled. You know that doesn't mean a thing, that doesn't mean a thing because Senator Wesely won't consider the issue settled. You're not going to bind any member of the Legislature, except Senator Landis by his own word, and he's a trustworthy person and I know that that's true. But that certainly does not bind any other member of the Legislature. So, as I said before, this is a bill that is cumbersome, unworkable and is just right next to mandatory consolidation. I ask that you adopt my amendment.

PRESIDENT: Thank you. The question is the adoption of the Lamb amendment. All those in favor vote aye, opposed nay.

SENATOR LAMB: Mr. President, I would request a roll call vote and call of the house. A roll call vote in regular order.

PRESIDENT: Okay. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: Okay. The house is under call. Will you please record your presence. Those not in the Chamber, please return and record your presence. Two members are excused. We're looking for Senator Barrett, Senator Schmit. Looking for

Senator Rod Johnson. Senator Hartnett, would you record your presence, please. Thank you. Senator Owen Elmer. We're all here now, except those two that are excused. And the question is the adoption of the Lamb amendment. Roll call vote has been requested in the regular order. Would you hold it down so the Clerk can hear your response, please. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 393-94 of the Legislative Journal.) 18 ayes, 24 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The amendment is not adopted. Call is raised.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Schellpeper. (Schellpeper amendment appears on page 394 of the Journal.)

PRESIDENT: Senator Schellpeper, please.

SENATOR SCHELLPEPER: Thank you, Mr. President and members. This amendment has to deal with the indebtedness, and it just says that...I think it's been passed out to you, and it says that it does not go to the Class I. So I think that it's very...it speaks for itself. It's just that the indebtedness stays with the high school, it does not go to the Class I.

PRESIDENT: Senator Withem, please.

SENATOR WITHEM: Yes, Mr. President, this is one I'm not going to speak strongly one way or the other on, just give you arguments on both sides of it and let you make up your own mind. The reason bonded indebtedness is in the bill is because the rationale is that the Class I's will be using the facilities of the high school district, that is they're going to be using the high school building, and the high school portion of the bonded indebtedness, they should share in it when they come in and affiliate. On the other hand the argument is that they didn't have any say on whether those old obligations would be incurred or not, and it's not fair for them to incur on those. I'm probably just going to sit here and not vote on this when there are arguments, as I say, on both sides of the issue. As I understand the current practice is that when you come in you don't necessarily...you keep whatever bonded indebtedness you had on your property prior to the merger, but you don't incur any that was preexisting. So make up your own mind on what you

want to do with this.

PRESIDENT: Thank you. Senator Elmer, please.

SENATOR ELMER: Thank you. Question of Senator Schellpeper, please.

PRESIDENT: Senator Schellpeper.

SENATOR SCHELLPEPER: Yes.

SENATOR ELMER: In your opening it wasn't quite clear, this would apply only to previous bonded indebtedness...

SENATOR SCHELLPEPER: Definitely, yes, just previous indebtedness.

SENATOR ELMER: ...and not something that would be incurred by the affiliated district later.

SENATOR SCHELLPEPER: No, no, just previous indebtedness.

SENATOR ELMER: Okay. Thank you very much. That's all I had.

PRESIDENT: Thank you. Senator Dierks, please.

SENATOR DIERKS: Well, Mr. President, members of the body, I would stand in support of Senator Schellpeper's amendment. I think for people to be involved with reorganization or affiliation they need to come in with a clean playing field. I think that if you have a school or two schools in an area that are vying for Class I districts, one of them has a bonded indebtedness and the other one does not, it provides an uneven playing field for those Class I schools that have to make that decision, which place they're going. It appears to me that if that Class I school would like to enter a school district that has a bonded indebtedness and wants to make that decision to support that bonded indebtedness, then they should have that opportunity. But they shouldn't be obligated to it. And LB 259, at this point, calls for an obligation for those Class I districts to assume that bonded indebtedness if they affiliate. So with Senator Schellpeper's amendment the affiliation can take place, as I understand the amendment, the affiliation can take place without or at the choice of the Class I school to assume that bonded indebtedness. Thank you.

PRESIDENT: Thank you. Senator Schellpeper, would you like to close on your amendment?

SENATOR SCHELLPEPER: Yes, thank you. It just, I think, makes a little more level playing field, if the Class I districts want to assume it they can, but they are not obligated to assume it. So I think it's...and it's just on the bonded indebtedness that is there at the present time on the other school, not the Class I. So I think it's a very fair amendment. I would ask for its adoption.

PRESIDENT: Thank you. The question is the adoption of the Schellpeper amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Schellpeper's amendment.

PRESIDENT: The Schellpeper amendment is adopted.

CLERK: Mr. President, the next amendment I have is by Senator Carson Rogers. (Rogers amendment is on page 395 of the Journal.)

PRESIDENT: Senator Rogers, please.

SENATOR ROGERS: Mr. President and members, I think the amendments have been handed out. On page 16, page 16, page 17, page 18 and page 18, they all say the same thing. It says, strike "operational expense" and insert "property tax requirements". What this amendment would attempt to do would be to put all the Class I school districts on an equal playing field, paying their fair share of property tax as the K-12 property taxpayers. It allows them to pay their fair share of property tax. It would provide a more constitutional posture for requiring tax uniformity, thus avoiding an unequal tax basis. Some of the examples that have been presented were that they don't take in other resources, such as public power districts, and tuition, transportation receipts, interest, wards of the county, a whole list of other resources. If the budget was ten million dollars and the other sources were four million, the needed property tax would be six million dollars. Class I's would be taxed on the basis of the ten million dollars, and K-12's would be taxed on the basis of six million dollars.

PRESIDENT: Thank you. Senator Withem, did you wish to speak on this matter?

SENATOR WITHEM: Yes, I would, Mr. President. This is a very significant amendment, probably would incur more wrath if this were adopted than had the Lamb amendment been adopted from folks in the Class II's and the Class III's because you're getting into an area here that has been a long-standing controversy, and that is, how do you charge residents of Class I districts for supporting high schools? A few years ago the...back prior to my tenure on the Education Committee, the Legislature changed this method of financing charging nonresident tuition. It has been argued about, it has been tested in court. The Supreme Court has declared our current method is constitutional. What Senator Rogers' amendment would do would be to go back to another method, the previous method that we did use, or a different method, anyway, than what we're using, moving, I think, backwards. May not literally be moving backwards to something that was in operation previous to this time. We did consider this. As a matter of fact, this is pretty much the way the green copy of 259 is written. That's the reason in your bill book you'll see all those people testifying against 259. They all said that the committee amendments were okay, but when they saw the green copy there they wanted to make sure they got listed as being in opposition to it because of this method of calculation. We did a computer run on this and what we did simply was we took a year, I don't know if it was '86-87, '87-88, or what the year was, and said, let's assume we would charge for nonresident tuition under Senator Carson Rogers amendments formula here versus what we currently do; would have been a nine million dollar impact. What it will result in is at least in that particular year, I don't know what it would be today, but in that particular year it would have been a nine million tax reduction for Class I residents if this amendment were in place back in those days. It's...it will bring them out. If you like to get a lot of correspondence, if you're sad because you haven't heard from your local high school superintendents and school board members and all, you will if this amendment goes on because this is big, big ticket item. It also, because of the way the equalization formula operates under our current funding formula, you'll be hearing from the folks in Omaha and in Lincoln and in Bellevue and Papillion and all of those places, because part of that nine million dollar tax reduction that will result for Class I residents will be

absorbed through school districts not getting equalization money that currently don't have any Class I's around them. So this is a big amendment and should not be supported, I don't think.

PRESIDENT: Thank you. Senator Lamb, please.

SENATOR LAMB: Yes, Mr. President, members, I rise to support the amendment by Senator Rogers. Let's just think about what Senator Rogers said in its simplest form. Now, Senator Withem says the method in the bill is constitutional, that doesn't mean it's fair. But he said, you heard him say, if the school has a ten million dollar budget and say four million dollars of that comes from other sources other than property tax, then the K-12 will charge property tax on the basis of the six million, where the Class I will be charged property tax on the basis of the ten million, not taking into consideration the revenues from other sources, from sources other than property tax. So you know you have two different situations. You are charging one group on the basis of the whole amount of the budget, which is the Class I, you're charging the other group on the basis of the amount that is left after you deduct the source...other sources, such as state aid, miscellaneous sales, insurance premium tax, there's a whole bunch of them. I don't know, how can that be fair? How can that be fair?

PRESIDENT: Thank you. Senator Rogers, would you like to close on your motion on your amendment?

SENATOR ROGERS: Mr. President, members, I guess there is always two sides to every question. I actually with my particular district basically I know what it would do. But it just seems to me what's fair is fair. I understand I've never seen a printout, Senator Withem said they did do a printout. I think I've already got a phone call from my school district, but that is beside the point. I'll just move for the adoption of the amendment, Mr. President.

PRESIDENT: Thank you. The question is the adoption of the Rogers amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 10 ayes, 18 nays, Mr. President, on adoption of Senator Rogers' amendment.

PRESIDENT: The amendment fails.

CLERK: Mr. President, the next amendment is offered by Senators Baack and Withem. (Baack-Withem amendment is on page 395 of the Journal.)

PRESIDENT: Senator Baack, are you going to handle this? All right.

SENATOR BAACK: Mr. President, members, this amendment, they're just passing it around right now. I just got it copied. What this amendment says is that if a Class I affiliates with a high school district and they make a decision that they would like to have some of the services that are offered in the high school district but are not offered in their Class I district, they may request from that high school board that those services be brought out to them. And it would be up to the high school board to make every effort that they can to make sure that those services are brought out to that Class I district. If there are additional expenses involved in bringing those services to that Class I district, then those expenses would go under the affiliation part of the levy, those expenses would go under those. So it is just in an effort to try and bring some more services out to the Class I's. They may see services that are offered in that high school that they don't have that the parents want, that the children need. This would say to them, you have an avenue for that, you go to the board, make a request for those services to be brought out to your Class I. That high school board should try and make every effort they can to bring that service out to the Class I rather than having to bring the students in for the service. Because in some cases it would be much easier to transport one teacher or one specialist to that school than to bring a bunch of students into the other school. Just an effort to bring some more services out to some of the isolated Class I's. Thank you.

PRESIDENT: Thank you. Senator Withem, please, followed by Senator Smith.

SENATOR WITHEM: Yes, Mr. President, just rise to support the amendment. When I explained the blended levy concept, both times I have not hit very heavily on this shared resources concept that is in there that was a key component of the discussions that we did have. I guess what Senator Dierks asked me, if there was anything else considered, I guess I'd say, yeah, there was, Senator Dierks. The first thing that was

considered was just having the blended levy but not have any of this information in it. And this was suggested to me by some Class I people that if they're going to be paying for...the same tax levy then they ought to be able to have some of these services, I think a band and physical education and some of those types of things made available to them. I think the need for this amendment at this point is, first of all, to clarify that, and, secondly, I think the real intent of it is to deal with some of those Class I's that are way, way out a great distance away from the high school district. Most of them, if they are up close and they want to participate in a band program, be very easy for them to just go into the school and participate in that. Some of those that are far outlying districts, it's not so easy for them to do that. So we wanted to strengthen this language here. I think that's my intent in supporting this, and I assume it's Senator Baack's intent also.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. I'd like to ask a question or two of Senator Baack, if I may.

PRESIDENT: Senator Baack, please.

SENATOR SMITH: Senator Baack, we were discussing this a little bit earlier. Can you explain to me what you mean, I mean it's a very general, evidently, your amendment. You said to bring out the services. What services are you speaking about?

SENATOR BAACK: It doesn't...it isn't getting into specific services. I would guess it would be services such as possibly librarians, specialists in special ed, some of these kinds of things, if they needed those services and it would be easier and much more efficient for the high school district to probably send that service out to that affiliated Class I rather than bringing the students into the high school district, the high school district should make every effort to do that, to bring those services out to them rather than having them have to bring the kids in.

SENATOR SMITH: How does the Educational Service Unit system across the state tie in with that...with this amendment?

SENATOR BAACK: Well, I would think that a lot of high schools and stuff, their services are provided through the service unit.

Then, if you're affiliated with a high school district that is part of a service unit district, then those services should be available to those Class I's, too, if they want that, if they are affiliated with the high school.

SENATOR SMITH: They already have that capability, don't they?

SENATOR BAACK: Yes, they do have, but some of them are not necessarily members of a service unit, you know they don't have to be, so some of them are not maybe affiliated with that service unit. But there are also high schools that offer the services themselves, especially librarians and some of the specialists, they have those people in-house.

SENATOR SMITH: Well, one of the things that I'm sitting here thinking about is when you're as general as you're making this amendment, you're saying that there...you're saying that they have to bring some of these services out. I was assuming that they were already doing that and could do that. So I'm wondering why we need to put this in this piece of legislation right now. Maybe there is something that I'm missing here. But I also would state that I don't believe that there are some of the services that could be brought out, and Senator Withem alluded to the fact that instead of them having to come out, sometimes they can go into them. A concern that I have is that if you have elementary students who are already...the hours of the day are totally filled, and with the experience that I've had in the elementary education in the rural schools, where they're already contracting with the Educational Service Unit, they did have the band teacher coming out, they did have the art, special ed, I'm just trying to think of all the things right now. There was a bookmobile which came around and the library, basically, was being...was arranged so they were having that facility. But, on the other hand, if you're going to start saying that in order for what we call equity here to exist, these kids are going to get involved in sports, so they're going to have to go into the school in town to be a part of those. Where is the time going to come for those kinds of things to happen in a day? How are we going to expand the school day any more than it's already...the length that it already is...

SENATOR BAACK: Sure...

SENATOR SMITH: ...in the name of education.

SENATOR BAACK: My assumption is that boards are going to have to deal with that and make decisions based on those criteria. If they're going to offer more serv...if they can possibly offer the services, and in some cases they are not going to be able to, probably. There are going to be cases where that can't happen.

SENATOR SMITH: But, see that is my concern, Senator Baack. What I'm worried about is we keep dealing with this issue over and over and ongoing. By doing this are you going to open the door for new kinds of arguments and fights on this floor? Because it's so...I think it's so general in nature, neither one of you are specific about what you mean by services. They may....I mean I think it's just....I'm not sure that I think this amendment is going to add anything to the bill. It may create new problems is my concern.

SENATOR BAACK: Well, hopefully not. I understand your concern. Hopefully it doesn't add any new problems. I think it just opens up some avenues for some of the isolated Class I's and stuff to get services that they may not now be getting, or they may desire to get. It's hard to be specific on services because it's such a variety of services that schools offer.

SENATOR SMITH: Okay, then since you're involved with education a lot more than I am, the experience that I've had may not be the same in other Class I districts, especially as you go further west. They are not presently receiving these kinds of services across the state with the Educational Service Units?

PRESIDENT: One minute.

SENATOR BAACK: Some of them do not contract with Educational Service Units, that's true. Some of them do not....not everyone is a member of a service unit.

SENATOR SMITH: Okay, so in other words they could start receiving these kinds of services that they now are not getting, and that would help this to be a little more equal, because they are paying for all of this stuff now that the other schools are getting, so they should start receiving them without having to contract in addition.

SENATOR BAACK: That's what the purpose of it is, yes, so that they will be able to get some of the services that they have not

had in the past.

SENATOR SMITH: Gee, that leads me to another question. And that I wish someone would address, and that is, what will happen with the educational service unit system then and the way that works with the contract right now?

SENATOR WITHEM: I think education service units only....Is this to me? You turned around and...

PRESIDENT: Senator Withem.

SENATOR SMITH: To anyone who can answer it.

SENATOR WITHEM: Educational service units really only give services now that aren't being provided by...

SENATOR SMITH: Yeah.

SENATOR WITHEM: ...K through 12 districts, so we're talking about...

SENATOR SMITH: How will that work in the future?

SENATOR WITHEM: ...getting those that are provided by the K through 12.

SENATOR SMITH: But whose paying for it right now then, if you had a rural district, a Class I school, who's paying for that right now? The Class I?

SENATOR WITHEM: I...

SENATOR SMITH: Okay. What would happen in the future, Ron, then...and I guess my question is as far as contracting for those kinds of services that you're talking about here, which are being provided in some schools by those districts that are contracting to have them paid for. Will that be an additional contract that those Class I's will continue to have to pay, or will that now become a part of the whole cost of education and equity in the whole issue so that they get that without having to contract for it...

PRESIDENT: Time.

SENATOR SMITH: ...on a separate basis? Thank you.

PRESIDENT: Senator Hartnett, please.

SENATOR HARTNETT: Mr. President, members of the body, I think that Senator Smith raises a good point, because a couple of years ago I had a bill dealing with Educational Service Units. I think what it did is it left a one-year mirror or window so that some areas could get out of service units, and some of them did. So there are areas, and I think Senator Baack, with his amendment, adopts this, that there are areas in the state that are not served by service units. The way that the service units get their tax money is that it's on your statement with all the other things, there is a small levy for...if you're in a...if where you live at is an Educational Service Unit, there is a small levy for service units. So that services to the school don't provide beyond that the service unit....But there are some areas, and I guess I support this amendment, because it does take care, makes it say that if you're going to have the services in the town, you also have the services in this affiliated school. So I think it clears up the bill.

PRESIDENT: Thank you. Senator Schmit, followed by Senator Lamb. Senator Schmit, did you wish to use your time? No. Senator Lamb.

SENATOR LAMB: Mr. President and members, a question of Senator Baack.

SENATOR BAACK: Yes.

PRESIDENT: Senator Baack, please.

SENATOR LAMB: Now, you say high school district will provide educational services or programs. This is just a matter of a clarification. You really mean just for elementary programs, do you not? I mean when you talk about a high school district some people might say you're talking about high school programs. I'm just wondering if that needs a bit of clarification there, when you're really only talking about elementary educational services or programs, are you not?

SENATOR BAACK: Yes, that's what is meant, so maybe we do need some clarification.

SENATOR LAMB: I'd suggest on line 5, after "facility" just add the word "elementary educational services", just to get away from some arguments that may occur in some areas.

SENATOR BAACK: I see no problem with that, with adding that word in there.

PRESIDENT: Are you offering that as an amendment to the amendment, Senator Lamb, or just talking about it?

SENATOR LAMB: Yes, I will.

PRESIDENT: Okay.

CLERK: Mr. President, Senator Lamb would move to amend Senator Baack's amendment. On line 5 of the amendment, after the word "facility", Senator, insert the word "elementary", if I read it correctly.

PRESIDENT: Did you wish to talk anymore about that, Senator Lamb? Any further discussion on the Lamb amendment to the amendment? If not, we'll take that up. Now the question is the adoption of the Lamb amendment to the amendment. All those in favor vote aye, opposed nay. Requires 25 on Select. Record, Mr. Clerk, please.

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

PRESIDENT: The Lamb amendment to the Baack-Withem amendment is adopted. Now we're back to the Baack-Withem amendment. And, Senator McFarland.

SENATOR McFARLAND: Just call the question.

PRESIDENT: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Debate is ceased. Senator Baack, or Senator Withem, which one wishes to close? Senator Baack.

SENATOR BAACK: Yes. Mr. President and colleagues, I'll be very

brief. Senator Smith wanted me to kind of clear something up. What it says is that we're going to offer some of the services that a high school district has that a Class I affiliates with, they're going to be able to ask for some of the services that they are not presently receiving, and that school district is supposed to bring those services out. Okay. But if they are already contracting with a service unit, and if they are already working with a service unit, that Class I, I would assume that those are part of their budget costs right now, and that should stay the same. There shouldn't be any...there shouldn't be any change there as far as their budget costs if they're already contracting. If they are not contracting with a service unit, and it brings extra pupils in there, when they want to contract for services that the service unit offers to the high school, that service unit charges on the basis of per pupil...on the basis of pupils. So there would be an additional cost at that point, because there would be more pupils brought in. That additional cost would be spread over the affiliated levy when those students were brought in. Senator Smith, if you have a question, go ahead.

PRESIDENT: Senator Smith.

SENATOR SMITH: Okay. Just want to make sure this is in the record. In other words, if you have a district which is presently contracting and paying fee for these kinds of services, these will become a part of the overall cost of the whole budget, which will be shared by the whole district then, after...

SENATOR BAACK: Yes, they would be, yes.

SENATOR SMITH: Okay, that's what I wanted to have clear in my mind.

SENATOR BAACK: Yes, they would be.

SENATOR SMITH: Okay, thank you.

SENATOR BAACK: I think, with that, I'd just urge adoption of the amendment. Thank you.

PRESIDENT: Okay. The question is the adoption of the Baack-Withem amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Baack's amendment.

PRESIDENT: The Baack-Withem amendment is adopted.

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

PRESIDENT: Okay, we're back on the advancement of the bill. Senator Withem.

SENATOR WITHEM: Move the advancement of the bill.

PRESIDENT: Thank you. Senator McFarland, please. Okay. Any further discussion? Any further discussion? If not, the question is the advancement of the bill. Machine vote has been requested. Would you please return to your desks so we can catch a machine vote. All those in favor vote aye, opposed nay on the advancement of the bill. This is also a record vote, you should know that. Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 396 of the Journal.) 30 ayes, 11 nays, Mr. President, on the advancement of LB 259.

PRESIDENT: Let's catch the A bill while we're at it. Mr. Clerk.

CLERK: Mr. President, on the A bill (LB 259A) I have E & R amendments first of all.

PRESIDENT: Senator Lindsay, please, E & R.

SENATOR LINDSAY: Were there amendments to the bill?

CLERK: E & R, Senator.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 259A.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. Anything further on it, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: Any discussion on the advancement of the A bill? If

PRESIDENT: Yes, Senator Bernard-Stevens, we're back to your amendment.

SENATOR BERNARD-STEVENS: I guess I'd like to have a clarification in my mind and, Senator Chambers, I guess I'll ask you a question if I may.

PRESIDENT: Senator Chambers, please.

SENATOR BERNARD-STEVENS: Senator Chambers, I guess mentally I need to toughen up a little bit. The vote that we just took, was that the reconsideration on your motion to override the Chair in regards to ceasing debate, or was that the vote as I think it was in order to allow senators to divide the question?

SENATOR CHAMBERS: Yes, what you said the second time. That vote was on the original.

SENATOR BERNARD-STEVENS: That's what I thought. Okay, at least I'm still with it. Mr. President, at this point I'd like to do what Senator Lindsay basically has asked to do in a different manner. I move we adjourn.

PRESIDENT: Before we take that motion, Mr. Clerk, do you have some things for the record so that we can continue with that?

CLERK: Mr. President, I do. I have...Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 159 and recommend that same be placed on Select File. (See page 470 of the Legislative Journal.)

Mr. President, I have notice of hearing from the Retirement Systems Committee. That is signed by Senator Haberman.

Enrollment and Review reports LB 259, LB 259A, LB 534, LB 601, LB 730, LB 818, LB 819, LB 820 as correctly engrossed. (See page 470 of the Legislative Journal.)

Mr. President, in addition to those items, your Committee on Banking, Commerce and Insurance to whom is referred LB 1088 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. (See page 471 of the Legislative Journal.)

of drugs or failing the drug test as described in statute. In drafting these, because of the inclusion of alcohol in that particular section of statute in the testing, that was included in the bill, and we haven't discussed that issue. Were that to continue, the cost would be much different than the peak that would figure out on the estimate of $403,000, Senator Warner. So I think this is something that we need to get a better estimate from the Department of Labor as to those who might be affected, and certainly need to, I think, make some type of arrangement to maintain a minimum level in the contingency fund through a yet to be known appropriation from the General Fund. These are things I think we need to talk about in the next few days and get together and put together an amendment to this bill to take into consideration Senator Warner's problems with the funding. Did I answer the questions?

SPEAKER BARRETT: Thank you. Any other discussion on the advancement of LB 315? Seeing none, Senator Lindsay, would you care to close on the advancement of the bill?

SENATOR LINDSAY: Thank you, Mr. President. I think it's pretty much been discussed as much as it needs to. I would just urge that the body advance this bill to increase unemployment benefits. (Laughter.)

SPEAKER BARRETT: Thank you, sir. The question is the advancement of LB 315 to E & R initial. Those in favor of that motion please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 28 ayes, 1 nay to advance the bill, Mr. President.

SPEAKER BARRETT: LB 315 is advanced. Have you matters for the record, Mr. Clerk?

CLERK: I do, Mr. President. Attorney General's Opinion addressed to Senator Haberman (Re. LB 259.) Senator Lynch has amendments to LB 862 to be printed; Senator Lindsay to LB 1090; Senator Korshoj to LB 1031; Senator Scofield to LB 662A; Senator Wesely to LB 315. (See pages 1054-60 of the Legislative Journal.)

Mr. President, new A bill. (Read LB 1090A by title for the first time. See page 1060 of the Legislative Journal.)

set out with, I think as we discuss it further this afternoon, you will once again be reinforced, those goals are accomplished and, yes, the better good for the entire state is accomplished, and for that reason I urge the adoption and advancement of the bill.

SPEAKER BARRETT: Thank you, Senator Moore. Mr. Clerk, an amendment on the desk.

CLERK: Mr. President, the first amendment I have is offered by Senator Labedz. Senator Labedz's amendment is on page 605 of the Journal.

SPEAKER BARRETT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. The amendment that I introduced has been in the Journal. I think most of you know what it is. It's LB 346, the tuition tax credit that was introduced. The major sponsor was Senator Tim Hall and myself and others as co-sponsors. I feel very strongly about tuition tax credit and have been for several years. I noticed that through the mail today I received several sheets from the National Association of School Boards where they are giving the senators a scoreboard, or scorecard, and one of the bills listed on one of the sheets was LB 346 which is the tuition tax credit and the NASB is requesting that we vote no and we got a scorecard on LB 259 and also on LB 1059. Let me read you some figures that I think are very important. The average per pupil cost for Nebraska public school grades K-6, school year 1987-88, is $3,038. There are 21,427 students enrolled in K-6 which is a savings of...to the state, of $65 million. Now the average per pupil cost for Nebraska public school grades 7-12, school year '87-88, is $4,248. Now that is the per pupil cost. There are 13,258 pupils enrolled in private schools which is a savings of $56,319,984. That is a total cost savings for 34,000 students that are enrolled in private schools of $121,415,210. That certainly is a considerable amount of savings to the state when in Nebraska more than 34,000 students are enrolled in approved nonpublic schools. These students and their parents fulfill every educational requirement of the state. They also make great financial sacrifices so that it's possible for them to choose an education for their children in conformity with their religious faith. LB 346 would have helped alleviate the double burden borne by parents of nonpublic school children. Now we're asking those same parents to pay an increase in the sales tax

SENATOR McFARLAND: ...where are they going to benefit from this tax bill? And it really is, a major portion of it, is a tax bill. They are not going to see any property tax relief whatsoever, and yet they are going to see, on the average, an increase of 17.5 percent in their state income tax, and they're going to see an increase of 25 percent in their sales tax when it goes from 4 cents to 5 cents. They do not benefit. And they are not an insignificant number of people, 32 percent of the people in our state rent property. And I don't think anyone is going to try and deceive us and say that their rental rates are going to go down, if this bill passes, because really they are not. They may go down, as I could see it, maybe years in advance. But for the first few years they're not going to see any rental reduction.

SPEAKER BARRETT: Time.

SENATOR McFARLAND: It is not going to help those people and it is not going to help several others, and for that reason I plan to oppose the bill. Thank you.

SPEAKER BARRETT: Thank you. Senator Elmer, on the advancement of the bill.

SENATOR ELMER: Thank you, Mr. Speaker. Senator Schmit has brought up some questions of fairness of tax base, and I couldn't agree with him more on the disparity of land, as a measure of values, and the measure of stocks and bonds and intangibles as a measure of value. But, given the political reality we live in, business competition in the cities and between states has made the tax system in our state what it is. And I would say, and I feel very justified in saying so, that if you could take your land and assets that you have on a farm and put them in a briefcase, like you do your stocks and bonds, and take them to another state, that that farmland would not be taxed today. LB 1059 is not a tax decrease. The measure is the beginning of a tax shift from the unjust overdependence on property tax. Our tax burden per capita in Nebraska, as a whole, will not change very much. The inequity we now have is the tremendous disparity in tax base available per student between districts. Over a period of time the passage of 1059 and LB 259 will go a long way toward providing equal financial foundation for each student, no matter where in Nebraska she or he lives or in which school district he or she resides. I'm a firm believer in as much tax equity and fairness as we can

secondary and...in our secondary education field, but it is so wonderful to see the academic awards to these schools and especially in the areas of theater, music, drama, art and creative writing. That says a lot about the teacher-student relationship in that school, how well they work together. These young people learn, for instance, in a play the backstage work, having to be there on time, the coordination and feeling of togetherness. They learn a lot aside from how to be on stage. And music and art, these things stay with them all their lives. I think that it's so fortunate in our schools in the State of Nebraska that we have such a wonderful arts and education program in effect through the State Arts Council. So it's just a real pleasure and a privilege to second and support Senator Beyer's resolutions this morning. Thank you.

SPEAKER BARRETT: Thank you. Further discussion on the adoption of the resolution. Seeing none, anything further, Senator Beyer? Thank you. Those in favor of the adoption of LR 268, please vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 23 ayes, 0 nays, Mr. President, on adoption of LR 268.

SPEAKER BARRETT: LR 268 is adopted. Members, please return to your desks for Final Reading. Mr. Clerk, to Final Reading, LB 259A.

CLERK: Mr. President, I have a motion on the desk. Senator Withem would move to return LB 259A to Select File for a specific amendment. The amendment, Mr. President, is on page 832 of the Journal.

SPEAKER BARRETT: The Chair recognizes Senator Withem.

SENATOR WITHEM: Yes. After having inquired of the Speaker and the Clerk whether I could just pull this amendment and go ahead and have the A bill voted on on Final Reading before the regular bills passes, and getting rather scornful looks from them with that request, will go ahead and ask that LB 259A be returned to Select File for an amendment. LB 259 is the affiliation bill that is sitting there on Final Reading waiting for final enactment for the...for its final vote. It waits, as all bills that appropriate money do, in the short session until the 45th day and we're not on the 45th day. The amendment to 259A is needed because when the bill was originally drafted there was only a one-year appropriation in it. This adds a second-year

appropriation for the purpose of continuing the dollars that will be needed by the Department of Education to administer LB 259 when it comes up. So that's really all that it does. I know some people who are concerned about 259, probably had some concerns about this appearing on the agenda, but all this does is make the A bill proper. So, with that, I would urge you to support the motion to return the bill to Select File.

SPEAKER BARRETT: Thank you, sir. Any discussion? If not, the question is the return of 259A to Select File for the purpose of an amendment. All in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: The motion prevails and the bill is returned. Senator Withem.

SENATOR WITHEM: This amendment adds the second year funding appropriation for the implementation of LB 259. I would appreciate your support for the amendment.

SPEAKER BARRETT: Thank you. Senator Coordsen, for purposes of discussion.

SENATOR COORDSEN: A question of Senator Withem, please.

SPEAKER BARRETT: Senator Withem, would you respond?

SENATOR WITHEM: Yes.

SENATOR COORDSEN: Senator Withem, 259A in itself, not the amendment, mentions Program 025. Is that the program to be developed to implement this? Or what is Program 25?

SENATOR WITHEM: It is an existing line-item in our budget for the administration fund for the Department of Education.

SENATOR COORDSEN: Okay, thank you.

SPEAKER BARRETT: Any other discussion? Seeing none, the question is the adoption of the Withem amendment to 259A. Those in favor vote aye, opposed nay. Please record.

of what we thought we did on General File. A provision clarifying that appropriations of income tax rebate money for payment to school districts will be based on amounts certified by the tax commissioner as the total actual identifiable income tax liability of individual resident taxpayers for the second preceding tax year; the remainder of the total 20 percent income tax receipts dedicated for schools goes to the Tax Equity and Education Opportunities Fund for distribution as equalization aid. This is a request made, I think, by the Department of Revenue to make this all flow properly. There is...number four, there is an ongoing Department of Education representative on the ongoing School Finance Review Committee. The current bill says that person will be appointed by the Governor. The Department of Education is a constitutionally separate organization and should be able to provide their own. Item 5, B(5), this is one you may want to pay a little more attention to, because this one does deal with a little more significant change than the last ones we've talked about. But federal government allows a 25 percent...when they distribute impact aid for school districts that are primarily...residents primarily residing on Indian land, they do receive additional impact aid benefits to the tune of 25 percent. The way our current bill is written, those Indian reservation students will be discriminated against, if this bill were to pass in its current form. We need to count them at a 25 percent higher rate in order for them not to be discriminated against. Number six, also an impact aid situation. Impact aid flows into school districts not in an even flow year after year. But it does flow...it does come in in large sums some years, lower sums some years. Those impact aid districts would like to be able to count that in their reserve. They don't want to spend anymore of it. This is not a lid exemption, but they would be able to put that in their reserves. Frankly, they're going to have to have that exemption, either that or send money back to the federal government, which doesn't make sense either. Number seven, is a clarification with the enrollment options program. Senator Baack just stopped walking quite...out the hallway there. Provision assuring that the State Department of Education has authority to verify data used to implement the act. The ongoing School Finance Review Committee will be directed to harmonize LB 259 with LB 1059. Some of the very specific sorts of things will need to be addressed in that. And, finally, number ten, provisions suggested by the bill drafters, moving a necessary fall school district membership report from the School Foundation Equalization Act, repealing the statutes, setting up

intensive probation. I want that to be the legislative intent when we add this amendment on. I want it to be legislative intent of LB 220 and I thought it would be important to put that in the record and if there is anybody here on the floor that suggests that that is not a proper intent, I would like you to have that opportunity to speak your mind so we'd have both sides if you disagree.

SPEAKER BARRETT: Thank you. Any discussion on the Hannibal amendment? Seeing none, Senator Hannibal, anything further?

SENATOR HANNIBAL: To move the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Hannibal amendment to LB 220. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Hannibal.

SENATOR HANNIBAL: Move the bill be readvanced.

SPEAKER BARRETT: Any discussion? The question is, shall LB 220 be readvanced? All in favor say aye. Opposed no. Ayes have it, motion carried, the bill is readvanced. Senator Nelson would like to recognize Dr. Ehresman of Grand Island who is serving as our doctor of the day today on behalf of the Nebraska Academy of Family Physicians. Please welcome Dr. Ehresman. Dr. Ehresman, would you stand. Thank you. We're very, very glad that you're here today. Members, please return to their desks for Final Reading. Mr. Clerk, would you please read LB 259.

ASSISTANT CLERK: (Read LB 259 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 259 pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Read record vote. See page 1698 of the Legislative Journal.) The vote is 33 ayes, 13 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 259 passes. LB 259A.

ASSISTANT CLERK: (Read LB 259A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 259A pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Read record vote. See page 1699 of the Legislative Journal.) The vote is 37 ayes, 7 nays, 4 present and not voting, 1 present and not voting, Mr. President.

SPEAKER BARRETT: LB 259A passes. Members will return to your seats, please. LB 260, Mr. Clerk.

ASSISTANT CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return the bill to Select File for a specific amendment, that being to strike the enacting clause.

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, there are a lot of undercurrents and issues going on this morning and I'm not going to get what I would consider a fair vote on this bill, so I'm just going to put it up there, take the vote, then be excused for the rest of the morning.

SPEAKER BARRETT: Anything further? Any discussion? If not, the question is, shall the bill be returned to Select File? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 6 ayes, 21 nays on the motion to return the bill, Mr. President.

SPEAKER BARRETT: Motion fails. Mr. Clerk, read the bill, please.

ASSISTANT CLERK: (Read LB 260 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 260 pass?

Journal.) 29 ayes, 19 nays, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 272A passes. Senator Landis, for what purpose do you rise?

SENATOR LANDIS: Could I rise for a point of personal privilege for just a moment, Mr. Speaker?

SPEAKER BARRETT: Proceed.

SENATOR LANDIS: On behalf of a great many people, I would like to thank this body for its statesmanship and its compassion. I recognize it's done with political cost but with a sense of responsibility. And on behalf of many people, I want to say thank you.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign, LB 187, LB 187A, LB 259, LB 259A, LB 260, and LB 260A. Have you anything for the record, Mr. Clerk?

CLERK: Not at this time, Mr. President.

SPEAKER BARRETT: Thank you. Proceed to LB 313.

CLERK: (Read LB 313 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 313 become law? All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Read record vote. See pages 1704-05 of the Legislative Journal.) 46 ayes, 1 nay, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 313 passes. The A bill.

CLERK: (Read LB 313A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 313A become law? Those in favor vote aye, opposed nay. Have you all voted? Please record.

morning visiting in the south balcony. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 520, LB 520A, LB 567, and LB 567A. Senator Lynch, please check in. Senator Byars. Senator Schimek, please. Senator Labedz. Members will return to your seats for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1713-14 of the Legislative Journal.) 14 ayes, 33 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: Motion fails. Mr. Clerk, have you a priority motion?

CLERK: I do, Mr. President. May I read some items?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, amendments to be printed to LB 338 by the Health and Human Services Committee. (See pages 1714-17 of the Legislative Journal.)

Messages that bills read on Final Reading this morning have been presented to the Governor. (Re: LB 1031, LB 1125, LB 1170, LB 536, LB 1220, LB 1126, LB 898, LB 899, LB 163, LB 163A, LB 164, LB 164A, LB 187, LB 187A, LB 259, LB 259A, LB 260, LB 260A, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, LB 503A. See page 1714 of the Legislative Journal.)

And LB 272A has been reported correctly enrolled, Mr. President. That is all that I have.

SPEAKER BARRETT: To the motion.

CLERK: Mr. President, the first motion, Senator Hall would move to recess until one-thirty, Mr. President.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Carried. We are recessed.

RECESS

Journal.)

And, Mr. President, finally a message to: Dear Mr. President and Senators, today I signed and delivered to the Secretary of State LB 259 and LB 259A, the School Affiliation bill. Because of the sincere fears expressed by a number of dedicated Nebraskans who have built strong Class I school districts, I reflected long and hard on this legislation. My decision was not an easy one to reach and I listened closely at various stages in the legislative process to leaders on both sides of the issue. In the end, however, it was my "bottom line" concern for assisting rural Nebraska and/or preserving the chance of county schools to keep offering a vital option to their families which led me to sign. Without this bill, we would face a crisis with the July 1, 1991 sunset on nonresident tuition. Furthermore, LB 259 creates an innovative affiliation mechanism that is not now available to Class I school patrons who are looking for tools for the future. On balance, my view is that LB 259 works... offers a workable solution to the divisive issue of school organization. It was developed over several years through the painstaking efforts of members of each type of school district. With four legislative sessions ahead of us before the implementation of Phase III, there will be numerous opportunities to modify this law, especially if any portion should prove damaging to quality learning opportunities. Barring such surprise, Nebraska voters can be expected to take the Legislature at its word and the declaration of LB 259 closes the book on a session of conflict over school district organization. It is my intention to continue to push rural revitalization aggressively. The three and a half years spent working on these complex issues have convinced me that we must do more to develop flexible approaches to the delivery of education in the majority of our beautiful state that is sparsely populated. Sincerely, Kay Orr, Governor. (See pages 1904-05 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The question is adjournment until nine o'clock tomorrow morning. Those in favor vote aye, opposed nay. Voting on the motion to adjourn. Have you all voted? Senator Schimek.

SENATOR SCHIMEK: Yes, I'd like to ask for a call of the house and roll call vote.